

Exhibit AA

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

LANE POWELL, PC, an Oregon
professional corporation,

Plaintiff,

v.

MARK DECOURSEY and CAROL
DECOURSEY

Defendants.

No. 11-2-34596-3 SEA

**AMENDED NOTICE OF
DISCRETIONARY REVIEW TO THE
COURT OF APPEALS, DIVISION ONE**

EXISTING DIV. ONE CASE #686712

Defendants Mark and Carol DeCoursey ("DeCourseys") seek review by the Court of Appeals, Division One, of the following Orders attached to this Notice and identified below:

1. The April 27, 2012, *Order on Motions to Compel and for Order of Contempt*, Docket 107A (signed April 25, 2012), and the April 10, 2012, Letter/Ruling¹ *Re: ADA Accommodation Request*, attached thereto and incorporated therein, substantially denying their Accommodation Request presented pursuant to the

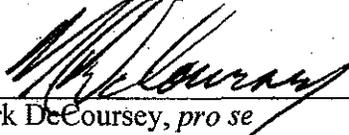
¹ Order in the form of a letter from Assistant Presiding Judge Palmer Robinson, dated April 10, 2012, included in the docket attached to April 27, 2012 *Order*, Docket 107A.

1 Americans with Disability Act Amendments Act and GR 33. These Orders are
2 attached to this Notice as **Exhibits A.**

- 3
4 2. December 21, 2011, *Order on Plaintiff's Motion to Require Deposit of Funds*
5 *into Court Registry* (signed December 21, 2011), Docket 63, attached hereto as
6 **Exhibit B.**
- 7 3. November 18, 2011, *Order Denying Motion for Discovery Protection* (signed
8 November 17, 2011), Docket 23, attached hereto as **Exhibit C.**
- 9 4. May 2, 2012, *Order on Defendants' Motion to Reconsider the Court's Order to*
10 *Deposit Funds*, signed May 2, 2012, Docket 120, attached hereto as **Exhibit D.**²
11

12
13 RESPECTFULLY SUBMITTED this 7th day of May, 2012.

14
15 By 
16 Carol DeCoursey, *pro se*

17 By 
18 Mark DeCoursey, *pro se*

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26 ² At the time of this filing, DeCourseys had not received the Order from the Court.
DeCoursey learned of the Order incidentally through the electronic docket.

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on May 7, 2012, I caused to be served a copy of the foregoing
3 **AMENDED NOTICE OF DISCRETIONARY REVIEW TO THE COURT OF**
4 **APPEALS, DIVISION ONE** on the following person(s) in the manner indicated below at
5 the following address:
6

7 Lane Powell, PC, in the person of its counsel,
8 McNaul Ebel Nawrot & Helgren PLLC
9 "Robert Sulkin" <rsulkin@mcnaul.com>
10 One Union Square
600 University Street, Suite 2700
Seattle, Washington 98101-3143

- 11 by **CM/ECF**
12 by **Electronic Mail**
13 by **Facsimile Transmission**
14 by **First Class Mail**
 by **Hand Delivery**
 by **Overnight Delivery**

15 
16 Carol DeCoursey

Exhibit BB

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

LANE POWELL, PC, an Oregon
professional corporation,

Plaintiff,

v.

MARK DECOURSEY and CAROL
DECOURSEY

Defendants.

No. 11-2-34596-3 SEA

**SECOND AMENDED NOTICE OF
DISCRETIONARY REVIEW TO THE
COURT OF APPEALS, DIVISION ONE**

EXISTING DIV. ONE CASE #686712

Defendants Mark and Carol DeCoursey ("DeCourseys") seek review by the Court of Appeals, Division One, of the following Orders attached to this Notice and identified below:

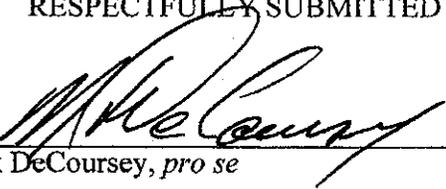
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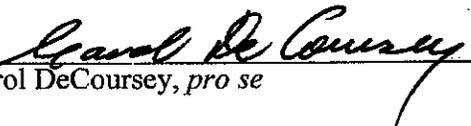
¹ Order in the form of a letter from Assistant Presiding Judge Palmer Robinson, dated April 10, 2012, included in the docket attached to April 27, 2012 *Order*, Docket 107A.

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2 attached to this Notice as **Exhibits A.**

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8 November 17, 2011), Docket 23, attached hereto as **Exhibit C.**
- 9 4. May 2, 2012, *Order on Defendants' Motion to Reconsider the Court's Order to*
10 *Deposit Funds*, signed May 2, 2012, Docket 120, attached hereto as **Exhibit D.**
- 11 5. June 29, 2012: *Order Granting Motion for Fees*, Docket 155, attached here as
12 **Exhibit E.**
- 13 6. July 3, 2012: *Order on Defendants' Motion for CR 11 Sanctions*, Docket 161,
14 attached here as **Exhibit F.**
- 15 7. July 6, 2012: *Order on Plaintiff's third Motion for Order of Contempt or Rule 37*
16 *Sanctions*, Docket 164, **Exhibit G.**
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19

20 RESPECTFULLY SUBMITTED this 11th day of July, 2012.

21
22 By 
23 Mark DeCoursey, *pro se*

24 By 
25 Carol DeCoursey, *pro se*

26 AMENDED NOTICE OF DISCRETIONARY
REVIEW - 2

Mark & Carol DeCoursey, *pro se*
8209 172nd Ave NE
Redmond, WA 98052
Telephone 425.885.3130

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on July 11, 2012, I caused to be served a copy of the foregoing
3 **SECOND AMENDED NOTICE OF DISCRETIONARY REVIEW TO THE COURT**
4 **OF APPEALS, DIVISION ONE** on the following person(s) in the manner indicated below
5 at the following address:
6

7 Lane Powell, PC, in the person of its counsel,
8 McNaul Ebel Nawrot & Helgren PLLC
9 "Robert Sulkin" <rsulkin@mcnaul.com>
10 One Union Square
11 600 University Street, Suite 2700
12 Seattle, Washington 98101-3143

- 11 by **CM/ECF**
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16 by **Overnight Delivery**

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Carol DeCoursey

Exhibit CC

The Honorable Judge Richard Eadie

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FOR THE COUNTY OF KING

LANE POWELL, PC, an Oregon
professional corporation,

Plaintiff,

v.

MARK DECOURSEY and CAROL
DECOURSEY

Defendants.

No. 11-2-34596-3 SEA

**AMENDMENT OF AUGUST 27, 2012:
NOTICE OF APPEAL**

OR IN THE ALTERNATIVE

**NOTICE OF DISCRETIONARY
REVIEW**

Note: The docket numbers and dates listed below are in accordance with the on-line docket and Clerk's Electronic Case Records listing. Such dates and numbers may not correspond with the actual sequence or dates the orders were signed or issued.

Mark and Carol DeCoursey were sued by Lane Powell, their former law firm, on October 5, 2011, and the DeCourseys filed counterclaims against Lane Powell on October 25, 2011. On April 25, 2012, the Superior Court signed an order partly in consideration of an ADAAA accommodation request DeCourseys filed on January 2, 2012. The order addressed multiple issues. It required DeCourseys to produce in discovery all documents and written communications they had with Lane Powell "on the basis that attorney client privilege

AMENDMENT OF AUGUST 27, 2012: NOTICE OF
APPEAL / DISCRETIONARY REVIEW - 1

Mark & Carol DeCoursey, *pro se*
8209 172nd Ave NE
Redmond, WA 98052
Telephone 425.885.3130

1 between plaintiff and defendants has been waived with respect to any representation by
2 plaintiff of defendants in or related to the Windermere lawsuit.” The order also held
3 DeCourseys in contempt and levied sanctions, attached hereto as **Exhibit I**.

4 DeCourseys promptly filed a Notice of Discretionary Review on May 1, and after an
5 outstanding motion for reconsideration was denied on May 2 (Order attached as **Exhibit J**),
6 amended the Notice on May 7.

7
8 The hearing for DeCourseys’ Motion for Discretionary Review, case number 686712, is
9 set for 9:30 a.m. on August 17, 2012. DeCourseys also have a pending Motion for Stay with
10 the Court of Appeals to stay all proceedings in the Superior Court pending a decision on the
11 discretionary review.

12 While the Motion for Stay in appellate case number 686712 was pending before the
13 Court of Appeals, Lane Powell filed a hurried motion in the Superior Court to have
14 DeCourseys’ counterclaim and defenses stricken, based on the same orders being appealed.
15 The Superior Court granted that motion on July 6, 2012. (That Order is attached as **Exhibit**
16 **O**.)

17
18 The July 6, 2012 order striking all of DeCourseys’ counterclaims and defenses is “a
19 written decision affecting a substantial right in a civil case that in effect determines the action
20 and prevents a final judgment or discontinues the action” and thus is appealable as a matter of
21 right pursuant to RAP 2.2(a)(3). With the striking of all DeCourseys’ counterclaims and
22 defenses, the case for DeCourseys is over for all practical purposes.

23
24 DeCourseys thus timely file this Notice of Appeal of all of the orders they wish reviewed.
25 If the Court deems this not an appeal as a matter of right, DeCourseys alternatively present
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1 this as a Notice of Discretionary Review.

2 DeCourseys notify all parties and courts of their intention to appeal the following orders
3 of the Superior Court in this case:

4 **Exhibit A:** Docket #23, November 18, 2011 (signed November 17), *Order on*
5 *Defendants' Motion for Discovery Protection Pursuant to CR 26(c) and Sanctions under*
6 *CR 26(i)*. This order denied discovery protection from Lane Powell's request for tens of
7 thousands of documents (including privileged materials) that DeCourseys argued they
8 were incapable of producing within the time allowed and were already in Lane Powell's
9 possession.

10
11 **Exhibit B:** Docket #35, November 30, 2011, *Order Granting Discovery Plan*
12 *under CR 26(f)*. Though the motion was unopposed, the Court struck the clause
13 preserving confidentiality of privileged materials produced in discovery. This order was
14 vacated on December 12, 2011, Docket #44, but the denial of discovery protection
15 effectively remained intact.

16
17 **Exhibit C:** Docket #44, December 12, 2011, *Order on Defendants' Motion for*
18 *Discovery Plan Pursuant to CR 26(f)*. The Court denied DeCourseys' request for a court-
19 supervised discovery conference and discovery plan. The Superior Court *sua sponte*
20 ordered that "the core schedule and civil rules will govern discovery." With these words,
21 the Court encouraged DeCourseys to continue to assert their attorney client privilege on
22 discovery materials.

23
24 **Exhibit D:** Docket #53, December 16, 2011, *Order on Defendants' Motion*
25 *Concerning Actual or Fabricated Ex Parte Communications between the Court and Lane*
26

1 *Powell and Denial of Motion for Reconsideration and Clarification.* Lane Powell had
2 asserted the Court had waived DeCourseys' attorney-client privilege. DeCourseys saw no
3 such ruling, and asked the Court to clarify. The Court denied the motion and refused to
4 clarify. In the same order, the Court denied DeCourseys' request for reconsideration or
5 clarification of the November 18 Order, Docket #23. The same motion was denied again
6 on December 30, 2011, Docket #64, **Exhibit F**.

7
8 **Exhibit E:** Docket #63, December 21, 2011, *Order on Plaintiff's Motion to*
9 *Require Deposit of Funds into Court Registry.* Lane Powell argued that the face amount
10 of the lien was not the amount of the lien, and that the lien should also include \$57,036.30
11 in undisclosed prejudgment interest that would accrue through March 2013, the projected
12 date of trial. The Court granted the motion and ordered DeCourseys to lodge that amount
13 in the Registry of the Court.

14
15 **Exhibit F:** Docket #64, December 30, 2011, *Order Denying Motion for*
16 *Reconsideration.* This was the second denial of DeCourseys' request for reconsideration
17 or clarification of the November 18 Order, Docket #23. Though the motion for
18 reconsideration was filed only once, the Court denied the same motion twice: December
19 16 (**Exhibit D**) and December 30, as above.

20
21 **Exhibit G:** Docket #93, February 3, 2012, *Order on Plaintiff's Motion to Compel*
22 *Defendants' Responses to Plaintiff's First Discovery Requests.* Lane Powell argued that
23 DeCourseys' incremental production was not fast enough and required compulsion from
24 the court. The order required DeCourseys to "provide full and complete responses to
25 Plaintiff's discovery requests no later than 10 days from the entry of this order." See
26

1 **Exhibit A** for background. By March 9, DeCourseys' production of responsive
2 documents exceeded 12,000 pages.

3 **Exhibit H:** Docket #98, March 2, 2012 (signed February 29), *Order on Motion to*
4 *Reconsider Order Compelling Discovery of Privileged Materials*. In conference, Lane
5 Powell stated the Court's prior orders had waived DeCourseys' attorney-client privilege.
6 DeCourseys sought clarification from the Court with this motion for reconsideration. The
7 Court ordered, "The DeCourseys must respond to discovery requests in full with evidence
8 and materials in accordance with this court's order of 2/3/2012 in accordance with
9 CR 26(b) and ER 502." With these words, the Court encouraged DeCourseys to continue
10 to assert their attorney client privilege on discovery materials.

11 **Exhibit I:** Docket #106A, April 27, 2012 (signed April 25), *Order on Motions to*
12 *Compel and for Order of Contempt*. Partly in consideration of an ADAAA
13 accommodation request DeCourseys filed on January 2, 2012, this order required
14 DeCourseys to produce in discovery all documents and written communications they had
15 with Lane Powell "on the basis that attorney client privilege between plaintiff and
16 defendants has been waived with respect to any representation by plaintiff of defendants
17 in or related to the Windermere lawsuit." The order also held DeCourseys in contempt
18 and levied sanctions over the December 21, 2011 order on the lodging of prejudgment
19 interest, without ruling on the outstanding motion for reconsideration (January 3, 2012,
20 Docket #67), which was not decided until May 2 (**Exhibit J**). The order included
21 Assistant Presiding Judge Robinson's letter of April 10 addressing (and essentially
22 denying) DeCourseys' ADAAA accommodations request of January 3.
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1 **Exhibit J:** Docket #120, May 2, 2012, *Order on Defendants' Motion to*
2 *Reconsider the Court's Order to Deposit Funds.* This was a denial of the motion for
3 reconsideration filed on January 3, 2012, Docket #67. Though the motion for
4 reconsideration was filed only once (January 3), the Court denied that motion twice: May
5 2 and June 4, 2012 (**Exhibit K**). Prior to ruling on this reconsideration, the court held
6 DeCourseys in contempt for failing to obey the order under reconsideration (**Exhibit E**).
7

8 **Exhibit K:** Docket #128, June 4, 2012, *Order RE: Defendants' Motion to Stay.*
9 The motion that resulted in this order was filed on May 1 with a motion for shortening of
10 time. This order included a second statement of the *Denial* order that was filed May 2
11 (**Exhibit J**).

12 **Exhibit L:** Docket #130, June 5, 2012 (signed May 29), *Re: ADA Accommodation*
13 *Request.* Assistant Presiding Judge Robinson wrote and filed this order in the form of a
14 letter in response to DeCourseys' ADAAA accommodation request that was filed with the
15 court on January 3, 2012. This letter supplemented the earlier April 10, 2012 order in the
16 form of a letter from Judge Robinson (not docketed) that was attached to the trial court
17 order of April 27, Docket 106A, **Exhibit I**.
18

19 **Exhibit M:** Docket #155, June 29, 2012, *Order on Plaintiff's Motion for Fees and*
20 *Costs Incurred to Obtain Compliance with Court Orders.* The Plaintiff's motion for fees
21 and costs was authorized by the order of April 27, 2012, Docket #106A.
22

23 **Exhibit N:** Docket #161, July 3, 2012, *Order on Defendants' Motion for CR 11*
24 *Sanctions.* The court acknowledged that Plaintiff should not have misquoted the court
25 order as it did, but asserted the misquote made no difference to the meaning of the order.
26

1 **Exhibit O:** Docket #164, July 6, 2012, *Order on Plaintiff's Third Motion for*
2 *Order of Contempt or Rule 37 Sanctions.* The Superior Court found DeCourseys in
3 contempt for continuing to assert privilege and filing a supersedeas bond while seeking a
4 stay from the appellate court pending decision on their motion for discretionary review; it
5 struck all DeCourseys' counterclaims and affirmative defenses, and levied sanctions.
6

7 **Exhibit P:** Docket #167, July 11, 2012, *Order on Defendants' Second Motion for*
8 *CR 11 Sanctions Regarding False Statements about the Attorney's Lien.* The Superior
9 Court decided not to sanction Plaintiff for its misrepresentations of fact and law, and
10 sustained the orders based on those misrepresentations.

11 **Exhibit Q:** Docket #185, July 27, 2012, *Order on Motion to Reconsider Order*
12 *Denying DeCourseys' Motion for CR 11 Sanctions.* DeCourseys brought new evidence
13 on the Discovery and Privilege issues showing that Lane Powell's arguments were
14 estopped by its arguments in the Court of Appeals: in argument to the Court of Appeals,
15 Lane Powell admitted it already had the material it requested in discovery, thereby
16 showing it was not prejudiced by DeCourseys' position on privilege or "stymied" in the
17 preparation of its case, as it had argued to the Superior Court. Lane Powell therefore had
18 no standing to file a motion for contempt against DeCourseys. The Court denied
19 DeCourseys' motion for reconsideration, declined to censure Lane Powell, and did not
20 disturb the contempt order against DeCourseys. The same day, the Superior Court
21 granted Lane Powell's order for attorney fees based on Lane Powell's false statements
22 cited in this motion. **Exhibit R.**

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25 **Exhibit R:** Docket #186, July 30, 2012, *Order on Plaintiff's Motion for Fees and*
26

1 *Costs Incurred in Brining its Third Motion for Contempt or Rule 37 Sanctions.* Despite
2 the new evidence showing the award of sanctions was based on Lane Powell's false
3 statements to the Court (See **Exhibit Q**) and that DeCourseys had posted bonds for all the
4 amounts identified by the Court, the Superior Court awarded Lane Powell's motion for
5 fees based on its false statements.

6
7 **Exhibit S:** Docket #187, August 2, 2012, *Order on Defendants' Motion for*
8 *Reconsideration.* DeCourseys asked the Court to reconsider its motion for contempt and
9 sanctions, citing new evidence showing that Lane Powell had falsified both fact and law
10 concerning a) the circumstances surrounding the Attorney Lien for which the Court
11 ordered DeCourseys to pay pre-judgment interest, and b) the Discovery material on which
12 DeCourseys were claiming attorney client privilege. The Court was shown that Lane
13 Powell had argued to the Court of Appeals that it already had all the documents it was
14 seeking in discovery, showing that it was not prejudiced and therefore had no standing to
15 bring the motion. The Superior Court declined to reconsider the new evidence because
16 "this Court has given substantial thought to the incentives that might persuade Defendants
17 to engage in good-faith discovery, but on this record there is apparently nothing that the
18 Court can do that would have that result."

19
20 **Exhibit T:** Docket #190A, August 6, 2012, *Order on Defendants' Motion for*
21 *Reconsideration of the Court's July 30, 2012 Order for Payment of Attorney Fees.*
22 DeCourseys argued that the Court's order of payment "within three (3) days of the entry
23 of this Order" (**Exhibit R**) was impossible to meet and was intimidation. DeCourseys
24 again reminded the Court of the volume of evidence presented to the Court showing that
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1 Lane Powell's motions for sanctions was based on false information. The Court denied
2 the motion but modified the three-day deadline to a fifteen-day deadline without
3 requesting briefing from Lane Powell.

4 **Exhibit U:** Docket #216A, August 14, 2012, *Order Denying Defendants' Motion*
5 *for Shortened Time for Motion to Vacate and Recuse.* Lane Powell had just filed a motion
6 on a six-day calendar for entry of judgment and Rule 54(b) is operant up to entry of
7 judgment. The Court of Appeals was scheduled to hear DeCourseys' motion for
8 discretionary review on August 17. Therefore, DeCourseys asked for their *Motion to*
9 *Vacate and Recuse* to be heard on a shortened briefing schedule. The Superior Court
10 denied the motion.
11

12 **Exhibit V:** Docket #227, August 17, 2012, *Order Denying Plaintiff's Motion for*
13 *Entry of Judgment.* The Court denied Lane Powell's motion with the explanation that a
14 clerical error in two earlier orders had eroded the basis for the motion. The Court
15 modified the orders at Docket #164 and Docket #187 to read that only the counterclaims
16 and affirmative defense were struck by the Court. Other defenses were not struck.
17 DeCourseys had opposed the motion on the basis that Judge Eadie had a long-standing
18 undisclosed conflict of interest and was disqualified under the Code of Judicial Conduct
19 to make any further rulings on the case.
20

21 **IN THE ALTERNATIVE**
22

23 Defendants Mark and Carol DeCoursey ("DeCourseys") seek discretionary review by
24 the Court of Appeals, Division One, of the following Orders attached to this Notice and
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26

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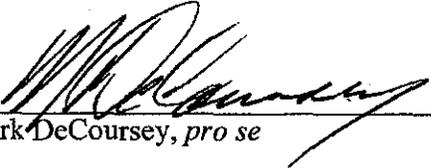
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undisclosed conflict of interest and was disqualified under the Code of Judicial Conduct
to make any further rulings on the case.

RESPECTFULLY SUBMITTED this 26 day of August, 2012.

By 
Mark DeCoursey, *pro se*

By 
Carol DeCoursey, *pro se*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on August 26, 2012, I caused to be served a copy of the
3 foregoing **AMENDMENT OF AUGUST 27, 2012: NOTICE OF APPEAL** or in the
4 **alternative, NOTICE OF DISCRETIONARY REVIEW** on the following person(s) in the
5 manner indicated below at the following address:
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7 Lane Powell, PC, in the person of its counsel,
8 McNaul Ebel Nawrot & Helgren PLLC
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600 University Street, Suite 2700
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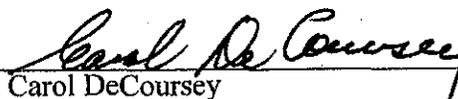
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Carol DeCoursey

Exhibit DD

1 RECEIVED
2 AUG 21 2012

3 McNaul Ebel Nawrot & Helgren
4 PLLC

5 IN THE SUPERIOR COURT OF WASHINGTON
6 IN AND FOR KING COUNTY

7 LANE POWELL, PC,

8 Plaintiff,

9 v.

10 MARK AND CAROL DeCOURSEY,

11 Defendants

NO. 11-2-34596-3 SEA

ORDER DENYING PLAINTIFF'S
MOTION FOR ENTRY OF
JUDGMENT

(CLERK'S ACTION REQUIRED)

14 This matter is before the Court on Plaintiff's Motion for Entry of Judgment. That
15 motion is DENIED on the basis that the intent of this Court's Order dated July 6, 2012
16 was to strike Defendants' Counterclaims and Affirmative Defenses (see handwritten
17 entry page 7 lines 4-5 of the July 6, 2012 Order). Unfortunately the language
18 "Affirmative" was not included on Page 8 of the Order. This is a clerical error and the
19 court on its own initiative pursuant to CR60(a) corrects the July 6, 2012 Order and the
20 Order denying Reconsideration to provide that all Counterclaims and Affirmative
21 Defenses are stricken for the reasons set forth in those Orders.

22 Defendants' Motion entry of Judgment is DENIED.

23 DATED this 17th day of AUGUST, 2012

15/
RICHARD D. EADIE, JUDGE

Exhibit EE

LAW OFFICES OF
MCNAUL EBEL NAWROT & HELGREN
A PROFESSIONAL LIMITED LIABILITY COMPANY

600 UNIVERSITY STREET, SUITE 2700
SEATTLE, WASHINGTON 98101-3143
TELEPHONE: (206) 467-1816
FACSIMILE: (206) 624-5128

MALAIKA M. EATON

E-MAIL: MEATON@MCNAUL.COM
Direct (206) 389-9331

August 22, 2012

Commissioner Mary Neel
Court of Appeals, Division I
for the State of Washington
One Union Square
600 University Street
Seattle, Washington 98101-4170

Re: **MARK AND CAROL DECOURSEY V. LANE POWELL, PC**
DISCRETIONARY REVIEW PENDING
No. 68671-2-I (King Co. Sup. Ct. No. 11-2-34596-3SEA)

Dear Commissioner Neel:

We are writing to advise you that Judge Eadie has denied Lane Powell's Motion for Entry of Judgment pending in the underlying King County Superior Court action. A copy of Judge Eadie's Order of August 17, 2012 is enclosed. Lane Powell does anticipate prompt motion practice to resolve the case before the trial court.

Sincerely,



Malaika M. Eaton

MME:rml
Enclosure

cc: Mr. Richard D. Johnson, Court Administrator/Clerk (w/encl.)
Ms. Michele Earl-Hubbard (w/encl.)

Commissioner Mary Neel
Court of Appeals, Division I
for the State of Washington
August 22, 2012
Page 2

DECLARATION OF SERVICE

The undersigned declares under penalty of perjury under the laws of the State of Washington that on August 22, 2012, I caused a copy of the foregoing letter to Commissioner Mary Neel, Court of Appeals for the State of Washington, Division I, to be served by email on the following:

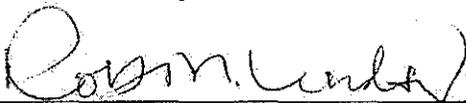
Michelle Earl-Hubbard
Allied Law Group LLC
2200 6th Avenue, Suite 770
Seattle, WA 98121
michele@alliedlawgroup.com and info@alliedgroup.com
Attorney for Petitioners Mark and Carol DeCoursey

And by hand-delivering a copy to:

Richard D. Johnson
Court Administrator/Clerk
Court of Appeals, Division I
for the State of Washington
One Union Square
600 University Street
Seattle, Washington 98101-4170

DATED this 22nd day of August, 2012, at Seattle, Washington.

By:



Robin M. Lindsey, LEGAL ASSISTANT

Exhibit FF

FILED

11 NOV 10 PM 2:27

KING COUNTY
SUPERIOR COURT CLERK
E-FILED

CASE NUMBER: 06-2-24906-2 SEA

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SUPERIOR COURT OF WASHINGTON FOR THE COUNTY OF KING

V&E MEDICAL IMAGING SERVICES, INC.,
a Washington corporation, doing business as
AUTOMATED HOME SOLUTIONS,

Plaintiff,

vs.

MARK DECOURSEY and CAROL
DECOURSEY, husband and wife, individually
and the marital community composed thereof,

Defendants/Third Party
Plaintiffs,

vs.

Redacted a Washington
corporation; **Redacted** **Redacted** an individual;
CONSTRUCTION CREDIT CORPORATION,
a Washington corporation; HERMAN RECOR,
ARAKI, KAUFMAN, SIMMERLY &
JACKSON, PLLC; PAUL STICKNEY and
WINDERMERE REAL ESTATE, S.C.A.,
INC.,

Third Party Defendants.

NO. 06-2-24906-2 SEA

FULL SATISFACTION OF
JUDGMENT

[Clerk's Action Required]

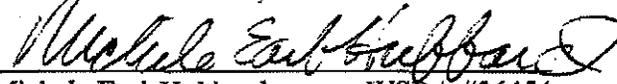
FULL SATISFACTION OF JUDGMENT

REED MCCLURE
ATTORNEYS AT LAW
TWO UNION SQUARE
601 UNION STREET, SUITE 1500
SEATTLE, WASHINGTON 98101-1363
(206) 252-4900 FAX (206) 223-0152

1 The undersigned, Michele Earl-Hubbard, attorney for defendants/third party plaintiffs
2 Mark and Carol DeCoursey, does hereby acknowledge payment of \$1,211,038.18
3 from third party defendants, Paul H. Stickney, Paul H. Stickney Real Estate Services, Inc.,
4 and Windermere Real Estate, S.C.A., Inc., in full and final satisfaction of Judgment No. 08-
5 9-32487-2, entered on December 29, 2008; Judgment No. 09-9-05984-1, entered on February
6 27, 2009; an unnumbered judgment that lacked a judgment summary that was nevertheless
7 entered on November 14, 2008; and an amended judgment filed on November 3, 2011, which
8 has not been assigned a separate number, but which has been treated by the clerk of this court
9 as amending judgment nos. 08-9-32487-2 and 09-9-05984-1. In each of these judgments and
10 amended judgment, third party defendants, Paul H. Stickney, Paul H. Stickney Real Estate
11 Services, Inc., and Windermere Real Estate, S.C.A., Inc. are the judgment debtors and
12 defendants/third party plaintiffs Mark and Carol DeCoursey are the judgment creditors. This
13 full and final satisfaction of judgment is deemed to fully and finally satisfy all judgments
14 mentioned herein, whether numbered or not.

15 DATED this 10th day of November, 2011.

16 ALLIED LAW GROUP, LLC

17 By 
18 Michele Earl-Hubbard WSBA #26454
19 Attorneys for Defendants/Third Party
20 Plaintiffs Mark and Carol DeCoursey
21 2200 Sixth Avenue, Suite 770
22 Seattle, WA 98121

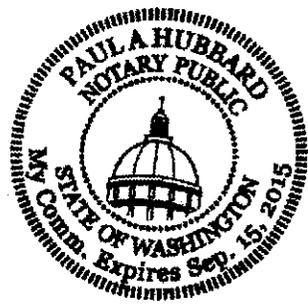
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FULL SATISFACTION OF JUDGMENT

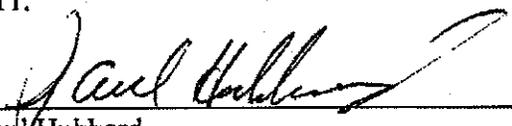
REED MCCLURE
ATTORNEYS AT LAW
TWO UNION SQUARE
601 UNION STREET, SUITE 1500
SEATTLE, WASHINGTON 98101-1363
(206) 292-4800 FAX (206) 223-0152

1 STATE OF WASHINGTON)
2) ss.
3 COUNTY OF KING)

4 I certify that I know or have satisfactory evidence that Michele Earl-Hubbard, as
5 attorney for creditors, is the person who appeared before me and said person acknowledged
6 that she signed this instrument and acknowledged it to be her free and voluntary act for the
7 uses and purposes mentioned in the instrument.

8 DATED this 10th day of November, 2011.



9 
10 _____
11 Paul Hubbard
12 Notary Public Residing at Shoreline, WA
13 My appointment expires 9/15/15

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FULL SATISFACTION OF JUDGMENT

REED MCCLURE
ATTORNEYS AT LAW
TWO UNION SQUARE
601 UNION STREET, SUITE 1500
SEATTLE, WASHINGTON 98101-1383
(206) 292-4900 FAX (206) 223-0152

Exhibit GG

Simple interest calculation—Lane Powell/DeCoursey

Principal Amount:	\$384,881.66
Interest @ 9% per annum	34,639.35
Daily interest rate (basis of 365 days/year)	94.90
Number of days elapsed (August 3, 2011 thru November 16, 2012)	471
Total interest accrued	44,699.00
Total Principal and Interest	\$429,580.66

Exhibit HH

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

MARK and CAROL DeCOURSEY,)
)
Plaintiffs,)
)
v.)
)
PAUL H. STICKNEY, et al.,)
)
Defendants.)

NO. 06-2-24906-2 SEA
COA NO. 62912-3

ORAL RULING

February 6th, 2009

Before the

HONORABLE MICHAEL J. FOX

Department 24

King County Superior Court

Seattle, Washington

APPEARANCES:

For DeCoursey: Brent Nourse and Andrew Gabel
Attorneys at Law

For Stickney: Matthew Davis
Attorney at Law

Mike O'Brien, CSR OB-RI-EM-P532PM
Official Court Reporter

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plaintiffs.

Now, I am sure that Judge Erlick's ruling will be discussed in the appellate briefs that are filed in this matter. I have reviewed the transcript and the order, and I don't find that the action by Judge Erlick precludes the award of attorney's fees in this case from the time that plaintiffs actually had attorneys after that particular hearing.

The issue that came up at the hearing before Judge Erlick was the refusal of the DeCourseys to answer certain questions concerning attorney's services that they had received up to that time. And then there is a statement on the record where they indicate that they waived their attorney's fees except for statutory attorney fees. And Windermere urged me to read that as limiting it to the statutory attorney fees of 125 dollars, or whatever it is, that are awarded to a prevailing party.

Now in this particular case, the plaintiffs prevailed on a Consumer Protection Act theory. The Consumer Protection Act requires that attorney's fees be awarded under the statute. Whether one would say that those are statutory attorney's fees or not is a matter of semantics. But they are, just as in civil rights cases, attorney's fees that are awarded under

1 the authority of the statute, as opposed to the
2 authority of the Common Law, as some other attorney's
3 fees in Washington State are awarded.

4 Now, here I think that the plaintiffs are
5 entitled to attorney's fees. In this case, there
6 really hasn't been, as there has been in some other
7 cases that I have had, any meaningful discovery about
8 the hours that were done, because the defense has
9 taken the position that there is no eligibility for
10 attorney's fees whatsoever, end of argument.

11 And I have reviewed the billings presented by
12 plaintiffs. And I don't find any particular dispute
13 with any particular individual entries that have been
14 presented to me.

15 Now, the plaintiffs also move for a multi-
16 pplier, based on the contingency nature and the high-
17 risk nature of this particular litigation. The hours
18 that were expended in this are certainly high, and
19 the case was litigated on both sides with vigor and a
20 lot of hours expended. Certainly, the personality
21 clash of these parties contributed to this. To say
22 that the DeCourseys made this a crusade is an under-
23 statement. But has that added to the attorney's fees
24 in this matter? Has it caused excess litigation? I
25 don't see really any evidence of this.

1 I also don't see any evidence that there was
2 any sincere effort made to settle this case. And the
3 facts which lead to the finding of a violation of the
4 Consumer Protection Act were really undisputed. The
5 failure to disclose by Mr. Stickney was acknowledged
6 and admitted. The implications of that were strenu-
7 ously fought.

8 Now, I think that I am prepared to sign this
9 order with the proposed findings in it as presented
10 by the plaintiffs. I have incorporated those into
11 these findings. I also find that a multiplier of 1.3
12 is appropriate. So on a base figure of \$356,142
13 in attorney's fees, I would add 30 percent as a
14 multiplier because of the high-risk nature of this
15 particular litigation, which would result in a total
16 attorney's fee award of \$462,985.

17 In addition, the plaintiffs are entitled to
18 costs of \$45,442.

19 That would produce a total judgment for costs
20 and attorney's fees of \$508,427. And I will insert
21 that in the order granting the plaintiff's motion for
22 attorney's fees.

23 I want to make some other comments on the
24 record, and then I will give everybody an opportunity
25 to go on the record.

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An argument has been advanced, and I take this argument I think in the spirit that it was made, and it is a good faith argument.

With regard to the ruling by Judge Erlick in this case, I don't believe that I am reconsidering, revising, or reversing that ruling. I don't think that the order that Judge Erlick made has the effect that defendants accord it. My ruling in this has nothing to do with my great respect for Judge Erlick as a trial judge in this court. However, I don't think that his order did what the defense contends that it did. I see nothing in it which would preclude the award of attorney's fees since that time.

There hasn't been any request, as I understand it, made during the course of litigation for any updating on what the hours were that had been expended. I think that is always an appropriate inquiry if the attorney's fees in the case could approach what the damages are, which is certainly what happened here.

This case is a very sad case from a number of points of view. One, the DeCourseys wound up with near financial catastrophe because of the actions by Stickney and the contractor in this case. And we

1 wind up now with a disposition in this case that is
2 more than a million dollars. And it seems ridiculous
3 when we have a house that was worth far less than
4 that.

5 But I will sign the order, as I indicated,
6 with the figures indicated. I don't think it
7 indicates any disrespect or certainly unfairness, as
8 the term was used, to Judge Erlick. And the court of
9 appeals will have all of this in front of them and
10 they will have my comments here, and they can look at
11 this and say whether or not Judge Erlick's decision
12 in fact precluded the plaintiffs from requesting
13 fees, as the Consumer Protection Act essentially
14 directs trial courts to award attorney's fees in
15 cases where a violation of the CPA is found.

16 So I would also note that if I were to rule
17 otherwise, it either means that Lane Powell takes
18 this case and gets nothing, with a rather extreme
19 amount of effort involved, or, if they do collect on
20 their fee, they have to dispossess the DeCourseys of
21 their house. The whole reason for the statutory
22 award of attorney fees in Consumer Protection actions
23 is that often any victory by one whose rights have
24 been violated under the CPA would be a Pyrrhic
25 victory and there wouldn't be enough damages involved

1 to produce a fee. That would certainly be the case
2 here, where the attorney's fees approach the amount
3 of the damages. I am talking now about the 356
4 thousand dollar base figure.

5 So I am going to sign this order and then I
6 will hear anything that either party would like to
7 say.

8 MR. DAVIS: Your Honor, I would like to state
9 a couple of things for the record.

10 THE COURT: Let me do this first, and then I
11 will be able to listen closely.

12 All right, I have modified the presented
13 order in the way I indicated and I have signed it.
14 And we will present you both with copies of that and
15 file the original.

16 Mr. Davis.

17 MR. DAVIS: Your Honor, before I talk about
18 the specific points, I have nothing but the greatest
19 respect for this Court. And I consider it fortunate
20 to have this Court as the judge and I thought that
21 you handled the trial very well. I just --

22 THE COURT: Well, we always have occasion to
23 have different points of view in our courtroom. It
24 doesn't mean that any of us have to be disagreeable.

25 MR. DAVIS: But Your Honor just awarded 48

1 thousand dollars in costs. And as we argued in our
2 brief and as is plainly the law in the State of
3 Washington, and as is stated in dozens of cases, the
4 only costs you get are the RCW 4.8 for costs. There
5 were not 48 thousand dollars of RCW 4.8 for costs.
6 There is about five cases where people in Consumer
7 Protection Act cases have tried to get more costs,
8 and the court of appeals said no. That I think is
9 just plain error on its face.

10 Second, with respect to the multiplier, I
11 think the Court said something inconsistent. This is
12 kind of odd because the Court said that Windermere
13 never contested the basic facts about the nondis-
14 closure in the relationship, never contested it, and
15 that proves liability. Yet, the Court found that
16 this is a difficult case, and the risk of losing,
17 when Windermere conceded the facts that frame lia-
18 bility from the beginning, justify a multiplier. I
19 would suggest there is nothing in this case that
20 justifies a multiplier.

21 The next thing that I would suggest to the
22 Court is that I haven't even had a chance to read
23 these findings of fact. I believe I am entitled to
24 six days' notice. I believe I am entitled to argue
25 them. And I am not waiving that right. I believe

1 that this Court has signed the findings of fact which
2 is in effect a judgment, without giving me time to
3 see it, and I think that is reversible error as well.

4 With respect to the amount of attorney's
5 fees, in all due respect, I don't think that, as we
6 argued in our motion, that you can tell when you look
7 at these entries what case it applies to. And these
8 entries were done at times that there were parties
9 other than [Redacted] and Mr. Nourse has only said that it
10 excluded the [Redacted] time. There is nothing in the
11 records to support that all of these findings, all of
12 these fees apply to Stickney. There is no basis for
13 us to examine and to figure that out and it is their
14 burden to put that on the record.

15 With all due respect, I think that the Court
16 should reconsider its ruling and we will probably be
17 filing a motion asking it to do so.

18 Thank you.

19 THE COURT: Is there anything you want to put
20 on the record, Mr. Nourse?

21 MR. NOURSE: Yes, Your Honor. Thank you.

22 With regard to the redactions, to the extent
23 that in oral argument we referenced only [Redacted] I
24 believe our moving papers also identified the other
25 parties that had been involved in the trial,

1 including Redmond, Bemis (phonetic) and [REDACTED] and Mr.
2 [REDACTED] (phonetic) individually.

3 Secondly, with regard to the multiplier, the
4 Court did say that the amount of the liability both
5 caused and incurred was vigorously litigated, and we
6 agree. And we agree it was, from both sides. In
7 fact, that was the thrust of the entire defense at
8 trial.

9 We thank Your Honor for your service.

10 THE COURT: Let me say that there is a
11 considerable record before me and the papers filed
12 with regard both in opposition -- well, primarily in
13 support of the motion are before me. I am not going
14 to make any supplemental findings or respond. I made
15 the findings that I am going to make. I have had
16 roughly, I would say, three inches of paper to
17 consider. And that is where the material is that I
18 have relied on, as well as my experience in viewing
19 the trial.

20 All right. Thank you. We will be at recess.

21 MR. NOURSE: Thank you, Your Honor.

22 MR. DAVIS: Thank you, Your Honor.

23 (The Court is recessed.)
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STATE OF WASHINGTON)

) ss.

COUNTY OF KING)

C E R T I F I C A T E

I, Michael P. O'Brien, Official Court Reporter for the Superior Court of the State of Washington, County of King, do hereby certify:

That the foregoing proceedings were taken by me stenographically and later reduced to writing under my personal supervision;

That the transcript contains a full, true and accurate record of the proceedings that occurred at the time and place stated therein.

Michael P. O'Brien, CSR
Official Court Reporter
CSR OBRIEMP532BM