Alert! Windermere argues in court that Windermere agents are not agents of Windermere!

- In VEMIS v DeCoursey [case 06-2-24906-2 SEA], Windermere argued, "Stickney is not an agent for Windermere."

That being the case, what is the nature of Windermere's business? Are these the arguments of people you can trust?

Someone You Can Trust?

You are listening to a radio ad produced by the National Association of Realtors, aired in 2006. To view National Assn. of Realtors TV ad, click here.

This is the story of what happened when we put our trust in a Windermere Realtor.

Exclusively
Stickney Team
Windermere
Patty Ennis
Paul Stickney

Paul H. Stickney, Realtor licensed to the broker at Windermere Real Estate /SCA, Inc. Windermere, the Northwest's largest real estate firm, boasts of "the highest ethical standards" and "uncompromising honesty and integrity." As you read, be reminded that Windermere is defending Mr. Stickney in court.

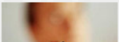
Is your Realtor as trustworthy as Windermere's Mr. Stickney?

To watch Mr. Stickney explaining his case to MSNBC, click here.

If you have an opinion you would like to communicate to Windermere, the head office may be reached at:

5424 Sand Point Way NE
Seattle, WA 98105
206/527-3801
wsc@windermere.com

To see the letters we are currently sending Northwest Realtors, click here.



See the Windermere Gallery of Rogues and Victims

The Renovation Trap

* Welcome to *Our Story* * Welcome to our home *

8209 172nd Avenue, N.E., Redmond, Washington, 98052
"The Cottage"

Windermere says it has ***The highest ethical standards … uncompromising honesty and integrity***
Does it? You be the judge. (cached)

We are Mark and Carol DeCoursey, and we live in Redmond, Washington. We are making our renovation disaster known throughout the country because we've discovered **grave public policy issues** are at stake, not just for the people of Washington, but for homeowners everywhere.

For years, a Windermere real estate agent had been funneling his trusting clients to a construction company, without telling his clients he had an interest in the company, and that the company was not registered, not insured, and not bonded.

We, too, trusted that agent. He put together a home purchase and renovation package for us, and brought the construction company into the deal. As a result, we have been brought to the edge of financial ruin.

When we went to Windermere and asked them to make up the damage done, they told us we'd HAVE TO SUE. When we did, Windermere's in-house law firm used lawyer tricks to stall, obstruct, and to send our legal bills through the roof.

Windermere Welcomes Us to Washington

Back in 2004, we were new to Washington. We wanted to buy a home but prices were going through the roof. Unless we acted soon, we'd be forced out of the housing market. We needed someone we could trust to help us to move quickly.

We thought we found that person in Windermere Realtor Paul H. Stickney. Stickney had been with Windermere for about ten years and was on the Board of Directors of Redmond's United Methodist Church. He seemed like a pillar of the community. We trusted him.

We found a house in Redmond in a perfect location, on a big lot. The house was structurally sound, but we didn't want to live there! Built in 1969, it was dark and dreary . . .

Stickney suggested we might be able to renovate the house within our budget. He said that Bob Trustworthy of Trust Me Construction ("TMC", footnote) was the best contractor he'd seen in his many years' experience. TMC had a unique pricing structure that brought great value to the consumer, and TMC did superb finish work. Stickney suggested we meet with Mr. Trustworthy at the house and get his opinion.

At the meeting, both Trustworthy and Stickney had many suggestions. Stickney wrote down the suggestions and price ranges for the work as Trustworthy looked on. Based on the evaluation of Messrs. Stickney and Trustworthy, we decided we could afford to buy the house and hire TMC to renovate it.

NEWS!

The Washington Messenger
"Don't Blame the Messenger"

- November 8, 2010: Court of Appeals trounces Windermere in DeCoursey case
- March, 19, 2010: "Wide Open Government -- For Big Business." Flier distributed to WA Attorney General's Office and others.
- February 15, 2010: "Crime Syndicate in Washington?" Flier distributed to WA Legislature and others.
- 7/24/09: **Option-based enforcement** - McKenna's Asst. Atty. Gen. Campbell dodged our questions: "My role is to give the Department option-based advice, but any advice I give my client is subject to the attorney-client privilege." And we thought the AG's clients were the people of Washington.
- 7/13/09: **Meth lab? Why not?** - We ask Atty. Gen. Rob McKenna's office why it's OK for Windermere to sell a contaminated meth lab as a residence without disclosing the facts to the buyers — and why it's OK for the Department of Licensing to sit by and do nothing.
- 7/2/09: **Laws? What laws?** - Atty. Gen. Rob McKenna's office writes that it supports the decisions of the Department of Licensing, it will do nothing to ensure that state law is enforced by the DOL, and it will defend the DOL in court if anyone challenges DOL decisions.
- 6/15/09: **Dear Rob, can you help?** - We write to Atty. Gen. Rob McKenna charging that the Department of Licensing is in collusion with Windermere to flout Washington real estate law; we ask McKenna to help enforce the law.
- 6/24/09: **State Senator Rodney Tom Calling** - Sen. Windermere Tom called us at home, accused us of lying about him, refused to help break up the Windermere/DOL syndicate, and denied he is a Windermere associate broker. Our response.
- 6/11/09: Our letter of

Not with a gun, but a Windermere Realtor license. For years, Windermere Wall Street provided a base of operations for Cheryl Jonet to fleece the Seattle area public. When the victims realized they'd been robbed, Windermere's lawyers lied, saying that Windermere brokers are not responsible for their agents' actions. For details, see the Windermere Gallery. This is the Irony and the Ecstasy of Windermere's advertizing.

Peter Doorish lost hundreds of thousands of dollars to Jonet's schemes, and so did Tom Mc Makin. We are told Jonet struck at least eleven other victims.

Cheryl Jonet (aka Cheryl Baumhofer) is now deceased, but the devastation she caused in the lives of others goes on and on. Windermere, meanwhile, has enjoyed the fruit of her commissions.

Isn't it about time the State of Washington prosecuted Windermere's lawyers for what amounts to racketeering?

And how honest a reporting service is *The Seattle Times*? *The Times* refused to cover our story (reporter Susan Kelleher interviewed us in December, 2006, but her story was killed). *The Times* has refused to follow up on the Doorish or Mc Mackin stories, and the eleven other leads Mc Mackin provided. Yet *The Times* does report other real estate scams. See, for example, February 27, 2009, Mortgage-fraud defendant sentenced to seven years in prison. It seems *The Times* looks the other way when the problem is Windermere.

Rob McKenna, Washington Attorney General, is styled as the top consumer protection advocate in the State of Washington. He is courageous

But Stickney didn't give us some critical information:

- Stickney didn't tell us he was one of the original incorporators of TMC, a 20% shareholder, and its Vice President. (Click here to see Stickney tell MSNBC's *Undercover: Home Wreckers* show that he didn't know he was Vice President.)
- Stickney didn't tell us that he and Trustworthy were partners in a joint venture to turn six acres of Trustworthy's land, located near downtown Sammamish, into a shopping mall. Stickney had taken out a loan in his own name to improve the property, and secured the loan with the land. Trustworthy agreed to make payments for Stickney whenever he could. We later discovered that at the time we met with them in 2004, they were behind on their payments and Stickney was begging the lender to forgive a payment or two. As we learned recently, after our money began to flow to TMC, TMC wrote several checks directly to Stickney and some to the lender.
- Stickney didn't tell us that TMC was not registered, bonded, or insured as required by state law. Remember, Stickney told us he'd seen TMC's work "for years." (Click here to see Stickney telling MSNBC's *Undercover: Home Wreckers* show that he "never paid attention to the licensing of any of my subs.")
- Stickney didn't tell us that TMC used unlicensed workers to do plumbing and high voltage electrical work, and that they routinely worked without building permits and inspections.
- Stickney did not tell us he had NEVER seen TMC do structural work — even though Stickney recommended TMC for structural work on the home we were considering.

The results? The renovations were a disaster. Our home does not meet Code, and we cannot obtain an Occupancy Permit. We cannot sell it.

Trust Me Construction:

- Did structural damage to a house that was previously structurally sound
- Used unlicensed persons to do all the plumbing work. The plumbing work does not meet Code. We've had sewage gurgling up from the downstairs bath drain
- Used unlicensed people to do some of the high voltage electrical work. The electrical work does not meet Code. In fact, the metal drain in the upstairs tub had been electrified at up to 110 Volts, AC — enough to kill you
- Installed roof trusses incorrectly
- Failed to build Code-required sheer walls
- Built an unstable kitchen/dining room extension
- And much, much more! See Construction Defects

We Get Sued ...

On April 1, 2006, we were served a Summons: V&E Medical Imaging Services, Inc. ("Automated Home Solutions"), TMC's high voltage electrical sub-contractor, filed suit on us claiming they had not been paid by TMC. (We had already overpaid TMC's bid price by more than $60,000 — there should have been plenty of money to pay the electricians.)

In response, on April 4, we wrote a courteous letter to all concerned — including Stickney and Windermere. We told them what had occurred, and asked that they make up the damage done to us — without using the courts.

We Get Sued, We Must Sue ...

On May 18, 2006, we met with Windermere executives and the Windermere attorney, John Demco, and showed them the documentation on this webpage. They did not argue with any of our facts, nor did they deny what Stickney had done. But when we asked that Windermere make up the damage, Demco told us we'd have to sue.

Why would a corporation like Windermere force dissatisfied customers to sue? Because when it comes to legal fees, big corporations like Windermere can spend dissatisfied customers under the table. Windermere even has what amounts to its own in-house law firm, the Demco Law Firm. (John Demco is a Windermere broker).

When large corporations like Windermere use pre-tax dollars in court-room battles with individual homeowners, they have it made in the shade. So Windermere drags its feet and stalls by inventing bizarre excuses for not producing witnesses for depositions. Windermere also files idiotic and meritless pleadings, which of course must be answered, thereby raising legal fees even higher.

All Windermere and other large corporations need do is force the legal bills of private citizens through the roof, and wait their opponents to cave in.

This is how Windermere protects agents such as Stickney against the lawsuits Windermere insists be filed.

reprimand to Sen. Rodney Tom. Eight weeks have passed since our April 15 letter asking for Tom's help enforcing state law on the Windermere syndicate. Tom has not answered despite numerous follow-up telephone calls and requests for an appointment.

- 5/21/09: **Gov. Gregoire** - In answer to our complaint about DOL complicity with Windermere, Gregoire allows DOL to speak for her. We note that she appointed three Windermere agents to the state Real Estate Commission.
- 5/15/09: **Will DOL give up its secrets?** - The Department of Licensing has responded to our request for documents on some of the culpable agents in the Windermere Gallery. The DOL wants another four weeks to sanitize the files, but we insist on knowing why DOL gave these licensees a clean bill of health. See DOL section below.
- 5/12/09: **The Windermere Gallery** - How does Windermere compare against its advertized lofty ideals? We examine some recent cases — names, dates, and victims.
- 5/2/09: **The Windermere Cup** - Members of Victims of Windermere (VOW) and the Society for Ethical Treatment of Homeowners (SETH) were out in force distributing the *Windermere Way* flier to the crowds. (Seattle Weekly blog)
- 4/15/09: **Writ of Mandamus** - We like Senator Rodney Tom. But does Windermere's senator have the *uncompromising honesty and integrity* to require the Department of Licensing to enforce the law on Windermere?
- 3/14/09: **Blocking access to the courts** - Possibly in reaction to our case, the Washington House of Representatives (many members of which are beholden to the real estate/development lobby) tried to block home buyers' access to the courts. See The Messenger, March 14, 2009.
- 3/10/09: **AIG backs Windermere's bond** - The (in)famous insurance firm AIG has stepped up to the plate to guarantee Windermere's $1.5 million bond. A *supersedeas bond* is a guarantee from a judgment debtor that if an appeal is not

enough to go after guppies, but has no appetite for sharks, such as the nation's largest savings and loan, Washington Mutual. Meanwhile, from across the continent, New York's AG, Andrew Cuomo, noticed the problem with this homegrown Washington firm, and took action.

We sought McKenna's help with our renovation problems, and achieved the predictable result — zero.

In 2006, McKenna settled a law suit against Ameriquest Mortgage for "pennies on the dollar," according to one attorney involved. Ameriquest was charged with overvaluing homes in appraisals and inventing employment and income information to "help" the borrowers qualify.

Who supports McKenna?

According to the Public Disclosure Commission (PDC), McKenna accepted improper campaign contributions from the Washington Association of Realtors in his 2008 bid for re-election.

And talking about disclosure ... McKenna's Assistant AG for Government Accountability, Timothy Ford, is the former legal counsel for the Building Industry Association of Washington (BIAW). Ford also co-chairs the AG's Eminent Domain Task Force. So the former BIAW lawyer decides eminent domain issues for Washington? How convenient is that for the real estate development community?

On June 15, 2009 we wrote to McKenna asking him to stop DOL's collusion with Windermere to flout Washington real estate law. We included specific documented examples. McKenna's office responded that McKenna supports DOL's decisions on Windermere, McKenna will do nothing to enforce state law, and McKenna would defend DOL if anyone challenged its decisions. On July 13, we asked our AG correspondent why McKenna thinks it's OK to allow Windermere to sell a contaminated meth lab house to unsuspecting buyers without even a hint of administrative sanction.

On the one hand ...

Windermere Tells Customers, "Suck Up Your Losses, Get On with Your Life"

It's their standard line — and they strongly imply that is the only sane approach to life. For example, referring to RATHOUSE victim Gary Kruger, Windermere Atty. Matthew Davis wrote to Judge Mertel on July 31, 2007:

> To give you some context, I personally have been dealing with Kruger now for four years now, and I have come to know him fairly well. I think it would be fair to say that Kruger is consumed with his animosity toward Windermere. He has never accepted the judgment in his 2002 case as final, and he maintains hope that a large settlement with Windermere is just around the corner. I have tried to convince Mr. Kruger that he had his chance with the legal system and needs to live with the result even if he disagrees with it. — *RE: Settlement Conference - Windermere v. Kruger, No. 05-34433-4 SEA August 1, 2007, bottom of page 2*

But Windermere, John Demco, Demco Law Firm, and Mr. Davis himself do not follow their own advice. For every adverse decision they file a "Motion for Reconsideration;" for every judgment, a "Motion for Retrial;" and for every final judgment, an appeal. The Gallery tells the tale. Like a sociopath, Windermere is never wrong in its own eyes, regardless of the facts of the case.

How can an organization have "the highest of ethical standards" when it is devoid of self-correction?

Windermere's "so sue me" attitude . . .

Perhaps John Jacobi (he's a former banker and founder of Windermere) and his family are so thick with the Washington good ol' boy network that Demco expects Windermere will never get an adverse decision. Or maybe Demco thought he could waste our legal budget with frivolous filings and specious arguments so that we'd never get to trial. (See right column concerning the tactic used on Gary Kruger.)

The phrase, "so sue me," is the stuff of comedies, but you rarely hear of anyone so litigation-eager in real life. So, why did Demco want us to sue?

Civil Rule 11 of the Superior Court of Seattle states: "(a) . . . the signature of a party or an attorney constitutes a certificate . . . that the pleading, motion or legal memorandum . . . is not interposed for any improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of litigation . . ."

Well-heeled corporations famously defeat legal complaints by out-spending their opponents. Windermere, "the Northwest's largest real estate firm" violates Rule 11 with a vengeance.

Since we hired a law firm to represent us in a lawsuit Windermere insisted we file -- at the time of this writing, January 2009 -- our legal bills stand at approximately

$500,000.00

That's how Windermere handles customer complaints. Windermere insists the customer sues, and then wipes the customer out. Yeah, that works. But should it? See RAT HOUSE example, right column.

If You Take Us to Court, We Wreck Your House

Hear Attorney Matthew Davis of the Demco Law Firm (representing Windermere) and another member of our esteemed Washington Bar threaten to demolish our house if we do not give up our legal claims.

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successful, the judgment will be paid promptly in full. But AIG? ... Ah, well.

- 3/3/09 **Twice is even better!** - Windermere announces a second time it is appealing the verdict, this time with "Super Lawyer" Robert R. Hickman of Reed McClure, AIG's law firm in Washington.
- 1/23/09 **Attorney fees awarded** - The trial judge awarded DeCourseys more than $508,427 in costs and attorney fees. (Seattle Weekly blog)
- 1/21/09 **Enough is never enough!** - Windermere announces it take the case to the Washington Court of Appeals.
- 12/5/08 **Let's do it again** - Windermere asked the court to restart the trial from beginning, or else roll back the award. Among other things, Windermere alleged the jury instructions had the wrong caption. What the hey, they had to ask.
- 10/30/08 **The verdict is in** - The 12-man jury found Windermere and Stickney breached fiduciary duty and violated the Consumer Protection Act, and awarded us $522,200 in damages, case no. 06-2-24906-2-SEA. (Seattle Weekly)
- 10/24/07: **Our story featured on MSNBC Undercover: Home Wreckers** - debuted October 24, 2007 and rerun at least eight times since.

Windermere Customer Service

Windermere has a unique business plan (or maybe not so unique):

- Windermere holds that the agents are independent contractors,

Paul H. Stickney, Realtor, authored an itemized invoice dated June 9, 2004 in which he stated he "[p]rovided comprehensive overview of costs associated with major cosmetic and some structural improvements to the subject home so DeCourseys could compare value when finished to other homes seen in the market place that were updated, because this home was unacceptable to DeCourseys in as is condition."

On the other hand ...

Brandi Adams, Windermere and Stickney's attorney from the Demco law firm, told the court on 11 June, 2007 that Stickney recommended his business partner, Bob Trustworthy (footnote), for "cosmetic work and non-structural work" only.

And that's what Stickney told the MSNBC reporters, too -- that he recommended Trustworthy's company to the DeCourseys for cosmetic work only. The MSNBC show *Undercover: Home Wreckers* was aired in October, 2007.

Stickney's 2007 statement was different from his 2004 statement.

On the third hand ...

Michele McNeil, Paul H. Stickney's other attorney, heads up her own Skyline Law Group. On January 14, 2008 she argued to the court that Stickney's business partner, Bob Trustworthy (footnote), "was quite capable of handling the DeCoursey project. He has over 50 years of construction experience, has built two homes for himself and four hundred apartments in Crossroads."

Stickney's 2008 statement reverts back to his 2004 statement -- a complete 360 degree turn. -- Which proves having two law firms is not necessarily better than having one.

On September 26, 2006, McNeil "ordered" us to take this

Windermere's DARK Clause

Sometimes mistakes are made. Sometimes employees act improperly and customers are damaged. A reputable company apologizes, makes up the damage, and life goes on.

But things are different with Windermere. From a few examples we have unearthed, we find that Windermere:

a. Denies liability
b. Conducts a protracted and exhausting legal battle that the average homeowner can't sustain
c. Offers settlement at a fraction of the damage
d. Refuses to cover the expenses of the legal battle
e. Insists on a "dark clause" in the settlement contract to guarantee the world will never hear how Windermere betrayed its promise of *The highest ethical standards ... uncompromising honesty and integrity.* Mission Statement, cached

In such fashion, Windermere's public record is without blemish. Who has ever heard of a problem? We might as well ask, who complains of the mob? Those who might complain are keeping their silence in cement gumboots the bottom of the East River. Let us have a look at some of Windermere's "cement gumboot" contracts:

1. **Gary Kruger** was sold a property infested with rats. The agent had a history with the property and knew of the problem. Nevertheless, the agent did not disclose the problem to Kruger. The courts have rule that a failure to disclose material information when there is a duty to disclose constitutes fraud. When Kruger sued, Windermere exhausted his legal war chest, then had his claims dismissed on summary judgment. (Full story.) The facts of the case did not see the light of day. When Kruger set about to tell the public of his experience, Windermere sued him for "trade libel" [case 05-2-34433-4 SEA]. Then Windermere offered to settle the case, but included a "Dark Clause" to forbid Kruger from further publishing the facts to the public. See the Kruger Dark Clause. Kruger refused to sign, and Windermere dismissed its own case.
2. **DeCourseys** (webmasters of this page) had a complaint and lawsuit against Windermere. On the eve of trial, Windermere offered to settle for a fraction of the damages ($75,000 of more than $500,000 in damages) with no compensation for legal costs. A "fundamental" part of the proposal ("of utmost importance to Windermere") was the infamous Dark Clause. See the Dark Clause from that proposed settlement.

Note in particular the phrases asserting that the Dark Clause is of "utmost importance" to Windermere. A single mention of the facts of the incident in question could cause "damage" to Windermere in the amount of $25,000!

The reader must wonder, how would the daring escape of a lone fact cost Windermere these terrible losses? Would so many potential customers reconsider their decision to use Windermere if they had all facts in hand?

So You're Thinking of Suing Windermere?

As mentioned elsewhere, you should be aware that Windermere will try to waste you as the Russians wasted Napoleon's army, avoiding pitched battle and letting the Russian winter of the courts starve you out. Windermere has a stock line of arguments they use throughout their cases, including such brilliant legalisms as:

A Windermere agent is not an agent of Windermere

and

The Washington Law of Real Estate (co-written by Demco)
exempts an agent from fiduciary duty

But you should know also that Windermere has been too clever by half sometimes, dancing out of the legal frying pan and into the fire. A litigant would do well to study the history of Windermere's arguments. We have some information that might help. See Forced to Sue a Windermere Franchise, Broker, or Agent?

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not agents of Windermere

- Windermere brokers do not learn of a transaction until after settlement — Windermere brokers know only the papers the agents put in front of them
- If a customer has a complaint, Windermere calls in the lawyers
- As Windermere lawyer John Demco said, you'll have to sue
- And when you sue, Windermere will use every legalistic stall and obstruction they can. They will waste your money on frivolous filings and bogus claims, sending your legal bills through the roof
- Demco's lawyers claim the brokers are not answerable to Windermere clients for improper conduct of the agents
- Demco argues that TMC's government documents naming Stickney as Vice President are "just a piece of paper."
- Demco also argued that our damages were not caused by Stickney lying to us and failing to disclose his conflicts of interest — our damages (if any) were caused by poor construction. That's like arguing that the gunman didn't kill the victim, the bullet did.
- When dissatisfied Windermere customer Gary Kruger spoke publicly about his experience, Windermere sued him for "trade libel." What else could a self-respecting billionaire corporation do?

Learn about the RAT HOUSE a Windermere agent sold to unsuspecting customer, Gary Kruger. Documents show the Windermere agent, George Rudiger, knew of the home's prior rat history when he sold the house, but did not warn Mr. Kruger. For details, see the Windermere Gallery.

web page down and told us: "*If anything good comes of this case, I hope it is to put all contractors and realtors on notice never to do business with you.*" She also accused us of attempting to "extort money" from Paul Stickney.

In August, 2008, McNeil famously told our lawyer that we should accept half our damages in settlement because "*everyone knows [the DeCourseys] are out of money and can't afford to go to trial.*"

Samantha Saul was a Windermere agent on Whidbey Island.

Linda Gabelein was a Windermere agent on Whidbey Island.

In 2005, Linda Gabelein and her daughter, Samantha Saul (above), were working as real estate agents licensed to Windermere's Freeland office on Whidbey Island. The office was situated near Mutiny Bay, and owned Windermere lawyer/broker John Demco (cached).

Freeland was also the home town of Emma Endicott, an elderly widow who suffered from bouts of disorganized thinking. Emma knew Linda and Samantha and trusted them. And Emma owned 24 acres of prime waterfront-view property on Mutiny Bay ... Well now!

Without informing Emma's sons, Samantha secretly persuaded Emma to give her power of attorney over Emma's property. Then Linda and Samantha persuaded Emma to sell parcels of land to them and their friends at prices far below market value. For details, see the Windermere Gallery.

When Emma's sons found out, they objected, but John ("So Sue Me") Demco defended his agents' actions and said the sales were

Department of Licensing Defies Washington Law

It is a truism: Regulatory agencies often become captives of the industries and professions they are convened to regulate. Historian Gabriel Kolko's seminal work, ***The Triumph of Conservatism***, shows how big business uses regulatory agencies to stabilize the market and give themselves a competitive advantage.

Many government agencies forget that they exist to protect the public. Instead, they work to advance the agendas of the industrial, business, and professional interests they are supposed to oversee.

* * *

In Vancouver, Washington, a doctor doing gynecological examinations had been touching the genitalia of his patients with his ungloved hand and taking photos. When one abused patient drove 160 miles to testify at his Department of Health disciplinary hearing, she was told she was not needed and was sent home. The doctor got off with a slap on the wrist, and was even allowed to edit the Department of Health's disciplinary order. See Weak regulation fosters more abuse/The state allows hundreds of doctors, counselors, others to keep practicing despite their sexual misconduct, *The Seattle Times Post-Intelligencer* "License to Harm" series, April 23, 2006 (cached).

* * *

And what of the Department of Licensing in the Paul H. Stickney/Windermere Real Estate/SCA matter? Despite the Jury Verdict of October 30 and the Judgment of November 14, DOL refuses to take any disciplinary action on Paul H. Stickney and Windermere for failing to disclose Stickney's egregious conflict of interest. DOL even asserts that real estate agents and brokerages are not bound by Washington's Consumer Protection Act. In reading this whitewash, we must remember DOL's disclaimer that "We [DOL] do not have the authority to ... make judicial determinations. Our remarks to not constitute legal opinion." (May 8, 2007)

Thanks to the Washington State DOL, Windermere and Stickney continue to do business among a trusting Washington public. Notice the phrase used by the DOL: in the May 8, 2007 letter:

> "... the evidence does not rise to the level to support the issuance of charges against Mr. Stickney's real estate license."

In 2006, the SEC declined to look into Bernard Madoff because:

> "... because those violations were not so serious as to warrant an enforcement action."

[See Madoff Misled SEC in '06, Got Off, *The Wall Street Journal*, December 18, 2008, (cached from SiliconInvestor); SEC report cached from wsj.com]

Notice the similarity of the excuse used by the DOL in the Windermere case to the excuse used by the SEC in the Madoff case.

Here is the history of our correspondence with the DOL. In particular, see DOL's December 8, 2008 response to the Superior Court judgment and our December 27, 2008 letter to Ms. Liz Luce, Director of the DOL.

* * *

In another case, Windermere demonstrated intimate knowledge of the DOL's day-to-day activities when the Windermere attorney, Matt Davis, wrote to the court on July 31, 2007. Davis wrote that RAT HOUSE victim, Gary Kruger (see above in right column) "has **hounded** the Department of Licensing without success to pursue disciplinary actions against Windermere." (Page 2, paragraph 5, emphasis added.)

Isn't that amazing? DOL complains to Windermere about a member of the public who is trying to get DOL to do its lawful job!

Given so many examples of complicit watchdogs, would anyone be surprised to learn multiple law enforcement agencies are looking the other way to make things easy for the development/real estate/construction industry? See Home Building boom relies on illegal workers, *The Seattle Times Post-Intelligencer*, September 17, 2006 (cached).

George Rudiger, Windermere agent, says of himself, "you need an experienced, knowledgeable professional to get the job done."

When Kruger moved into his newly purchased house, he suffered a severe allergic reaction and then discovered the rat problem. A rat abatement specialist found rat nests behind the walls, dozens of dead rat carcasses, electrical wires chewed by rats (causing a fire hazard), and subfloors and interior walls soaked with rat urine. The stench was so bad, the pest man said respirators should be worn by anyone working on the house.

Kruger hired an attorney and sued Windermere Northeast, Realtor George Rudiger, and broker Joan Whittaker [case 02-2-28184-2 SEA]. He spent $40,000 on legal fees.

Windermere then filed a summary judgment motion and Kruger's attorney demanded another $25,000. But Kruger had run out of money and couldn't pay. So his attorney dropped him and the judge threw out Kruger's claims, despite the facts of the case.

When Kruger spoke publicly about what had happened, Windermere sued him for defamation and "trade libel." In both cases, Windermere was represented by Matt Davis (see below).

Vila Pace-Knapp trusted Windermere, but never again. In 2001, Windermere Agent Dick Pelascini offered to save her home from foreclosure. The home soon belonged to Pelascini, and Pace-Knapp and her handicapped son were evicted (see Trial Brief). "She ultimately lost the home to the final. Emma's sons were forced to sue. Carolyn Cliff of Langley, WA represented the Endicott sons, while Demco and his law firm defended the agents.

Emma's sons won: The trial court found that Linda and Samantha exploited Emma's trust, thereby violating Washington's *Abuse of Vulnerable Adults* Act (AVA).

The facts were now undeniable and the community standards had been voiced. But Windermere and the Demco Law Firm know no shame. They appealed to Washington Court of Appeals.

On February 4, 2008, the Appeals Court spelled it out again: Taking advantage of a vulnerable old lady and cheating her of her land is WRONG. The land the Windermere agents swiped from Emma was returned to her estate, and the agents had to pay legal expenses.

Legally speaking, corporations are persons, and they have personalities. Windermere's personality is sociopathic: Windermere has a grandiose sense of self and feels entitled to certain things "by right." It tells lies with ease. It sees others not as people, but as opportunities to be exploited. The end justifies the means. Windermere lacks remorse, shame or guilt; it has no conscience. It can change its image as necessary to avoid detection (see for example, the Windermere Mission Statement, the Windermere Foundation, and Windermere's Community Service Day).

What happened when the Washington Department of Licensing was informed of the facts and the court decisions? Acting more like part of a criminal syndicate than government law enforcement, DOL announced that Linda and Samantha had not violated any Washington real estate laws.

Question: What's the difference between the Windermere/DOL/Attorney General combine and organized crime?

Chaetomium (Black Mold) infestation

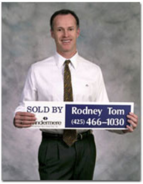
Is it safe to buy a home in Washington? In 2003, Theresa McCormick bought a house in western Washington. Her housing inspector did not report 1000 sq. ft. of the toxic black mold and soft rot fungus, Chaetomium, growing in the attic. Ms. McCormick moved into her new home, soon became sick, and discovered the mold. When she complained to the Washington Dept. of Agriculture (at that time the supervisory agency of home inspectors), she learned that Washington did not

Other recent reports of regulatory outrages:

- Jailed doctor keeps license, *Seattle Post-Intelligencer*, July 6, 2007 (cached).
- Revenge, threats, coddling alleged, *USA Today*, April 4-6, 2008 (cached).
- Scathing report says chief interfered with cop probe, *The Seattle Times*, June 19, 2007 (cached).
- Cop 'escaped punishment', *Seattle Post-Intelligencer*, July 2, 2007 (cached)
- District ignored warnings, then silenced girls fondled by teacher, *Seattle Post-Intelligencer*, October 22, 2006 (cached)

Let's see how the DOL responds to a Writ of Mandamus.

Windermere and Conflict of Interest



Rodney Tom is our state senator. He is an associate broker at the Kirkland-Yarrow Bay Windermere office. In 2007, as a newly elected senator, Sen. Tom had impressive array of committee assignments: vice chair of the Early Learning & K-12 Education Committee; vice chair of the Judiciary Committee; member of the Ways and Means Committee; and member of the Consumer Protection and Housing Committee.

Consumer Protection and House Committee? As a Windermere associate broker, Sen. Tom boasted of having sold entire sub-divisions for his builder clients. So Sen. Tom had a seat on the very committee entrusted with protecting consumers from people like Sen. Tom's clients!

We regarded Sen. Tom's seat on the Consumer Protection and Housing Committee as a conflict of interest. We made our opinion public (February 2007 letter to Editor of *Post-Intelligencer*), and we urged him to step down.

Until we attracted public attention to Sen. Tom's questionable committee membership, Rodney Tom's personal web site included a page entitled "Meet Rodney Tom," which we have cached here for posterity. The original page is now gone.

On that webpage, Sen. Tom stated that Windermere was "the leading real estate firm in the Northwest." That is, Tom reminded us that Windermere is ONE company. Its branch offices operate under the same trade mark, have the same company logo, and share the same company-wide pension fund. They have a company-wide standards and practices committee, they use the same forms and the same signs, and share the same law firm and the same insurance plan. Windermere attorneys have argued in court that Windermere is one company and the court has accepted that argument. (PDF)

In calling Sen. Tom's seat on the Consumer Protection and Housing Committee a conflict of interest, we caught Windermere's attention. During our July 18, 2007 deposition, Windermere's attorney Matt Davis questioned us closely on the subject. He asked us WHY we thought Tom's Consumer Protection and Housing Committee assignment was a conflict of interest. Our opinions on political issues are none of Windermere's business, of course, but Davis' interest was revelatory.

Sometime in the early months of 2009, the Consumer Protection and Housing Committee was disbanded. We now have the "Financial Institutions, Housing, and Insurance Committee," and the "Labor, Commerce, and Consumer Protection Committee." Sen. Tom does not have a seat on either committee.

As a member of Washington's legislature, will Sen. Tom be concerned that the Department of Licensing flouts the law with regard to Windermere? Will Sen. Tom permit his own vested interests in Windermere to taint his judgment on this issue? We are hoping he takes the honorable path. On April 15, we wrote to Sen. Tom suggesting he use his Senate influence to have a Writ of Mandamus filed on the Department of Licensing. On June 11, he still had not answered, so we wrote a follow-up letter.

On January 24, 2009, Senator Rodney Tom called us at home, refused to help with the general situation, and denied that he has any association with Windermere. See an accounting of this call and our response.

Washington — Democracy or Corporatocracy?

speculators who set her up," said Judge Barnett. Pace-Knapp won the case in court (Seattle Weekly, April 01, 2008).

Windermere appealed the decision, but still failed to get the desired dismissal. In December, the Washington Supreme Court refused Windermere's petition to review the case yet again. For details, see the Windermere Gallery.

Believe it or not, the Windermere agent, Dick Pelascini, still works as a Realtor for Windermere Bellevue Commons.

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require home inspectors to mention mold in their reports. Read Ms. McCormick's story here.

Learn about Melinda Ballard's story with different species of toxic mold in this CBS news article and this video.

New York State understands the problem. What's wrong with Washington? As Ms. McCormick notes, the corporate headquarters for Weyerhaeuser is located right here in Washington. And we wouldn't want people to get the idea that wood is a less-than-perfect building material, would we?

Tom Merrick, attorney for MacPherson's Property Management, Inc., filed an anti-trust suit against Windermere in 2001. Among other things, MacPherson's claimed theft of trade secrets. MacPherson employees photocopied MacPherson's client list and wrote to the clients announcing they planned to move to Windermere. They urged the clients to move their accounts to Windermere, also. Even before they quit MacPherson's, these employees were listed on Windermere websites marketing their property management services.

During depositions, Merrick discovered those MacPherson employees were former Windermere employees, sent into MacPherson's as industrial spies or moles. For details, see the Windermere Gallery.

Marsha J. Pechman, United States District Court Judge, ruled that MacPherson client lists were not trade secrets because Windermere could have gotten the client's names and addresses from public records.

But, Judge, if Windermere could get the names and addresses from public records, why didn't they? Why was Windermere allowed to benefit from what most ordinary mortals call "theft?"

Government of the people, by the people, for the people seems to have been replaced by government of the corporation, by the corporation, for the corporation. *Unequal Protection: The Rise of Corporate Dominance and the Theft of Human Rights* by Thom Hartmann tells the story of the loss of democracy in America.

In the contemporary USA, powerful corporations have assumed the role of feudal lords and citizens have been reduced to serfs. The Renovation Trap website documents some of the destruction inflicted upon citizens by the real estate/development lobby in the Northwest.

But there are other stories. See National Public Radio's two part series illustrating the power of the real estate development community in Texas, where the lobby appears to own the legislature and the courts.

- Part I: Did Builder's Clout Trap Couple In Dream Home?
- Part II: Critics: Texas Agency Favors Builders Over Buyers

Who Chooses Washington's Legislators, Administrators, and Judges?

Windermere acts as though it owns the state. Its victims are many, and its predations bold. See Windermere-Victims.com. Why do they think they can get away with what they are doing? Not the Governor, nor the Attorney General, nor the Department of Licensing, nor the mainstream Washington press will cast a critical eye at Windermere, despite the abundant documentation of its wrongdoing.

Evidence indicates that powerful interest groups — banking, land speculation, and real estate development interests — play key roles in choosing whom we elect. It has been said that these interest control our legislature, our executive branch, and our judiciary. Here are some articles of interest.

1. Realtors group accused of campaign violations, *The Seattle Times*, December 9, 2008 (cached)
2. Builders lobby aims its cash at Gregoire, *Seattle Post-Intelligencer*, July 10, 2008 (cached)
3. Rossi linked to builder fundraising, *Seattle Post-Intelligencer*, October 1, 2008 (cached)
4. Special-interest money fueling judicial races, *Seattle Post-Intelligencer*, September 16, 2006 (cached)
5. Panel rules on complaint against Hunt's campaign, *The Olympian*, August 14, 2008 (cached)
6. Judicial panel ethics group rejects BIAW complaint, *The Olympian*, August 13, 2008 (cached)
7. Ford should reject ad, claims group, *The Olympian*, August 8, 2008 (cached)
8. Judicial race funding scrutinized, *The Olympian*, November 24, 2008 (cached)

But What of Truth?

Washington Supreme Court says it's OK for politicians to lie about factual matters to the Washington public. Will the Supreme Court say it's OK for real estate companies to lie, too?

- No lie, state Supreme Court rules candidates can make false statements, *The Seattle Times*, Thursday, October 4, 2007 (cached)
- Split court says candidates can lie, *The Seattle Times*, Friday, October 5, 2007 (cached)

In a famous case in California in 2002, Nike, Inc. argued that as a corporation, it had all the Constitutional rights of a "person," including the right to lie in its advertizing. The Supreme Court dodged the question by ruling that Nike's statements were "commercial speech" rather than Constitutionally protected speech.

Not all legal experts agree with that citizens and corporations have a right to lie. "Publicly support those judges who demand truthfulness and honesty from all who appear in court and who impose meaningful sanctions for offenders." — Dale R. Harris, President, National Conference of Bar Presidents, *Do Lawyers Lie?*, published in *The Colorado Lawyer September* 2000 Vol. 29, No. 9 [Page 19]

But what happens when you tell the Presiding Judge of the King County Superior Court that a lawyer is lying, and offer the judge evidence?

Judge Bruce Hilyer's office returns your letter and documentation, and tells you he's not interested! (Upcoming article.)

Matt Davis, of Demco Law, represents Windermere and Paul Stickney. In papers filed with the court, Davis asserted that "Stickney is not an agent for Windermere." If Davis is telling the truth, the curious reader might wonder whose listings are these? And why is the Windermere legal counsel representing him? For details, see the Windermere Gallery.

Davis made the same argument when defending Realtors David Hopkins and Joann McCann, agents of Windermere Northeast. The two Realtors with their broker, Joan Whittaker, were accused by dissatisfied customers Julie Campbell and her husband of forging a legal description of their land: In the very pleading in which Davis was defending the agents, he denied that Windermere had "any agency relationship with" the agents.

While Davis dishes up such nonsense to the court, he tries to get real evidence ignored. In our case, Davis asked the court to strike two of our Declarations from the court's consideration. The court decided against Davis. To see the Declarations Windermere wanted ignored, click here and here.

Of course, we had to answer Davis' motion, and up go the legal costs. When Davis did not get the decision he wanted, he asked the court to characterize comments from the bench as rulings, and THAT motion had to be answered. And up, up, up go the legal costs.

For more information on the Windermere legal tactics, see You Take Us to Court? We Bust Your House!

Dr. Jekyll had "the highest of ethical standards" and "uncompromising honesty and integrity." But what of Mr. Hyde? (image: Fredric March, 1931)

Guest Editorial from Judges Above The Law

One hand washing the other is the successful formula for good ol' boy networks everywhere

Until three years ago, Michael Kathrein truly believed courtrooms were places where judges listened to the facts carefully and decided cases honestly.

Then he got the lesson of his life.

A judge in his case could, and did, cheat. Opposing counsels could, and did, cheat. And once they coordinated their cheating, no fact, law or procedure could save him. He was set up to lose.

When you think of a "corrupt" judge, you may think of one who trades rulings for cash. As far as we know, that obvious sort of corruption is rare. You must appreciate however, that corruption may take subtle but equally destructive forms.

Among other things, a dishonest judge can ignore evidence, twist rules and procedure, obstruct the record, retaliate, manufacture facts or ignore others, allow infirm claims or dismiss valid ones, deny admission of evidence prejudicial to the favored party, suborn perjury, mischaracterize pleadings, engage in ex parte communication and misapply the law.

When he or she does these things intentionally, (motivation is a separate issue) he commits a crime. Petty or grand, the acts are still crimes. It takes surprisingly little to "steer" a case. *More ...*

Footnote: "Trust Me Construction" is a pseudonym. The actual construction company went out of business a few months after it stopped work on our home. The man who ran the company, "Bob Trustworthy" (also a pseudonym), is no longer in the construction business.

We have since reached a satisfactory agreement with Trust Me Construction and Bob Trustworthy. Given that they no longer present a danger to the public, we agreed not to use their real names when telling this story.

On the other hand . . . We regret having made that agreement. Why?

The confidentiality agreement is dumb. Bob Trustworthy's real name and the name of his construction company are part of the public record on file with the Superior Court in Seattle, Case No. 06-2-24906-2 SEA. Yet we must expurgate the names or use pseudonyms. How dumb is that? And the expurgations make telling our story awkward. Using pseudonyms sometimes produces laughable results.

We have been criticized by some of our supporters for signing a "Dark Clause." If given a second chance, we would not do so. We urge anyone in a similar position to refuse to sign a confidentiality clause. If you settle with the defendants, you should expect them to make up the damage they did to you. Do not then inflict damage on yourself by agreeing to hobble your right to free speech. All too often, a "confidentiality clause" is a purchase of your silence so the wrongdoers may continue in their wrongful ways. How right is that?

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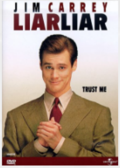


Liar Liar, starring Jim Carrey, delighted movie goers by portraying the hilarious results when a lawyer was rendered unable to lie for just one day.

Ron Ward, past president of the Washington State Bar Association, was outraged by judicial tolerance of lawyer misconduct:

Lawyer misconduct and lack of professionalism include most notably:

1. *Lying (including material omissions verbally and in pleadings directed to the court and to opposing counsel).*
2. *Engaging in intimidation tactics and abuse of the discovery process (including badgering and attempted intimidation of witnesses and opposing parties and other "Rambo" techniques; name-calling; threatening CR11 sanctions; brow-beating pro se litigants; failing to timely file responsive pleadings; failing to submit responsive pleadings; concealing and destroying evidence; and engaging in cost-prohibitive litigation intended not to resolve the dispute, but to force opponents from the fray because of their inability to afford justice). ...*

Mr. Ward also provides a prescription for this professional disease:

A more assertive role by judges is the single most important factor in fostering professionalism. Judges are the referees in the justice process. There is no way to abrogate that responsibility. It is clear that in many cases the litigants are not just going to work it out among themselves. Breaches of professionalism and flouting of the rules are akin to corporate policy in some firms. Unfortunately, it is their culture.

- Ward, Pit Bulls, Pikes, and Pitchforks

John ("so sue us") **Demco**, founder of the Demco Law Firm, legal counsel to the Windermere corporate hydra. For details, see the Windermere Gallery.

Gagging dissatisfied customers is of "utmost importance to Windermere," according to the Demco Law Firm. See Windermere's Dark Clause in the central panel.

Douglas A. Schafer, a Washington lawyer, discovered that his client was buying favors from a Pierce Count Superior Court judge. Schafer blew the whistle on the judge to the Supreme Court, which then had Schafer suspended from the Bar for violating attorney-client privilege.

Washington - a state where no good deed goes unpunished.

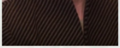
Dark Vader had very few customer complaints with the Better Business Bureau. This is an amazing record, considering Mr. Vader's methods. American business (and consumers) would do well to discover how this was accomplished.

The corporate tool for a squeaky clean reputation is the "dark clause." Windermere, for example, asserts that the dark clause is of "utmost importance" in a settlement agreement. Blackbeard the Pirate was familiar with the concept: "Dead men tell no tales."

SEATTLE WEEKLY
SHOW US YOUR TORTS!

Seattle Weekly, October 15, 2008, published an opinion entitled The Way We Elect Judges Is a Sham (Cached). The article quotes a number of prominent judges from the Washington courts.

At the very minimum, we ask: Shouldn't candidates for judicial office to required to publicly disclose comprehensive and detailed resumes of their careers? If a candidate for judicial office has spent his much of his professional life defending other lawyers who are caught lying, cheating, and stealing, or real estate agents who swindle their customers, shouldn't the public know about that?



Washington Supreme Court Justice Bobbe Bridge was arrested on charges of drunken driving and hit-and-run after leaving the scene of an accident about a mile from her home in the Magnolia neighborhood of Seattle. See *Seattle Post-Intelligencer*, March 2, 2003, *Bridge arrested for drunken driving*

Bridge admitted and apologized for her actions, but continued on the Court for about four years, to retire in 2007. Charges against Bridge were dismissed by the District Court.

Bridge is also noted for creating double-barreled factoids when she wrote a majority decision denying a motion brought by Tacoma lawyer Doug Schafer (above). Schafer's law license was suspended for six months when he reported that a Pierce County judge was on the take. He appealed the decision. In the opinion, Judge Bridge wrote:

"*Judge Anderson ruled that Schafer's petition was frivolous and without merit, and assessed $ 1,000 in attorney fees against Schafer's client.*"

Schafer asserts there was no such ruling, and that he had written no such petition. See To Kill A Messenger

Justice Brent D. Benjamin of the West Virginia Supreme Court refuses to recuse himself from $15 million case between two coal companies. Justice Benjamin cast the deciding vote in the case in favor of the larger company — having earlier accepted more than $3 million in campaign contributions from the CEO of the same company. With accusations of impropriety from another judge on the same court and cries of outrage from coast to coast, the case went to the Supreme Court of the United States. That court decided that Judge Benjamin should have recused himself.

"If the public believes that judges can be bought," said Keith R. Fisher, a lawyer for the American Bar Association, "that is really poisonous and undermines public confidence in an independent judiciary."

Public confidence may be very important to Mr. Fisher (since he is in the trade), but for the rest of us, a judiciary free of corruption takes higher precedence.

Edith Hollan Jones, Chief Judge of the United States Court of Appeals for the Fifth Circuit, told the Harvard Law School in a February 2004 address that the American legal system is corrupt beyond recognition.

"An increasingly visible and vocal number [of lawyers] apparently believe that the strategic use of anger and incivility will achieve their aims. Others seem uninhibited about making misstatements to the court or their opponents or destroying or falsifying evidence," she claimed. "When lawyers cannot be trusted to observe the fair processes essential to maintaining the rule of law, how can we expect the public to respect the process?"

She also stated, "Lawsuits are brought that ultimately line the pockets of lawyers rather than their clients. The lawsuit is not the best way to achieve social justice, and to think it is, is a seriously flawed hypothesis. There are better ways to achieve social goals than by going into court."

Roger C. Cramton, Professor of Law Emeritus at Cornell University, wrote in the 1970s that "the ordinary religion of the law school classroom" is "a moral relativism tending toward nihilism, a pragmatism tending toward an amoral instrumentalism, a realism tending toward cynicism, an individualism tending toward atomism, and a faith in reason and democratic processes tending toward mere credulity and idolatry."

John F. Molloy, former Chief Judge of the Arizona Court of Appeals, is the author of *The Fraternity: Lawyers And Judges In Collusion*. In that book, Judge Molloy lamented usurpation of power by the legal Fraternity.

"Judges were simply not intended by our Founders to have the power to make laws. It is impossible for any rational person to read our nation's Constitution without finding a clearly expressed intent that the powers of government be apportioned between its three branches, the legislative, the executive, and the judiciary. The lawmaking power was crystal clear — not delegated to judges." (pg. 17.)

Molloy also lamented that the legal fraternity has fallen away from pursing the ideals of truth and justice to become a money-making ventures, with top spoils going to the cleverest debaters.

"The unique symbiotic relationship between bench and bar has resulted in making a game of our trials, a game played by clever and expensive lawyers whose skills in technical rules and in salesmanship control the outcome. Today's judges do not interfere with the games lawyers play. In my early contacts with our judicial system, I witnessed much more of an independent, truth-seeking attitude from trial judges ..." (pg. 14.)