

WASHINGTON CASE UPDATE

When is a Losing Party Entitled to Relief from Judgment?

From the desk of Kyle Riley: Under Washington law, a losing party may obtain relief from prior judgment in cases of fraud, misrepresentation or misconduct. If the court finds that the offending party withheld evidence during discovery, is that enough to get relief from the judgment? Read on to learn more.

Claims Pointer: In this case arising from a land dispute between two neighbors, the Washington Court of Appeals held that in order to obtain relief from a prior judgment, the party seeking relief must show that the fraud, misrepresentation or misconduct prevented that party from fully and fairly presenting their case or defense. The case is a reminder that even if it is discovered that the opposing party engaged in misconduct, it may not be sufficient to obtain relief from a prior judgment, an important consideration for adjusters and their attorneys during and after legal proceedings.

case in point...

Tammy Blakey & Flying T. Ranch, Inc., v. Reginald Wren & Brenda Wren, No. 75449-1-1, Washington Court of Appeals Div. I (September 5, 2017) (unpublished)

Reginald Wren and Brenda Wren (“the Wrens”) and Tammy Blakey (“Blakey”) lived on adjacent lots. Blakey acquired her parcel in 1989, and the Wrens acquired their parcel in 2004. The two parcels were separated by a barbed wire fence. Over time, a hedgerow engulfed the barbed wire fence, and each neighbor farmed their respective parcel up to the hedgerow. In 1990, Blakey removed some of the hedgerow and repaired the fence. The hedgerow slowly grew back. In 2009, she destroyed the hedgerow again, and decided to build a new barbed wire fence. The Wrens disputed the location of the new barbed wire fence and claimed that it encroached on their property by approximately 50 feet.

The Wrens sued Blakey for trespass and to quiet title. Blakey counterclaimed, asserting that she obtained title in 2009 by adverse possession. The trial court found that Blakey’s replacement of the barbed wire fence was insufficient to amount to actual possession. As such, the court held that Blakey did not “make out a case of adverse possession.” Further, the trial court held that Blakey’s actions constituted trespass, and by destroying the hedgerow and building a barbed wire fence, she prevented the Wrens’ use of their own property because of the risk that the Wrens’ horses might injure themselves on the wire.

In January 2015, Blakey sued the Wrens after they built a new fence on the section line described as the common boundary in the parties’ deeds. The trial court found that res judicata barred Blakey’s action. However, the court also sanctioned the Wrens for discovery violations and ordered them to turn over several photographs from 2009. Blakey claimed that the Wrens withheld two additional aerial photographs taken in May 2009 and August 2011. In 2016, Blakey moved to vacate the judgment under Civil Rule (“CR”) 60(b)(4), which allows a court to relieve a party from a final judgment in cases of fraud, misrepresentation, or other misconduct of an adverse party. Blakey argued that the Wren’s failure to turn over the two photographs constituted sufficient misconduct to set aside the prior judgment. The trial court denied her motion and prohibited Blakey from filing suit against the Wrens related to the same facts or claims without first seeking permission from the court. Blakey appealed the trial court’s decision.

Upon review, the Washington Court of Appeals explained that CR 60(b)(4) is not aimed at judgments that are factually incorrect. Rather, the focus of CR 60(b)(4) is on judgments that were unfairly obtained. Relying on a previous decision in *People’s State Bank v. Hickey*, the court explained that in order to obtain relief, “the fraudulent conduct or misrepresentation must cause the entry of the judgment such that the losing party was prevented from fully and fairly presenting [her] cause or defense.” 55 Wn. App. 367, 372, 777 P.2d 1056 (1989).



Contact: Kyle Riley | www.smithfreed.com | email: kdr@smithfreed.com

Ph: 206.576.7575 | Fax: 206.576.7580 | 705 Second Avenue, 17th Floor | Seattle | WA | 98104

This article is to inform our clients and others about legal matters of current interest. It is not intended as legal advice. Readers should not act upon the information contained in this article without seeking professional counsel.

WASHINGTON CASE UPDATE

When is a Losing Party Entitled to Relief from Judgment?

In affirming the trial court's decision, the court explained that Blakey received a full and fair hearing on all of the issues.

The court acknowledged that the Wrens committed discovery violations and allegedly withheld two aerial photographs. However, despite the violations, the court found that the misconduct was harmless and did not support a motion under CR 60(b)(4). The court noted that even with the 2009 photographs, Blakey would be unable to establish her adverse possession claim because after she removed the hedgerow in 1990, she allowed it to grow back and did not show any occupation up to the barb wire fence. Further, even with the photographs showing Blakey's 2009 construction of the fence, 10 years had yet to elapse between the construction of the fence and Blakey's counterclaim for adverse possession. Because Blakey failed to provide sufficient evidence to show possession, the court found that the aerial photographs would have made no difference, and thus, Blakey received a full and fair hearing on all the issues. As a result, the Washington Court of Appeals upheld the trial court's denial of a CR 60(b)(4) motion to vacate.

NOTE: This opinion has not been published. It is provided to demonstrate how the court approaches the issues involved in the case. It cannot be cited as authority to a court of law.

View full opinion at: <https://www.courts.wa.gov/opinions/pdf/754491.PDF>

Case updates are intended to inform our clients and others about legal matters of current interest. They are not intended as legal advice. Readers should not act upon the information contained in this article without seeking professional counsel.

case in point...



Contact: Kyle Riley | www.smithfreed.com | email: kdr@smithfreed.com

Ph: 206.576.7575 | Fax: 206.576.7580 | 705 Second Avenue, 17th Floor | Seattle | WA | 98104

This article is to inform our clients and others about legal matters of current interest. It is not intended as legal advice. Readers should not act upon the information contained in this article without seeking professional counsel.