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

Wendelin Dunlap

Plaintiff,

vs.

Nathan Scott, Colleen Craig, Meredith  
Laws, Guy Davidson, Regal  
Hospitality, LLC.

Defendants.

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NO:

COMPLAINT FOR FRAUD; NEGLIGENT  
MISREPRESENTATION; BREACH OF CONTRACT  
AND CONSUMER PROTECTION ACT  
VIOLATIONS;

JUDGE:

COMES NOW PLAINTIFF and as complaint against Defendants alleges as follows:

1. PARTIES

1.1 *Plaintiff.*

Plaintiff, Wendelin Dunlap, is a resident of Skagit County, Washington and the sole member of the Washington State Limited Liability Company, Peaceful Living Properties, LLC.

1.2 *Defendant Nathan Scott*

Defendant Nathan Scott (“Scott”) is a real estate broker licensed in Washington State and, on information and belief, the owner of the business “Windermere Anacortes.”

1.3 *Defendant Colleen Craig.*

Defendant Colleen Craig (hereinafter, “Craig”) is a real estate agent licensed in Washington State, and, on information and belief, licensed under broker Scott.

1.4 *Defendant Meredith Laws*

Defendant Meredith Laws (hereinafter, “Laws”) is a real estate agent licensed in Washington State, and, on information and belief, licensed under broker Scott.

1.5 *Defendant Regal Hospitality, LLC*

Defendant Regal Hospitality, LLC (“Regal”) is a limited liability company registered with, and formed under the laws of, the State of Washington.

1.6 *Defendant Guy Davidson*

A member of the Regal Hospitality, LLC and a listing agent for the commercial property in controversy in this action.

2. JURISDICTION AND VENUE

1 2.1 The principal acts giving rise to this action occurred in Skagit County, Washington State.  
2 This Court has jurisdiction over the parties hereto, and over the subject matter. Venue is properly  
3 laid in this Court.

4  
5 3. FACTUAL STATEMENTS

6 3.1 On or about June 5<sup>th</sup> 2008, the Plaintiff viewed a listing on WindermereCommercial.com  
7 regarding a commercial property listed for 800K (hereinafter, the “property”) (See exhibit “\_\_”  
8 for legal description) located in Skagit County, (See website listing, exhibit “\_\_”). The listing  
9 claimed the property encompassed Seven Thousand Five Hundred (7,500) square feet. The  
10 listing agent for the property was Davidson, a real estate agent licensed under the brokerage  
11 Windermere Anacortes. On June 6<sup>th</sup> 2008, I toured the property with Meredith Laws and my  
12 contractor. Laws acknowledged that the price of 800k was quite high and stated that she had  
13 spoken to Davidson and he expected to lower the price of the property to 600K in the next few  
14 days. (according to Nate’s listing, the property had never been listed at 800K and was opened at  
15 650k).  
16

17 3.2 On or about July 3<sup>rd</sup> 2008, noticed that the price had been dropped to 600K for the same  
18 building and property size (Seven Thousand Five Hundred (7,500) square feet) made an offer to  
19 purchase the property in the listing, through her agent Meredith Laws to Guy Davidson who had  
20 been the only contact with information about the property since initially finding the listing on  
21 June 5<sup>th</sup> 2008. Nate Scott was not acknowledged as an agent for the listing until I received the  
22 P&S.  
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1 3.3. The Skagit County assessor lists the property as a parcel with Tax I.D. # 3772-024-010-  
2 0008. This Tax I.D. # is comprised of Seven Thousand Five Hundred (7,500) square feet.

3 3.3 On or about \_\_\_\_\_, the Plaintiff entered into a representation  
4 agreement with Colleen Craig (hereinafter, "Craig"). On or about \_\_\_\_\_, the  
5 Plaintiff entered into a representation agreement with Meredith Laws (hereinafter, "Laws"). \*\*\*I  
6 never signed a representation agreement – the only documents I signed with Laws/Craig were the  
7 P&S, Counter Offer and acceptance of the Seller's Disclosure Statement.  
8

9 3.4 On or about July 3<sup>rd</sup> 2008, the Plaintiff was presented with a purchase and sale agreement  
10 by Colleen Craig via e-mail. Said purchase and sale agreement provided a legal description  
11 different from the title commitment; to wit, the purchase and sale agreement's legal description  
12 left out approximately Three Thousand (3,000) square feet the Plaintiff had anticipated  
13 purchasing in the transaction. Plaintiff's agents failed to notify the Plaintiff of the absence of the  
14 square footage to the property. Scott failed to notify the Plaintiff of the absence of the square  
15 footage of the property.  
16

17 3.5 On or about June 6<sup>th</sup>, 2008, the Plaintiff and Meredith Laws visited the property. Meredith  
18 Laws made no attempt to correct the Plaintiff, or inform the Plaintiff, the parking lot,  
19 comprising Three Thousand (3,000) square feet was not part of the property.  
20

21 3.6 On information and belief, On or about July 8<sup>th</sup>, 2008, Linda Barnum of the Escrow  
22 Department at Chicago Title Island Division, Anacortes, received the information about the  
23  
24

1 purchase and sale agreement of the property from Craig and opened escrow and ordered the  
2 preliminary title report.

3 3.7 On or about July 14th 2008, and during feasibility, the Plaintiff, her contractor, her building  
4 designer and Craig visited the property. During the visit, the Plaintiff her contractor, her  
5 building designer and Craig stood with their backs to the building and 4500 sq ft and discussed  
6 the intent to develop the remaining 3000 sq ft into 7 parking spaces and an area for the dumpster.  
7 They discussed that the far end of the 3000 sq ft had access to an alley way that could be used by  
8 the garbage collectors to access the dumpster since the dumpsters for the adjacent property (The  
9 Majestic Inn) were in the same location. They discussed in detail how the property would be  
10 used as a parking lot and would be part of the property purchased. Craig made no attempt to  
11 correct the Plaintiff, or inform the Plaintiff, the parking lot was not part of the property for sale.  
12

13  
14 3.8 On information and belief, on or about July 10<sup>th</sup>, 2008, Kauleen Shelton, employee of  
15 Chicago Title Mount Vernon, created the first version of the escrow documents for the closing  
16 with the legal description that matched the Windermere advertisement. The document gave the  
17 legal description of the Seven Thousand Five Hundred (7,500) square foot property (See Exhibit  
18 “\_\_\_”); akin to the listing (See Exhibit “\_\_\_”).

19  
20 3.9 On information and belief, on or about July 21<sup>st</sup>, closing agent and employee of Chicago  
21 Title Mary Mansfield, reviewed the escrow documents and realized that the legal description did  
22 not match the purchase and sale agreement. Mansfield notified Kauleen Shelton that the first  
23 title did not match the purchase and sale agreement and requested the second version of the  
24 escrow documents for the closing with the legal description that matched the purchase and sale

1 agreement. Shelton again sent out “3 + 1” copies to the Escrow Department at Chicago—Island  
2 Division. She mailed a copy directly to Scott and Craig. On information and belief, Chicago  
3 Title—Island Division failed to mail these updated escrow files to Plaintiff. On or about August  
4 29<sup>th</sup> 2008 Plaintiff requested a chance to speak with the employee at Chicago Title Insurance—  
5 Island Division that Plaintiff was led to believe mailed the second copies of the preliminary  
6 closing documents. The Plaintiff was informed by Mary Mansfield that the employee had been  
7 terminated and no contact information for said employee was available.

8  
9 3.10 On or about July 21<sup>st</sup>, 2008, Plaintiff received the first and only set of preliminary closing  
10 documents Plaintiff received, for her review. Plaintiff saw that they matched the assessor’s  
11 Parcel number, legal description and tax amount, as per the listing on Windermere’s website (See  
12 Exhibit “\_\_\_”). These were the only closing documents Plaintiff was given, other than those  
13 presented at the actual closing ceremony.

14  
15 3.11 On or about August 18<sup>th</sup> 2008 5pm, the Plaintiff had the property surveyed and obtained a  
16 copy of said survey (See Exhibit “\_\_\_”). Said survey disclosed the property as being composed  
17 of the Seven Thousand Five Hundred (7,500) square foot as in the listing. On or about August  
18 18<sup>th</sup> 2008 7:30pm, the Plaintiff sent the survey via e-mail to her agents Meredith Laws and  
19 Colleen Craig. Plaintiff clearly indicated to her agents she anticipated the property would be  
20 comprised of the Seven Thousand Five Hundred (7,500) square foot parcel. Yet again her agents  
21 again made no attempt to correct the Plaintiff, or inform the Plaintiff, that the area comprised of  
22 the parking lot, and comprising Three Thousand (3,000) square feet was not part of the property.  
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1 3.12 On or about July 3<sup>rd</sup> 2008, Scott became the seller's agent and replaced Davidson. However,  
2 the Plaintiff's agents Laws and Craig were agents of licensed broker Scott. Scott failed to inform  
3 plaintiff the Windermere listing was not the property being purchased in the transaction. Rather,  
4 Scott insisted that an alternate listing (See exhibit "\_\_\_"), one not available to the public, was  
5 actually what Plaintiff was purchasing. Scott even inserted this alternate listing into the escrow  
6 file. Craig and Laws again failed to inform Plaintiff of this insertion and its implication (i.e.  
7 Plaintiff would not get the Three Thousand (3,000) square feet of property she had repeatedly  
8 insinuated would be part of the purchase). Plaintiff asserts she was purchasing the property as  
9 listed in the Windermere listing.

10  
11 3.13 The purchase and sale closed on August 22<sup>nd</sup> 2008.

12  
13 3.14 On information and belief, the actual listing that Defendant Scott claimed the purchase and  
14 sale agreement was written from was never made available to the public on any Windermere  
15 website. Plaintiff was never shown a copy of the listing that the purchase and sale agreement  
16 was generated from before closing.

17  
18 CAUSES OF ACTION

19 FRAUD

20  
21 4.1 Plaintiff realleges, as if restated, paragraphs \_\_\_ through \_\_\_\_\_, above. The Defendants, or  
22 their agents and employees, represented that they would sell the property composed of Seven  
23 Thousand Five Hundred (7,500) square feet as understood by Plaintiff. This was a representation  
24 of an existing material fact that the Defendants knew was false, that was in fact false, and that the

1 Defendants, intended the Plaintiff to rely upon, knowing full well that the Plaintiff was not aware  
2 of the truth of the matter. The Plaintiff did rely justifiably on the Defendants' statements and  
3 representations and the Plaintiff was damaged as a result of her reliance. As a direct and  
4 proximate result of the misrepresentations, the Plaintiff has been damaged in such sums as to be  
5 proven at the time of trial.

6  
7 CONSUMER PROTECTION ACT

8 4.2 Plaintiff realleges, as if restated, paragraphs \_\_\_\_ through \_\_\_\_\_, above.

9  
10 4.3 Defendants, Scott, and Davidson, operate trades or businesses, to wit, real estate sales  
11 offices. During the course of their operation of the businesses, defendants, Scott and Davidson,  
12 engaged in an unfair or deceptive act or practice by representing to Plaintiff and by continuously  
13 failing to inform Plaintiff that the property did not include Three Thousand (3,000) square feet of  
14 the Seven Thousand Five Hundred (7,500) square feet the Plaintiff understood would be included  
15 in the transaction, and as per the listing.

16  
17 4.4 These acts or practices have an impact on commerce, and business in Washington State.

18 They have been, or have the potential to be, repetitively engaged in and injurious to the public  
19 and to the public interest. Plaintiff was injured in her property as a proximate result of  
20 Defendants' unfair or deceptive act or practice.

21  
22 4.5 For their violation of the Consumer Protection Act defendants, Defendants are liable to  
23 Plaintiff for attorneys fees, costs, and for punitive damages at the maximum limit imposed under  
24 the law.

1 NEGLIGENT MISREPRESENTATION (*IN THE ALTERNATIVE*)

2 4.6 Plaintiff realleges, as if restated, paragraphs 1.1 through 3.12, above. The Defendants failed  
3 to disclose to the Plaintiff that the property did not include Three Thousand (3,000) square feet  
4 of the Seven Thousand Five Hundred (7,500) square feet that the Plaintiff understood would be  
5 included in the transaction, knowing that the Plaintiff would be induced to purchase the property.  
6 The Defendants, and each of them, had duties, both at common law, and statutorily (see R.C.W.  
7 18.86.20 et seq.), as real estate professionals, to exercise reasonable care to disclose to the  
8 Plaintiff that the property did not include Three Thousand (3,000) square feet of the Seven  
9 Thousand Five Hundred (7,500) square feet that the Plaintiff understood would be included in  
10 the transaction. As a direct and proximate cause of the Defendants' failure to exercise reasonable  
11 care to disclose this material fact, the Plaintiff has been damaged in such sums as shall be proved  
12 at trial.  
13

14 BREACH OF STATUTORY DUTIES PURSUANT TO RCW 18.86 et seq. AND COMMON  
15 LAW NEGLIGENCE.  
16

17 4.7 Plaintiff repeats and realleges Paragraphs through \_\_\_\_\_. By reason of the foregoing,  
18 Defendants Laws, Craig and Scott were negligent and breached their fiduciary duties of care  
19 owed to plaintiffs, including but not limited to the duty to exercise reasonable skill and care and  
20 to deal honestly and in good faith, and disclose material in violation of applicable common law  
21 and statutory duties. As a direct and proximate result thereof, defendants are liable to plaintiffs  
22 for compensatory damages in an amount to be determined at trial.  
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1 BREACH OF CONTRACT (*IN THE ALTERNATIVE*)

2 4.8 Plaintiff repeats and realleges Paragraphs through \_\_\_\_\_. By reason of the foregoing,  
3 Defendant Regal Hospitality, LLC is liable to Plaintiff for breach of contract.  
4

5 5.0 PRAYER FOR RELIEF

6 5.1 WHEREFORE, having stated her complaint against defendants, Plaintiff prays for the  
7 following relief against Defendants:  
8

9 5.2 For an award of statutory costs and attorney's fees incurred in this action.  
10

11 5.3. For an award, pursuant to the Consumer Protection Act (RCW Ch. 19.86), RCW 4.84.185),  
12 or any other recognized equitable or legal ground, of actual attorneys' fees and actual costs  
13 incurred in this action and in any other efforts to recover the funds misappropriated by  
14 Defendants.  
15

16 5.4 For an award of such punitive damages as the court, in its judgment, deems should be  
17 awarded under the Consumer Protection Act in order to restrain and punish Defendants for the  
18 wrongful actions described herein.  
19

20 5.5 For an Order reforming the contract based upon the unilateral Mistake of Plaintiff and the  
21 inequitable conduct of Defendant's to procure said Mistake.  
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23 5.6 For such other and further awards for damages to be proven at trial.

24 Dated this \_\_\_\_ day of \_\_\_\_\_, 2008.

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Nathan L. McAllister, WSBA #37964.

Attorney for Plaintiff

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

Wendelin Dunlap being first duly sworn, on oath, deposes and says:

I am the individual above-named; that I have read the foregoing Complaint, know the contents thereof, and believe the same to be true and correct to the best of my knowledge and belief.

\_\_\_\_\_  
Wendelin Dunlap

SUBSCRIBED AND SWORN to before me this \_\_\_\_ day of November, 2008.

\_\_\_\_\_  
NOTARY PUBLIC in and for the  
State of \_\_\_\_\_,  
My commission expires: \_\_\_\_\_