

SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

FRED AND KATHLEEN REPASS,

Plaintiffs,

v.

WINDERMERE REAL ESTATE/S.C.A., INC.;
CHRISTOPHER JUDD, a single man;
WASHINGTON LOAN COMPANY, Inc., a
Washington corporation; and ALISON A. HAIG,
as trustee of subject of deed of trust,

Defendants.

The Honorable Susan J. Craighead

NO. 09-2-46671-8 SEA

**MOTION AND DECLARATION
FOR ORDER OF DEFAULT****I. RELIEF REQUESTED**

Plaintiffs move the Court for an order of default against the defendants because they have failed to appear, plead or otherwise defend against the plaintiffs' Complaint.

II. STATEMENT OF FACTS

Defendants were served with the summons and complaint on the following dates in King County, Washington:

Defendant	Date Served
Alison A. Haig	November 30, 2009
Windermere Real Estate/S.C.A., Inc.	December 1, 2009
Christopher Judd	January 4, 2010
Washington Loan Company, Inc.	January 13, 2010



1 Plaintiffs have yet to receive an answer to their complaint from defendants Windermere Real
2 Estate/S.C.A., Inc. and Washington Loan Company, Inc. Plaintiffs have yet to receive an
3 appearance or answer to their complaint from Christopher Judd or Alison A. Haig.

4 **III. STATEMENT OF THE ISSUE**

5 Should the Court issue an Order of Default when defendants have not answered or
6 appeared in this action and more than 20 days have passed since service upon them?

7 **IV. EVIDENCE RELIED UPON**

8 This motion is based upon the following declaration of plaintiffs' counsel, Jerry
9 Kindinger, which demonstrates that proper service was made on defendants and that the
10 venue in this action is proper. A true and correct copy of the Declarations of Service and
11 Acceptances of Service are attached to the following declaration. This motion further relies
12 upon the pleadings, records and files contained in the court file.

13 **V. LEGAL AUTHORITY**

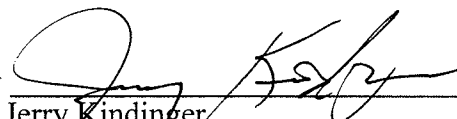
14 This Court has the authority to enter an order of default pursuant to CR 55(a)(1).

15 **VI. PROPOSED ORDER**

16 A proposed order granting the relief requested accompanies this motion.

17 DATED this 12th day of March, 2010.

18 RYAN, SWANSON & CLEVELAND, PLLC

19
20 By 
21 Jerry Kindinger
22 WSBA #5231
Attorneys for Plaintiffs

23 1201 Third Avenue, Suite 3400
24 Seattle, Washington 98101-3034
25 Telephone: (206) 464-4224
26 Facsimile: (206) 583-0359
kindinger@ryanlaw.com



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DECLARATION

Jerry Kindinger declares:

1. I am an attorney at Ryan, Swanson & Cleveland, PLLC, the attorneys of record for the plaintiffs in the above-captioned action. I am competent in all ways to testify and make the following statements from my personal knowledge and my review of the records regarding this case.

2. On November 30, 2009, defendant Alison A. Haig accepted service of the Summons and Complaint. A true and correct copy of the Acceptance of Service is attached to this declaration as Exhibit A.

3. On December 1, 2009, defendant Windermere Real Estate/S.C.A., Inc. was served with a copy of the Summons and Complaint. A true and correct copy of the Declaration of Service is attached to this declaration as Exhibit B.

4. On January 4, 2010, defendant Christopher Judd was served with a copy of the Summons and Complaint. A true and correct copy of the Declaration of Service is attached to this declaration as Exhibit C.

5. On January 13, 2010, defendant Washington Loan Company, Inc. accepted service of the Summons and Complaint. A true and correct copy of the Acceptance of Service is attached to this declaration as Exhibit D.

6. More than 20 days have passed since service or acceptance of service of the Summons and Complaint by all defendants.

7. Counsel have appeared of record for defendants Windermere Real Estate/S.C.A., Inc. and Washington Loan Company, Inc. The remaining named defendants, nor any representative acting on their behalf, have appeared, plead, or otherwise attempted to defend against the plaintiffs' Complaint.



8. Defendants Christopher Judd and Alison A. Haig are not in the military service, pursuant to my search of the Department of Defense web site, the results of which I printed and have attached hereto as Exhibit E.

9. Defendants are neither infants nor incompetent people.

10. This Court is a proper venue because the property to which this action arises is located in King County, Washington.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 12th day of March, 2010, at Seattle, Washington.


Jerry Kindinger

EXHIBIT A

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7 SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

8 FRED AND KATHLEEN REPASS,

9 Plaintiffs,

NO. 09-2-46671-8 SEA

10 v.

ACCEPTANCE OF SERVICE

11 WINDERMERE REAL ESTATE/S.C.A., INC.;
12 CHRISTOPHER JUDD, a single man;
13 WASHINGTON LOAN COMPANY, Inc., a
14 Washington corporation; and ALISON A. HAIG,
as trustee of subject of deed of trust,

15 Defendants.

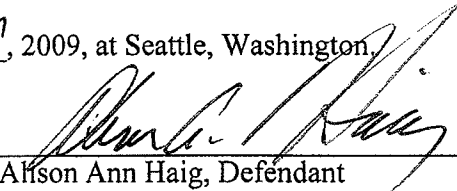
16 I, Alison Ann Haig, declare as follows:

17 1. I am one of the defendants above named. I hereby accept service of the
18 following documents on the date indicated below:

- 19 • Summons (20 Day)
- 20 • Complaint for: Intentional Misrepresentation; Quiet Title; Breach of Warranty;
21 Declaratory and Injunctive Relief

22 2. I declare under penalty of perjury under the laws of the State of Washington
23 that the foregoing is true and correct.

24 EXECUTED on November 30th, 2009, at Seattle, Washington.

25 
26 Alison Ann Haig, Defendant

ACCEPTANCE OF SERVICE - 1



EXHIBIT B

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7 **SUPERIOR COURT, IN AND FOR THE COUNTY OF KING, STATE OF**
8 **WASHINGTON**

9 FRED AND KATHLEEN REPASS
10 Plaintiff/Petitioner

Cause #: 09-2-46671-8 SEA

11 vs.
12 WINDERMERE REAL ESTATE/S.C.A., INC;
13 ET AL
14 Defendant/Respondent

Declaration of Service of:

SUMMONS AND COMPLAINT FOR INTENTIONAL
MISREPRESENTATION, QUIET TITLE, BREACH OF
WARRANTY, DECLARATORY AND INJUNCTIVE RELIEF;
LETTER OF 11/30

Hearing Date:

15 Declaration:

16 The undersigned hereby declares: That s(he) is now and at all times herein mentioned, a citizen of the United
17 States and a resident of the State of Washington, over the age of eighteen, not an officer of a plaintiff
18 corporation, not a party to nor interested in the above entitled action, and is competent to be a witness
19 therein.

20 On the date and time of Dec 1 2009 3:45PM at the address of 16261 REDMOND WY REDMOND,
21 within the County of KING, State of WASHINGTON, the declarant duly served the above described
22 documents upon WINDERMERE REAL ESTATE/S.C.A., INC by then and there personally delivering 1
23 true and correct copy(ies) thereof, by then presenting to and leaving the same with AARON SHRINER,
24 BROKER, A Caucasian male of approx. 40 years of age, 5' 8", 185#, brown hair.

25 No information was provided that indicates that the subjects served are members of the U.S. military.

26 I hereby declare under penalty of perjury under the laws of the State of Washington that the foregoing is true
27 and correct.

28 Dated: December 4, 2009 at Seattle, WA

by


T. Peterson

Service Fee Total: \$ 85.64

EXHIBIT B



ABC Legal Services, Inc.
206 521-9000
Tracking #: 3603485



**ORIGINAL
PROOF OF SERVICE**

441-103
RYAN, SWANSON & CLEVELAND
1201 3rd Ave, #3400
SEATTLE, WA 98101
206 464-4224

EXHIBIT C

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

FRED AND KATHLEEN REPASS

Plaintiff/Petitioner

Cause #: 09-2-46671-8 SEA

VS.
WINDERMERE REAL ESTATE/S.C.A., INC;
ET AL

Defendant/Respondent

Declaration of Service of:

SUMMONS AND COMPLAINT FOR INTENTIONAL
MISREPRESENTATION, QUIET TITLE, BREACH OF WARRANTY,
DECLARATORY AND INJUNCTIVE RELIEF; LETTER OF 11/30;
ORDER SETTING CIVIL CASE SCHEDULE

Hearing Date:

Declaration:

The undersigned hereby declares: That s(he) is now and at all times herein mentioned, a citizen of the United States and a resident of the State of Washington, over the age of eighteen, not an officer of a plaintiff corporation, not a party to nor interested in the above entitled action, and is competent to be a witness therein.

On the date and time of **Jan 4 2010 10:24AM**
at the address of **121 LAKE ST S SUITE 201 KIRKLAND**
within the County of **KING** State of **WASHINGTON**

the declarant duly served the above described documents upon

CHRISTOPHER JUDD

by then and there personally delivering **1** true and correct copy(ies) thereof, by then presenting to and leaving the same with

CHRISTOPHER JUDD

No information was provided that indicates that the subjects served are members of the U.S. military.

I hereby declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated: January 7, 2010 at Seattle, WA

by

K. VanDyke
K. VanDyke 0307390

ORIGINAL SENT
JAN 7 1 2010
FOR FILING

The documents listed above were served in accordance with RCW 4.28.080 and/or client instructions. If service was substituted on another person or left with a person that refused to identify themselves, it is incumbent upon the client to notify ABC Legal Services, Inc. immediately in writing if further attempts to serve, serve by mail, or investigate are required. If service was substituted on another person, pursuant to RCW 4.28.080 (16), service shall be complete on the tenth day after a copy of the documents are mailed to the subject at the address where service was made. Documents were not mailed by ABC Legal Services, Inc.

Service Notes:

12/01/2009 20:03: No Answer at the door, lights on inside

12/02/2009 11:55: No Answer at the door, dark inside, quiet inside

12/02/2009 19:59: Per white female resident approx. 21-25 years of age 5'6"-5'8" in height weighing 120-140 lbs with black hair, Subject not known

12/09/2009 09:22: Per employee, Subject no longer employed

Documents:	22.00	Secretarial:	0.00	Other:	0.00
Travel:	37.44	Postage:	0.00	Total:	199.44
Invalid Address (3)	95.00	Photo:	0.00	Pre-Paid Retainer:	0.00
Proof Preparation:	10.00	Rush / Special:	35.00		
Summons Copy:	0.00	Wait / Stake Out Time:	0.00	AMOUNT DUE	199.44

Client Ref.: 441-103
RYAN, SWANSON & CLEVELAND
1201 3rd Ave, #3400
SEATTLE, WA 98101
206 464-4224

CLIENT COPY
PROOF OF SERVICE



ABC Legal Services, Inc.
633 Yesler Way Seattle, WA 98104
206 521-9000
Tracking #: 3603482



EXHIBIT C

EXHIBIT D

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8 SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

9 FRED AND KATHLEEN REPASS,

10 Plaintiffs,

11 v.

12 WINDERMERE REAL ESTATE/S.C.A., INC.;
13 CHRISTOPHER JUDD, a single man;
14 WASHINGTON LOAN COMPANY, INC., a
Washington corporation; and ALISON A. HAIG,
as trustee of subject of deed of trust,

15 Defendants.
16

The Honorable Susan J. Craighead

NO. 09-2-46671-8 SEA

ACCEPTANCE OF SERVICE

17 I, Lars E. Neste, declare as follows:

18 1. I am the attorney of record for Defendant Washington Loan Company, Inc. I
19 am authorized by my client to accept service on its behalf. I hereby accept service of the
20 following documents on the date indicated below:

- 21 • Summons (20 day);
22 • Complaint for Intentional Misrepresentation; Quiet Title; Breach of Warranty;
23 Declaratory and Injunctive Relief; and
24 • Order Setting Civil Case Schedule.
25
26

ACCEPTANCE OF SERVICE - 1



2. I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

EXECUTED on January 13, 2010, at Seattle, Washington.

Lars E. Neste, WSBA No. 28782
David C. Daniel, WSBA #34410
Attorneys for Washington Loan Company, Inc.

ACCEPTANCE OF SERVICE - 2

EXHIBIT E

Department of Defense Manpower Data Center

Mar-12-2010 15:24:00



Military Status Report
Pursuant to the Service Members Civil Relief Act

Last Name	First/Middle	Begin Date	Active Duty Status	Active Duty End Date	Service Agency
JUDD	CHRISTOPHER A	Based on the information you have furnished, the DMDC does not possess any information indicating the individual status.			

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard).

Mary M. Snavelly-Dixon

Mary M. Snavelly-Dixon, Director
Department of Defense - Manpower Data Center
1600 Wilson Blvd., Suite 400
Arlington, VA 22209-2593

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Service Members Civil Relief Act (50 USC App. §§ 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual is on active duty, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via the "defenseink.mil" URL <http://www.defenselink.mil/faq/pis/PC09SLDR.html>. If you have evidence the person is on active duty and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. §521(c).

If you obtain additional information about the person (e.g., an SSN, improved accuracy of DOB, a middle name), you can submit your request again at this Web site and we will provide a new certificate for that query.

This response reflects **active duty status** including date the individual was last on active duty, if it was within the preceding 367 days. For historical information, please contact the Service SCRA points-of-contact.

More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d)(1) for a period of more than 30 consecutive days. In the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy TARs, Marine Corps ARs and Coast Guard RPAs. Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the

National Oceanic and Atmospheric Administration (NOAA Commissioned Corps) for a period of more than 30 consecutive days.

Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate.

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of SCRA extend beyond the last dates of active duty.

Those who would rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

WARNING: This certificate was provided based on a name and SSN provided by the requester. Providing an erroneous name or SSN will cause an erroneous certificate to be provided.

Report ID:9FJ4P8KASG

Department of Defense Manpower Data Center

Mar-12-2010 15:07:08



Military Status Report
Pursuant to the Service Members Civil Relief Act

Last Name	First/Middle	Begin Date	Active Duty Status	Active Duty End Date	Service Agency
HAIG	ALISON A	Based on the information you have furnished, the DMDC does not possess any information indicating the individual status.			

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard).

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Department of Defense - Manpower Data Center
1600 Wilson Blvd., Suite 400
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Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of SCRA extend beyond the last dates of active duty.

Those who would rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

WARNING: This certificate was provided based on a name and SSN provided by the requester. Providing an erroneous name or SSN will cause an erroneous certificate to be provided.

Report ID:A6NIM05CMR

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7 SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

8 FRED AND KATHLEEN REPASS,

9 Plaintiffs,

10 v.

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12 CHRISTOPHER JUDD, a single man;
13 WASHINGTON LOAN COMPANY, Inc., a
Washington corporation; and ALISON A. HAIG,
as trustee of subject of deed of trust,

14 Defendants.
15

The Honorable Susan J. Craighead

NO. 09-2-46671-8 SEA

ORDER OF DEFAULT

(Clerk's Action Required)

PROPOSED

16 THIS MATTER, having come on for consideration this day upon the plaintiffs'
17 motion for an Order of Default to be entered herein; and the Court finding the statements in
18 plaintiffs' attorney's supporting declaration to be true and correct; now, therefore, it is hereby

19 ORDERED, ADJUDGED AND DECREED that the defendants be, and they hereby
20 are, in default in the above-entitled action.

21 DATED this _____ day of _____, 2010.

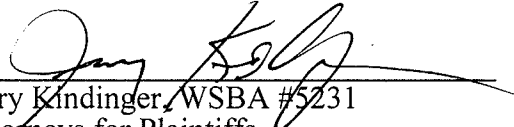
22
23 _____
JUDGE/COURT COMMISSIONER



1 Presented by:

2 RYAN, SWANSON & CLEVELAND, PLLC

3
4 By


5 Jerry Kindinger, WSBA #5231
Attorneys for Plaintiffs

6 1201 Third Avenue, Suite 3400
7 Seattle, Washington 98101-3034
Telephone: (206) 464-4224
8 Facsimile: (206) 583-0359
kindinger@ryanlaw.com
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