

Honorable Mary G. KING COUNTY  
November 2, 2010 SUPERIOR COURT CLERK  
Without Oral Argument FILED  
CASE NUMBER: 10-2-36192-8 SEA

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

WINDERMERE REAL ESTATE SERVICES  
COMPANY, a Washington corporation,

No. 10-2-36192-8 SEA

Plaintiff,

MOTION FOR DEFAULT AND  
DEFAULT JUDGMENT

vs.

ELDON J. MAXWELL, II, an individual a/k/a  
JOE MAXWELL, a/k/a JOSEPH MAXWELL,  
and JANE DOE MAXWELL, husband and wife  
and the marital community thereof,

Defendants.

I. RELIEF REQUESTED

COMES NOW THE PLAINTIFF, WINDERMERE REAL ESTATE SERVICES  
COMPANY, and moves the court for an Order of Default pursuant to CR 55(a)(1), and entry of  
Default Judgment pursuant to CR 55(b)(1), against defendants ELDON J. MAXWELL, II, and  
JANE DOE MAXWELL, husband and wife and the marital community thereof.

II. STATEMENT OF FACTS

1. This action was filed with the Clerk of this court on October 12, 2010.

1 2. Copies of the summons, complaint, civil case cover sheet, area designation and case  
2 schedule were served upon defendant Eldon J. Maxwell, II, on October 14, 2010 by ABC  
3 Legal Services, Inc. Proof of service is on file with the Clerk of this court, and a copy is  
4 attached to the Declaration of Paul S. Drayna filed herewith.

5 3. Counsel for plaintiff received a Notice of Appearance on behalf of defendants on  
6 November 2, 2010.

7 4. Venue is proper in this court pursuant to contractual venue clause in the commercial  
8 promissory note and personal guaranty which this action seeks to enforce.

9 5. More than twenty days have elapsed since service of the summons and complaint, and  
10 defendants have failed to answer or otherwise defend this action.

11 6. A copy of this motion and supporting affidavit have been served upon counsel for  
12 defendants more than six days prior to the date set for the hearing of this motion,  
13 pursuant to CR 55(a)(3).

14 III. STATEMENT OF ISSUES

15 1. Because defendants have failed to answer or defend in this matter, and more than  
16 twenty days has elapsed since service of the summons and complaint upon said  
17 defendants, entry of a default order and default judgment are proper and should be  
18 granted.

19 IV. EVIDENCE RELIED UPON

- 20 1. Declaration of Paul S. Drayna, filed herewith.  
21 2. Verified Complaint filed in this action on October 12, 2010.

22 V. AUTHORITY AND ARGUMENT

23 This motion is based upon CR 55(a)(1), and CR 55(b)(1).

24 Judgment should be entered as follows:

- 25 A. \$172,465.63, representing the principal amount owing on the Note.

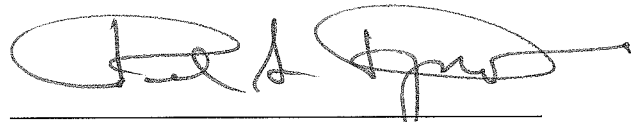
- 1 B. Pre-judgment interest on said principal at the rate of six percent per annum (6%) from  
2 April 30, 2010 through the November 12, 2010, in the amount of \$5,556.70.
- 3 C. \$2,148.93 for accrued and unpaid late charges for the months of May – October,  
4 2010, inclusive, pursuant to the terms of the promissory note.
- 5 D. Taxable costs of \$305.29, as set forth in the Declaration of Paul S. Drayna filed  
6 herewith.
- 7 E. Attorney fees of \$1,000.00, as detailed in the Declaration of Paul S. Drayna, filed  
8 herewith, awarded pursuant to the attorney fees provisions of the promissory note and  
9 personal guaranty.
- 10 F. The total judgment amount of \$181,476.55 should bear interest at the statutory rate of  
11 12% per annum from the date of entry of judgment.

12 VI. PROPOSED ORDER

13 A proposed order is attached hereto.

14 Dated this 4<sup>th</sup> day of November, 2010

15 PAUL STEPHEN DRAYNA, P.S.

16 

17  
18 By Paul S. Drayna, WSBA #26636  
19 Attorney for Plaintiff

Honorable Mary Yu  
November 12, 2010  
Without Oral Argument

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

WINDERMERE REAL ESTATE SERVICES  
COMPANY, Plaintiff,

v.

ELDON J. MAXWELL, II, et ux, Defendants.

No. 10-2-36192

[PROPOSED] ORDER OF DEFAULT  
AND DEFAULT JUDGMENT

**JUDGMENT SUMMARY**

Judgment Creditor:	WINDERMERE REAL ESTATE SERVICES COMPANY
Name of Creditor's Attorney:	Paul S. Drayna
Judgment Debtor:	ELDON J. MAXWELL, II, and JANE DOE MAXWELL, husband and wife and the marital community thereof.
Principal Amount of Judgment:	\$174,614.56
Pre-Judgment Interest:	\$5,556.70
Taxable Costs:	\$305.29
Attorney Fees:	\$1,000.00
<b>TOTAL JUDGMENT:</b>	<b>\$181,476.55</b>
<b>INTEREST ON JUDGMENT:</b>	<b>12% per annum from date of entry.</b>

1 THIS MATTER CAME DULY BEFORE THE COURT on the motion of plaintiff  
2 WINDERMERE REAL ESTATE SERVICES COMPANY for entry of an Order of Default and  
3 Default Judgment against Defendants ELDON J. MAXWELL, II, and JANE DOE MAXWELL,  
4 husband and wife and the marital community thereof. The court considered the following  
5 materials: Motion for Default and Default Judgment; Declaration of Paul S. Drayna in support  
6 thereof; and \_\_\_\_\_

7 \_\_\_\_\_. The motion was decided without oral argument on \_\_\_\_\_.

8 The court being fully advised, hereby finds as follows:

- 9 1. This action was filed with the Clerk of this court on October 12, 2010.
- 10 2. Copies of the summons, complaint, civil case cover sheet, area designation and case  
11 schedule were served upon defendant Eldon J. Maxwell, II on October 14, 2010 by  
12 ABC Legal Services, Inc. Proof of service is on file with the Clerk of this court.
- 13 3. Defendants appeared in this action through counsel.
- 14 4. Venue is proper in this court pursuant to contractual venue clauses in the commercial  
15 promissory note and personal guaranty from which this action arises.
- 16 5. More than twenty days have elapsed since service of the summons and complaint  
17 upon defendants, but the defendants have failed to answer or otherwise defend this  
18 action.
- 19 6. A copy of this motion and supporting affidavit were served upon counsel for  
20 defendants more than six days prior to the date set for the hearing of this motion,  
21 pursuant to CR 55(a)(3).

22 Based on the foregoing findings, it is now hereby ORDERED that defendants ELDON J.  
23 MAXWELL, II and JANE DOE MAXWELL, husband and wife and the marital community  
24 thereof are in default for failing to answer or defend this action within twenty days after service  
25 of the summons and complaint upon said defendants.


1 Judgment is therefore hereby GRANTED entered in favor of plaintiff WINDERMERE  
2 REAL ESTATE SERVICES COMPANY and against defendants ELDON J. MAXWELL, II,  
3 and JANE DOE MAXWELL, husband and wife and the marital community thereof, as follows:

- 4 1. \$172,465.63, representing the principal amount owing on the Promissory Note.
- 5 2. Pre-judgment interest on said principal at the rate of six percent per annum (6%) from  
6 April 30, 2010 through the November 12, 2010, in the amount of \$5,556.70.
- 7 3. \$2,148.93 for accrued and unpaid late charges for the months of May – October,  
8 2010, inclusive, pursuant to the terms of the Promissory Note.
- 9 4. Taxable costs of \$305.29.
- 10 5. Attorney fees of \$1,000.00, awarded pursuant to the attorney fees provisions of the  
11 promissory note and personal guaranty.
- 12 6. The total judgment amount of \$181,476.55 shall bear interest at the statutory rate of  
13 12% per annum from the date of entry of judgment.

14 Done in open court this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

15  
16 \_\_\_\_\_  
17 Hon. Mary Yu

18  
19 Presented by:

20   
21 \_\_\_\_\_

22 Paul S. Drayna, WSBA #26636  
23 Attorney for Plaintiff