

KING COUNTY
The Honorable Richard Ladie
SUPERIOR COURT CLERK
Department 33
E-FILED

CASE NUMBER: 08-2-34857-1 SEA

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

SEAWEST INVESTMENT ASSOCIATES,
LLC, a Washington limited liability corporation

Plaintiff,

vs.

LUIN LEISHER and SHIRLEY LEISHER,
husband and wife,

Defendants and Third-Party Plaintiffs,

vs.

COMMONWEALTH LAND TITLE
COMPANY OF PUGET SOUND, LLC,

Third-Party Defendants.

No. 08-2-34857-1 SEA

**NOTICE OF CROSS-APPEAL TO
DIVISION I, COURT OF APPEALS**

(Clerk's Action Required)

TO: THE CLERK OF THE COURT; and
TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD

PLEASE TAKE NOTICE that Defendants and Third-Party Plaintiffs Luin and Shirley Leisher ("the Leishers") hereby cross-appeal and seek review by the designated appellate court of the King County Superior Court's Final Judgment entered on December 15, 2010. A copy of the Final Judgment is attached to this notice as Exhibit A.

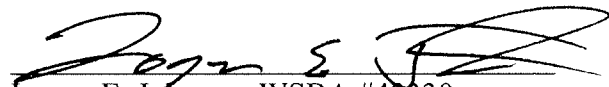
1 Third-Party Defendant Commonwealth Land Title Company of Puget Sound, LLC
2 (“Commonwealth”) has already appealed the entirety of the Final Judgment in the above-
3 captioned case. The Leishers file this Notice of Cross-Appeal in response to the Notice of
4 appeal filed by Commonwealth on January 14, 2011.

5
6 The Leishers seek review of all aspects of the trial court’s Final Judgment in favor of
7 Plaintiff Seawest Investment Associations LLC (“Seawest”) and against the Leishers. This
8 includes, but is not limited to, the court’s interlocutory order dated February 6, 2009 granting
9 Seawest’s motion for summary judgment, which order is subsumed within and merged into the
10 trial court’s Final Judgment as a matter of law. The Leishers further seek review of the trial
11 court’s refusal to award the Leishers their reasonable and necessary attorney’s fees in
12 prosecuting their successful claims against Commonwealth.
13

14 DATED this 26th day of January, 2011.

15 SCHIFFER ODOM HICKS & JOHNSON

16
17 By:


18 Logan E. Johnson, WSBA #40330
19 701 Fifth Ave., Suite 4200
20 Seattle, WA 98104
21 Telephone: (206) 262-7677
22 Facsimile: (206) 262-8001

23 *Attorney for Defendants and Third-Party Plaintiffs Luin*
24 *& Shirley Leisher*
25
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5 **IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON**
6 **IN AND FOR THE COUNTY OF KING**
7

8 SEAWEST INVESTMENT ASSOCIATES,
9 LLC, a Washington limited liability
corporation,

10 Plaintiff,

11 vs.

12 LUIN LEISHER and SHIRLEY LEISHER,
13 husband and wife,

14 Defendants and Third-Party Plaintiffs,

15 vs.

16 COMMONWEALTH LAND TITLE
17 COMPANY OF PUGET SOUND, LLC

18 Third-Party Defendants
19

No. 08-2-34857-1 SEA

DECLARATION OF SERVICE

20 I, Julie Fitzgerald, hereby declare that I am an employee of the law firm of Schiffer
21 Odom Hicks & Johnson PLLC, Attorneys for Defendants and Third-Party Plaintiffs in the
22 above-captioned cause, I am over the age of 18, am competent to be a witness and I am not a
23 party to the action and that on January 26, 2011, I had served via electronic mail:
24
25

1) Notice of Cross-Appeal to Division 1, Court of Appeals; and

this 2) Declaration of Service to:

Christopher R. Osborn
Foster Pepper PLLC
1111 Third Ave., Suite 3400
Seattle, WA 98101

Michael Daudt
Terrell Marshall & Daudt PLLC
3600 Fremont Ave. North
Seattle, WA 98103

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

DATED at Houston this 26th day of January, 2010.

SCHIFFER ODOM HICKS & JOHNSON PLLC

By: Julie Fitzgerald
Julie Fitzgerald, Legal Assistant

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EXHIBIT A

1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
2 IN AND FOR THE COUNTY OF KING
3

4 SEAWEST INVESTMENT ASSOCIATES,
5 LLC, a Washington limited liability corporation,

6 Plaintiff,

7 vs.

8 LUIN LEISHER and SHIRLEY LEISHER,
9 husband and wife,

10 Defendants and Third-Party Plaintiffs,

11 vs.

12 COMMONWEALTH LAND TITLE
13 COMPANY OF PUGET SOUND, LLC

14 Third-Party Defendants
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The Honorable Richard Eadie

No. 08-2-34857-1-SEA

FINAL JUDGMENT

Clerk's Action Required

19 1. FINAL JUDGMENT SUMMARY

20 A. Plaintiff Seawest Investment Associates LLC's Judgment Against
21 Defendants Shirley and Luin Leisher

- 22 1. Judgment Creditor: Seawest Investment Associates, LCC
23
24 2. Attorney for Judgment Creditor: Christopher R. Osborn
25 FOSTER PEPPER PLLC
26 1111 Third Avenue, Suite 3400
Seattle, WA 98101

COPY

- 1 3. Judgment Debtor: Luin Leisher and Shirley Leisher,
2 husband and wife
3 4. Attorney for Judgment Debtor: Logan Johnson
4 SCHIFFER ODOM HICKS & JOHNSON
5 701 Fifth Avenue, Suite 4200
6 Seattle, Washington 98104
7 5. Principal Judgment Amount: \$ 869,883.37
8 6. Attorneys' Fees: \$ 74,611.50
9 7. Costs: \$ 778.12
10 8. **Total Judgment Amount:** **\$ 945,272.99**

11 9. Pre-judgment interest at the legal rate is awarded to Seawest, and accrues at \$285.99
12 per day from October 6, 2008 to August 3, 2010, the date this Court previously entered partial
13 judgment in favor of Seawest Investment Associates, LLC.

14 10. The total judgment amount shall accrue interest at 12% per annum until paid in full.

15 **A. Defendants/Third-Party Plaintiffs Shirley and Luin Leisher's**
16 **Plaintiff Judgment Against Third-Party Defendant Commonwealth Land**
17 **Title Company of Puget Sound, LLC**

- 18 1. Judgment Creditors: Shirley and Luin Leisher
19 2. Attorney for Judgment Creditor: Logan Johnson
20 SCHIFFER ODOM HICKS & JOHNSON
21 701 Fifth Avenue, Suite 4200
22 Seattle, Washington 98104
23 3. Judgment Debtor: Commonwealth Land Title Company
24 of Puget Sound, LLC
25 4. Attorney for Judgment Debtor: Michael Daudt
26 TERRELL MARSHALL & DAUDT,
PLLC
3600 Fremont Avenue N.
Seattle, Washington 98103

1 5. Principal Judgment Amount: \$1,190,000.00

2
3 **Total Judgment Amount: \$1,190,000.00**

4 6. The total judgment amount shall accrue interest at 12% per annum until paid in full.

5 **II. JUDGMENT**

6 THIS MATTER, having all claims of all parties finally disposed of by jury verdict
7 dated August 4, 2010, this Court, having reviewed the records and files herein, and being
8 otherwise fully advised in the premises, finds that Seawest Investment Associates, LLC and
9 Shirley and Luin Leisher are entitled to final judgment as a matter of law; NOW,
10 THEREFORE,

11 IT IS HEREBY ORDERED, that:

12 1. The Residential Real Estate Purchase and Sale agreement between Plaintiff and
13 Defendants Leisher is rescinded;

14 2. Judgment is hereby entered in favor of Seawest Investment Associates, LLC
15 against Defendants Luin Leisher and Shirley Leisher as follows:

16 2.1 Principal Judgment Amount: \$ 869,883.37

17 2.2 Attorneys' Fees: \$ 74,611.50

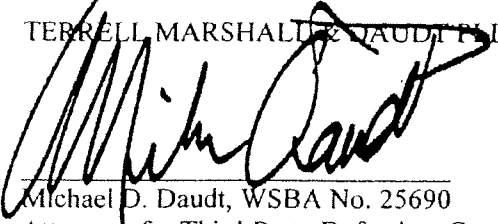
18 2.3 Costs: \$ 778.12

19 2.4 **Total Judgment Amount: \$ 945,272.99**

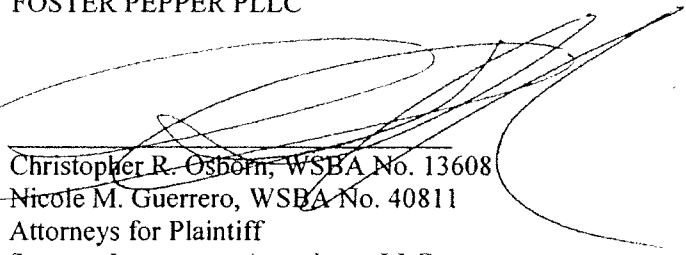
20 2.5 Pre-judgment interest at the legal rate is awarded to Seawest, and
21 accrues at \$285.99 per day from October 6, 2008 until August 3, 2010, the date this Court
22 previously entered partial judgment in favor of Seawest Investment Associates, LLC.
23
24
25
26

1 Copy received and notice of presentation waived:

2 TERRELL MARSHALL & DAUDT PLLC

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4
5 Michael D. Daudt, WSBA No. 25690
6 Attorneys for Third-Party Defendant Commonwealth
Land Title Company of Puget Sound, LLC

7
8 FOSTER PEPPER PLLC

9
10 
11 Christopher R. Osborn, WSBA No. 13608
12 Nicole M. Guerrero, WSBA No. 40811
13 Attorneys for Plaintiff
14 Seawest Investment Associates, LLC
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