

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 TO COMPEL
DISCOVERY FROM
WASHINGTON LOAN COMPANY,
INC. AND WINDERMERE REAL
ESTATE/S.C.A., INC.****RELIEF REQUESTED**

Pursuant to CR 37(a)(2) and (4) of the Civil Rules for Superior Court and LR 37, plaintiffs move for order compelling responses to discovery and for terms against both defendants, Windermere Real Estate/S.C.A., Inc. ("Windermere Realty") and Washington Loan Company ("WLC"). Separate sets of discovery were served upon counsel for both defendants several months ago. To date, responses have not been provided after several extensions and accommodations. Specifically, the following deficiencies exist:

1. Plaintiffs' First Set of Interrogatories and Requests for Production of Documents to Windermere Real Estate/S.C.A., Inc. No written responses to interrogatories or requests for production have been provided. What documents have been produced do not allow anyone to determine what, if any, requests for production they are intended to relate.
2. Plaintiffs' First Set of Interrogatories and Requests for Production of Documents to Washington Loan Company, Inc.



- 1 a. No responses to any requests for production;
2 b. No signed verification as provided.

3 **EVIDENCE RELIED UPON**

4 This motion is based upon the Declaration of Jerry Kindinger and the following
5 attached exhibits:

- 6 a. Plaintiffs' First Set of Interrogatories and Requests for Production of
7 Documents to Windermere Real Estate/S.C.A., Inc.
8 b. Plaintiffs' First Set of Interrogatories and Requests for Production of
9 Documents to Washington Loan Company, Inc.
10 c. June 15, 2010 email from attorney David Daniel.

11 **FACTS**

12 The same attorneys represent both Windermere Realty and WLC. Separate sets of the
13 above discussed discovery were served upon counsel, Lars Neste and David Daniel of the
14 Demco Law Firm, P.S. via U.S. Mail on April 22, 2010. Responses to both sets of discovery
15 were due May 27. No responses were received. On June 1, a CR 37 conference was held
16 with defendants' attorney regarding both sets of discovery. By email on June 15, attorney
17 Daniel provided responses to WLC related interrogatories. Documents from WLC were
18 promised shortly; they have never been provided. Responses to the Windermere Realty
19 discovery were not provided, but were promised the following week. Although some
20 documents were produced by Windermere Realty, no written response to the Windermere
21 Realty discovery has ever been provided and what documents were provided were not
22 identified as responsive to any particular request or interrogatory. Consequently, plaintiffs
23 cannot determine whether compliance has been made to any Windermere Realty request for
24 production. CR 34(b) requires documents produced to be organized and labeled to
25 correspond with categories produced, which was not done either.

26 Plaintiffs have unnecessarily incurred attorneys' fees because of defendants' failure to

1 comply with the court discovery rule notwithstanding several accommodations. Plaintiffs are
2 entitled to be reimbursed for these expenses. Plaintiffs believe that an award of fees should be
3 assessed against each defendant to reimburse plaintiffs for unnecessary expenses and
4 attorneys' fees. Plaintiffs are willing to accept an award of terms in the amount of \$750
5 against each defendant or in the alternative submit declarations of all time and expenses
6 incurred and request an award of attorneys' fees for that total amount.

7
8 **CONCLUSION**

9 For the above-stated reasons, this Court should grant plaintiffs' motion to compel and
10 order Windermere Realty to respond to Plaintiffs' First Set of Interrogatories and Requests for
11 Production of Documents to Windermere Real Estate/S.C.A., Inc. and to identify what
12 requests for production the documents produced relate. In addition, the Court should grant
13 plaintiffs' motion to compel and order defendant WLC to produce documents identified in
14 Plaintiffs' First Set of Interrogatories and Requests for Production of Documents to
15 Washington Loan Company, Inc. and to provide a signed verification.

16 DATED this 19th day of August, 2010.

17 RYAN, SWANSON & CLEVELAND, PLLC

18 By


Jerry Kindinger

19 WSBA #5231

20 Attorneys for Plaintiffs

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14 Defendants.
15

The Honorable Susan J. Craighead

NO. 09-2-46671-8 SEA

**ORDER GRANTING PLAINTIFFS'
MOTION TO COMPEL
DISCOVERY FROM
WASHINGTON LOAN COMPANY,
INC. AND WINDERMERE REAL
ESTATE/S.C.A., INC.**

PROPOSED

16 THIS MATTER came on before the undersigned Judge of the above-entitled Court
17 upon plaintiffs' Motion to Compel Discovery from Washington Loan Company, Inc. and
18 Windermere Real Estate/S.C.A., Inc. The Court having considered the Declaration of Jerry
19 Kindinger in Support of Motion to Compel, any response and reply, the records and files
20 herein, and the Court having jurisdiction and otherwise being fully advised in this matter,
21 now, therefore,

22 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that plaintiffs' Motion to
23 Compel Discovery from Washington Loan Company, Inc. be and hereby is GRANTED. It is
24 further,

25 ORDERED, ADJUDGED AND DECREED that Washington Loan Company, Inc.
26 shall produce all documents responsive to plaintiffs' requests for production and a signed



1 verification page within six (6) days of the date of this Order. It is further,

2 ORDERED, ADJUDGED AND DECREED that plaintiffs' Motion to Compel
3 Discovery from Windermere Real Estate/S.C.A., Inc. be and hereby is GRANTED. It is
4 further,

5 ORDERED, ADJUDGED AND DECREED that Windermere Real Estate/S.C.A., Inc.
6 shall provide responsive answers to all interrogatories and requests for production, labeled
7 and identified by request number, within six (6) days of the date of this Order. It is further,

8 ORDERED, ADJUDGED AND DECREED that an award of fees should be assessed
9 against each defendant to reimburse plaintiffs for unnecessary expenses and attorneys' fees.

10 Determination of the award of attorneys' fees shall be based on the following:

11 _____ \$750 awarded plaintiffs against each defendant for attorneys'
12 fees and costs to be paid within ten (10) days of this Order;

13 **OR**


14 _____ Plaintiffs shall submit declarations of all time and expenses
15 incurred and request an award of attorneys' fees for a total
16 amount of time incurred as determined by the Court under
separate order.

17 DONE IN OPEN COURT this _____ day of _____, 2010.

18
19 _____
20 Honorable Susan J. Craighead

21 Presented by:

22 RYAN, SWANSON & CLEVELAND, PLLC

23 By 
24 Jerry Kindinger, WSBA No. 5231
25 Attorneys for Plaintiffs
26

