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4 **IN THE SUPERIOR COURT OF WASHINGTON**
5 **FOR SNOHOMISH COUNTY**

6 JEFFREY LEWIS and NANCY LEWIS,
7 husband and wife,

8 Plaintiffs,

9 vs.

10 HILTON LAKE HOMEOWNER'S
11 ASSOCIATION, a Washington nonprofit
12 corporation.

12 Defendant.

NO. 13-2-06808-5

**JUDGMENT FOR ATTORNEY
FEES AND COSTS**

13 **I. JUDGMENT SUMMARY**

- 14 1. Judgment Debtor: Hilton Lake Homeowner's Association
15 2. Judgment Creditor: Jeffrey Lewis and Nancy Lewis
16 3. Principal Judgment Amount: \$ 35,081.⁵⁰
17 4. Attorney Fees and Costs: \$ 2,476.¹⁰
18 5. Judgment Interest Rate: 12%
19 6. Attorney for Judgment Creditor: Martin Burns, WSBA No. 23412
20 8. Total Judgment Amount: \$ 37,557.⁶⁰

21 **II. JUDGMENT**

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24 THIS MATTER came before the Court on Plaintiffs' Motion for Attorney Fees
25 and Costs and this Court has considered the pleadings filed in this action and the
26 following evidence:

ORIGINAL

1. Plaintiffs' Motion for Attorney Fees and Costs;
2. Declaration of Martin Burns in Support of Attorney Fees and Cost;
3. Declaration of Antoni H. Froehling in Response to Plaintiffs' Motion for Fees; and
4. Plaintiffs' Reply in Support of Attorney Fees and Costs.

a. Findings of Fact

1. The court finds that the plaintiffs' complaint was well based upon the doctrine of adverse possession and hence implemented the fee shifting provisions of RCW 7.28.083.
2. The court finds that the Plaintiffs are the prevailing party as more fully set forth in the Findings of Fact and Conclusions of Law filed contemporaneously with this Judgment for Attorney Fees.
3. The court finds that the fees request in the Motion for Attorney Fees supported by the Declaration of Martin Burns to be reasonable and sets forth the basis for such request and the attached billing records are sufficient in detail for the court to review the actions of the Plaintiffs and their attorney in pursuing this motion.
4. The court finds that the conduct of the Plaintiff and their counsel to be reasonable both in looking at the conduct prospectively and retrospectively. It is not the role of the court to onerously second guess if each and every action independently was absolutely justified, but rather if the conduct and fee request are reasonable when taken as a whole.
5. The court finds that the rate of Mr. Burns that was \$225 and \$275 per hour to be reasonable for an attorney admitted in 1993 and with the background of Mr. Burns as set forth in his Declaration of Martin Burns in Support of Attorney Fees and Costs. The court finds the rate charged by Sheila Gerlach is reasonable given

1 her experience. All such fees are within the normal range of fees commonly
2 charged in the Western Washington legal community. The billings establish that
3 the fees were in fact incurred.

4 6. The court finds that the time spent was reasonable in relation to the issues in
5 dispute. As this was not a monetary claim, the court notes that the claim effected
6 the matured landscaping of a house assessed at \$421,300.00 and also dealt with
7 important issues of security of an autistic grandchild. The court also notes that
8 Plaintiffs endeavored to reduce costs by not propounding discovery, attending a
9 deposition by phone, attempting to avoid or narrow trial with a largely successful
10 summary judgment. The costs were increased by discovery conducted by
11 defendant, settlement attempts, a well based motion to strike and the need to try a
12 very limited issue. The court also notes that Mr. Burns wrote off portions of the
13 paralegal time and gave a credit to help keep the legal costs down.

14 7. The court finds that the quality of the legal work presented by Mr. Burns to be
15 thorough, on-point and professional and as such finds it to be satisfactory.

16 8. The court finds that the Plaintiffs motion to strike was properly submitted and was
17 well based in law and despite the trial courts failure to formally rule on the
18 motion, finds that such motion is needed to preserve such issues in an appeal.

19 9. The court finds that the fees requested in the motion for fees by Plaintiff are
20 reasonable, that the rate and time spent is justified and well supported. The court
21 finds the legal work of the Burns Law, PLLC and McFerran & Burns, P.S. to be
22 fully acceptable and thorough. The court adopts the amounts set forth in the
23 Declaration of Martin Burns in Support of Attorney Fees and Costs as being in
24 good faith and reasonable. According the court finds that fees and costs as set
25 forth in said Declaration have been incurred and are reasonable.

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Conclusions of Law

- 1. Given such findings of fact, the court concludes as a matter of law that the Plaintiffs are entitled to fees under RCW 7.28.083 as the prevailing party and that Plaintiffs, through counsel, have complied with the lodestar methodology.
- 2. The court concludes that work performed was reasonably proportionate to the non-monetary dispute at issue.
- 3. The court concludes that Plaintiffs had adequately established the basis for fees both in the Declaration of Martin Burns and the attached billing entries which were sufficiently detailed, logical and showed that Mr. Burns would reduce the bill as an accommodation for his clients. The court concludes that Plaintiffs met their burden of showing the reasonableness of such fee request.
- 4. The court concludes _____

_____.
- 5. The court concludes that the Plaintiffs Jeffrey Lewis and Nancy Lewis should be awarded attorney fees of \$ 35,081.⁵⁰ and costs in the amount of \$ 2,476.¹⁶.

Judgment

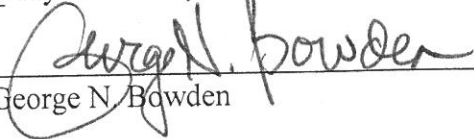
Therefore this Court, being fully advised of the premises, enters judgment as follows:

ORDERED, ADJUDGED AND DECREED that Plaintiffs' Motion for Attorney Fees and Costs is hereby granted; it is further

ORDERED, ADJUDGED AND DECREED that Plaintiffs Jeffrey Lewis and Nancy Lewis, husband and wife, are awarded judgment against Defendant Hilton Lake

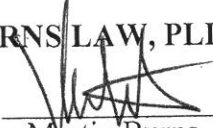
1 Homeowners Association for their attorney fees of \$ 35,081.⁵⁰ and costs in the
2 amount of \$ 2,476.¹⁰ for a total judgment of \$ 37,557.⁶⁰, which shall
3 collect interest at a rate of twelve percent (12%) per annum.

4 DONE IN OPEN COURT this 30 day of March, 2016.

5 
6 _____
7 Judge George N. Bowden

8 Presented by:

9 **BURNS LAW, PLLC**

10 By 
11 _____
12 Martin Burns, WSBA No. 23412
13 Attorney for Plaintiffs

14 Approved as to form:

15 (APPEARED TELEPHONICALLY)
16 Antoni H. Froehling, WSBA No. 8271
17 Attorney for Defendant

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