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Shawn R. MacPherson
430 NE Everett Street
Camas, WA 98607

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Document Title(s)

Judgment Quieting Title in Plaintiff _____

Reference Number(s) of related documents:

Additional Reference #'s on page _____

Grantor(s) (Last name, First name and Middle Initial)

Dolan, Patrick L. and Dolan, Darlene P., husband and wife

Grantee(s) (Last name, First name and Middle Initial)

Maloney, Kim, an unmarried woman

Legal Description: (abbreviated form: i.e. lot, block, plat or section township, range, quarter/quarter)

Lot 2 of Maloney Short Plat #2006160363

Assessor's Property Tax Parcel/Account Number

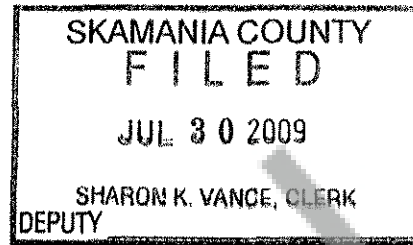
02053120120200; 02053120110000 _____

Additional parcel #'s on page _____

The Auditor/Recorder will rely on the information provided on this form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

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Shawn R. MacPherson
Signature of Requesting Party



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF SKAMANIA

KIM MALONEY, an unmarried woman,

Plaintiff,

vs.

PATRICK L. DOLAN and DARLENE P.
DOLAN, husband and wife,

Defendants,

NO. 08-2-00081-0

FINDINGS OF FACT AND
CONCLUSIONS OF LAW
AND JUDGMENT QUIETING
TITLE IN PLAINTIFF

I

JUDGMENT SUMMARY

1. Judgment creditor: Kim Maloney nka Kim Noah
2. Judgment debtor: Patrick L. Dolan and Darlene P. Dolan
3. Principal judgment amount:
4. Interest to date of judgment:
5. Principal judgment shall bear interest at the rate of 12% per annum
6. Attorney fees: \$200.00
7. Costs: \$635.16
8. Attorney fees, costs and other recovery amounts shall bear interest at 12% per annum
9. Attorney for judgment creditor: Shawn R. MacPherson
10. Attorney for judgment debtor: Charles Buckley

II

FINDINGS OF FACT

THIS MATTER having come before the above-entitled Court for trial and the Court having heard testimony in proceedings on June 12, 2009 and June 24, 2009 and the Court having reviewed the evidence admitted herein and being otherwise fully advised in the premises hereby makes the following Findings of Fact:

1. The Plaintiff, Kim Maloney, an unmarried woman, now known as Kim Noah, a married woman dealing with her sole and separate property, is the owner of certain real property situate in Skamania County, Washington, more particularly described as follows:

Lot 2 of Maloney Short Plat, recorded of plats, under Skamania County Auditor's File No. 2006160363.

2. The Defendants, Patrick L. Dolan and Darlene P. Dolan, are owners of certain real property situated in Skamania County, Washington more particularly described as follows:

County of Skamania, State of Washington

A Tract of land lying within the South Half of the Southwest Quarter of the Northwest Quarter of Section 31, Township 2 North, Range 5 East of the Willamette Meridian, described as follows:

Beginning at a point on the West line of the said Section 31 North, 4.17 chains from the Quarter Corner; thence East 1.515 chains; thence North 1.515 chains; thence West 1.515 chains to said Section line; thence South along said Section line 1.515 chains to the point of beginning.

Also the North Half of the South Half of the Southwest quarter of the Northwest Quarter of Section 31, Township 2 North, Range 5 East of the Willamette Meridian.

Except that portion thereof which lies within the tract first above described.

1 Also except that portion lying within the Ramona Bennett Short Plat,
2 recorded in Book 3 of Short Plats, Page 395.

3 3. The Maloney property is part of a larger tract owned for many years by Frederick
4 Morgan and adjoining to the south of the Dolan property

5 4. Frederick Morgan sold his property in 2005 to a Mr. and Mrs. Little. While Mr.
6 Morgan owned the adjacent property to the Dolans for many years, he did not live on the
7 property, but regularly visited the property.
8

9 5. After acquiring the property from Mr. Morgan, Mr. and Mrs. Little completed a
10 Short Plat through Skamania County of the property. See Exhibit "A".

11 6. The Plaintiff, Kim Maloney, purchased Lot 2 of the Short Plat and her property is
12 more particularly described as follows:

13 Lot 2 of Maloney Short Plat, recorded of plats, under Skamania
14 County Auditor's File No. 2006160363.

15 7. Frederick Morgan, during his entire period of ownership, testified he never saw a
16 fence at the north side of Lot 2 as it adjoins the Dolan property.

17 8. Mr. Morgan gave permission to Mr. and Mrs. Dolan to run horses on part of his property
18 during his period of ownership. The disputed area was not included in that permissive use.
19

20 9. On the south part of what became Lot 2 of the Maloney Short Plat there was a
21 fence constructed by the Dolans to keep their horses in, since there was no standing fence
22 further to the north.

23 10. This southerly fence was noted by Nin Beseda, a registered surveyor, as part of
24 the Short Plat process and noted on the Short Plat. See Exhibit "A". No fence was noted on
25

1 the north side of Lot 2 as it adjoins the Dolan property on his survey.

2 11. In 2007, after Kim Maloney had purchased her property, Mr. Dolan erected an
3 electric wire fence on the north side of the Maloney property, approximately 80 feet south of
4 the north line as indicated on the Short Plat. Prior to Mr. Dolan placing this electric wire
5 fence, Kim Maloney had walked the property, both before and after her purchase, and did not
6 notice any fencing on the north side of her Lot as it adjoins the Dolan property.

7 12. There was a remnant of a fence consisting of a single strand of barbed wire on the
8 ground and bent fence posts on Lot 1 of the Maloney Short Plat. Given the location and
9 condition of the fence on Lot 1, it is not reasonable to project the fence onto Lot 2.
10

11 13. Kim Maloney realized that the electric wire fence placed by Mr. Dolan after her
12 purchase encroached upon her property and removed it.
13

14 14. Mr. Dolan testified that prior to placing the electric wire fence he had mowed and
15 grazed horses up to what he was claiming was the boundary line.

16 16. The only evidence of any type of fencing on the north side of Lot 2 was a single
17 metal post noted by Bill Hagedorn in a July 2007 Exhibit sketch map.
18

19 17. During his period of ownership, Mr. Morgan did not agree with the defendants as
20 to any location of the northern boundary line of his property other than the true line.

21 III

22 CONCLUSIONS OF LAW:

23 With the above set forth Findings of Fact, the Court hereby makes the following Conclusions
24 of Law:

1. The Defendants have not asserted a claim that the survey line per the Maloney Short Plat as describes the north boundary line of the Maloney property and the south boundary of the Dolan property is inaccurate. As such, the Defendants are relying upon theories of both adverse possession and mutual recognition and acquiescence to claim a portion of Plaintiff's property.

2. The burden of proof rests with the Defendants to meet all elements of the theory of adverse possession and mutual recognition and acquiescence by clear, cogent and convincing standard of proof. The Defendants have failed to meet said burden, and there is insufficient evidence in particular to indicate when the purported fence claimed to exist by Mr. and Mrs. Dolan at the north side of the Maloney property last stood. As such, both of Defendants' counter-claims should be denied.

3. Plaintiff is entitled to a judgment quieting title in her and her successors in interest as to Lot 2 of the Maloney Short Plat, as described.

III

JUDGMENT

Having set forth the above Findings of Fact and Conclusions of Law, the Court hereby Orders, Adjudges and Decrees as follows:

1. The title to the following described real estate in Skamania County, Washington, to wit:

Lot 2 of Maloney Short Plat, recorded of plats, under Skamania County Auditor's File No. 2006160363.

be and is hereby quieted in Plaintiff Kim Maloney, an unmarried woman, now known as Kim Noah, a married woman dealing with her sole and separate property, and her successors in interest

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;3606932430

3/ 3

1 against any and all claims of defendants, Patrick L. Dolan and Darlene P. Dolan, husband and
2 wife, and their successors in interest.
3

4 2. The boundary line separating Plaintiff's real property at the north and Defendants' real
5 property at the south in Skamania County, Washington is hereby decreed to be located as shown
6 in the Short Plat completed by McKay and Sposito and recorded in the office of the Auditor of
7 Skamania County, Washington on January 27, 2006 in Auditor's File No. 2006160363, per the
8 attached Exhibit "A".

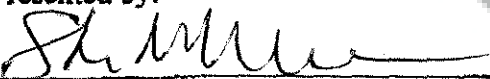
9 3. The fence placed by the Defendants in 2007 consisting of a single strand of electric
10 wire with posts shall be removed by Defendants from Plaintiffs' real property within thirty days of
11 entry of this judgment.
12

13 4. Plaintiff is hereby awarded judgment in the amount of \$200 for her statutory attorney's fees
14 incurred herein and costs in the amount of \$635.16. Said judgment shall bear interest at the rate of
15 12% per annum until paid.

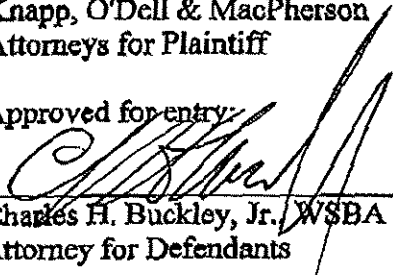
16 DATED this 29th day of July, 2009.

17
18 
JUDGE

19 Presented by:

20 
Shawn R. MacPherson, WSBA #22842, of
21 Knapp, O'Dell & MacPherson
Attorneys for Plaintiff

22 Approved for entry:

23 
24 Charles H. Buckley, Jr., WSBA #9048
25 Attorney for Defendants

Unofficial
Copy

State of Washington }
County of Skamania } SS

I Sharon K. Vance, County Clerk of the Superior Court of Skamania County, Washington, DO HEREBY CERTIFY that this instrument, consisting of 7 page(s), is a true and correct copy of the original now on file and of record in my office and, as County Clerk, I am the legal custodian thereof.

Signed and sealed at Stevenson, Washington
this date 7/30/09 Sharon K. Vance
Sharon K. Vance County Clerk
By Quinn Munsch Deputy