

JUDICIAL COMMITTEE REPORT – February 12, 2024

1. *Amicus Brief Request – Jordan McCullough v. Mark Anderson, Thurston County Superior Court Case No. 21-2-01708-34.*

This case involves a dispute about the interpretation of an easement. The question is whether the subject easement, which provides the dominant estate with exclusive use, precluded the servient owner from using it too. Because title insurance policies generally do not cover easement interpretation, the Judicial Committee declined the request for an amicus brief.

2. *Velazquez Framing LLC v. Cascadia Homes, Inc., 2024 WL 118484 (Jan. 11, 2024)*

The Washington Supreme Court reversed the Court of Appeals holding that Velazquez Framing did not need a pre-lien notice for labor and remanded to the lower court to determine how much of the lien at issue was attributable to labor as opposed to materials and equipment. *See*, 2023 Judicial Committee Annual Report, Case No. 1, which reported on the Court of Appeals' decision.

Recall that Cascadia Homes is a general contractor and hired High End Construction (“High End”) for the framing. High End orally agreed with Velazquez Framing (“Velazquez”) to complete the framing, unbeknownst to Cascadia. Velazquez worked from Oct 15-Nov 1, 2019. Cascadia paid High End in October and November. High End did not pay Velazquez. Velazquez invoiced Cascadia in October and contacted it seeking payment but Cascadia did not pay. In January 2020, Velazquez filed a lien and followed up with a complaint in September 2020. There was no evidence that Velazquez gave any prelien notice to Cascadia.

Velazquez ultimately prevailed in its argument that RCW 60.04.031(2) provides an exception to the prelien notice for parties contracting directly with the owner or owner’s common law agent, *laborers whose claim of lien is based solely on labor*, or subcontractors who contract directly with the contractor (emphasis added). The Court held that the prelien notice requirement under RCW 60.04.031(1) and the exception in subsection (2) meant that Velazquez could enforce its lien for labor, despite not providing notice, so long as the subcontractor could provide evidence to segregate the value of the labor from the value of the materials and equipment.