

[Handwritten signature]

RECEIVED & FILED
Mason County Clerk

NOV 19 2018

Superior Court of WA
Sharon Fogo

[Handwritten initials] 4

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

13-2-00049-4
JD 171
Judgment
4337476



**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF MASON**

Mary C. Hrudkaj,
Tabitha Grabarczyk,
Pamela E. Owens,
Joi Caudill,

Plaintiffs

vs.

Queen Anne Water Works LLC, and
Gerard A. Fitzpatrick and Catherine
Fitzpatrick,

Defendants.

Case No. 13-2-00049-4

18-9-748-7

JUDGMENT AND ORDER

JUDGMENT SUMMARY

Judgment creditors: Mary C. Hrudkaj,
Pamela E. Culy,
Joi Caudill

Attorney for creditors: Eugene C. Austin
PO Box 1753
Belfair, WA 98528
360-551-0782

Judgment debtors: Queen Anne Water Works LLC,
Gerard A. Fitzpatrick,

JUDGMENT AND ORDER

Austin Law Office, PLLC
PO Box 1753
Belfair, WA 98528
360-551-0782

171

1 Catherine Fitzpatrick

2 Judgment Amount: N/A (See, Costs and attorney fees. Refund amounts TBD)

3 Interest owed to date: N/A (Interest accrues at legal rate from date of this order)

4 Costs and attorney fees: \$43,605.80

5 Having made its Findings of Fact and Conclusions of Law, the court makes the following
6 order.

7 **IT IS ORDERED** that:

8 1. The defendants are enjoined from collecting or billing over \$37.00 per month, per
9 user, until the reasonableness procedure is pursued and completed.

10 2. The defendants shall refund any amounts collected from system users in excess of
11 \$37.00 per month, per user.

12 3. The Defendants may assess and collect an assessment in the amount of \$445.37,
13 for the payment to Consolidated Electrical Distributers for repairs to the electrical panel. This
14 amount shall be divided equally among the users of the water system and billed accordingly.

15 4. All other assessments made by the Defendants and subject to this lawsuit are
16 disallowed, and Defendants are enjoined from collecting those assessments.

17 5. The Defendants shall refund any amounts collected from system users for the
18 assessments made on September 30, 2012, and thereafter, with the exception of the \$445.37,
19 allowed by this court.

20 6. The Defendants shall remove any liens filed for the purpose of collecting any fees
21 over \$37.00 per month or enforcing said assessments made on or after September 30, 2012, and
22 Defendants are enjoined from taking any action to collect on such fees and/or liens.

1 7. The Plaintiffs, as the prevailing party, are awarded reasonable attorney's fees in
2 the amount of \$42,719.00 and costs of the suit in the amount of \$886.80. This amount is a
3 judgment against the Defendants, subject to collection, and shall accrue interest at the legal rate

4 8. The Queen Anne Water System is put into custodial receivership and a qualified
5 receiver shall be appointed to manage and operate the water system subject to the laws of the
6 State of Washington and the governing agreements (Declaration of Protective Covenants for
7 Queen Ann Hill Division of Belfair View Estates; the Declaration of Water Service for Queen
8 Ann Hill Division of Belfair View Estates; and the Third Party Beneficiary Contract Agreement)
9 currently on file with the Mason County Auditor's Office. Defendants shall not participate in the
10 management of the Queen Anne Water System, including financial, billing, and rates.

11 9. The Court appoints a permanent receiver for the Queen Ann Water System as
12 follows:

13 a. NORTHWEST WATER SYSTEMS, PO Box 123, 7245 Bethel Burley Rd., Port
14 Orchard, WA 98366 (NWS) is named as the permanent receiver, with power and
15 authority to manage and operate the water system subject to the governing
16 agreements.

17 b. If NWS is unwilling, unable, or otherwise declines to accept appointment as receiver,
18 WASHINGTON WATER SERVICE COMPANY, PO Box 336, Gig Harbor, WA
19 98335 (WWSC) is named as the permanent receiver, with power and authority to
20 manage and operate the water system subject to the governing agreements.

21 c. If WWSC is unwilling, unable, or otherwise declines to accept appointment as
22 receiver, the MASON COUNTY PUBLIC UTILITY DISTRICT NO. 1, 21971 N.
23 Highway 101, Shelton (Potlatch), Washington 98584 (PUD 1), is named as the
24

1 permanent receiver, with power and authority to manage and operate the water
2 system subject to the governing agreements.

3 The Court reserves the right to appoint a special master to review the qualifications of proposed
4 receivers and make a recommendation to the court as to who should be appointed.

5 10. The funds deposited into the Court Registry by Gina Singer and Timothy Singer,
6 pursuant to the court's order of August 9, 2018, shall be returned/refunded to Gina Singer and
7 Timothy Singer without restrictions.

8 11. _____
9 _____
10 _____
11 _____
12 _____
13 _____
14 _____

TAS

15
16 DATED this 19th day of November, 2018, at Belfair, WA.

17
18 Toni A. Sheldon

19 Toni Sheldon
Superior Court Judge **TONI A. SHELDON**

20 Presented/Approved by:

21 Eugene C. Austin
22 Eugene C. Austin, WSBA # 31129
23 Attorney for Plaintiffs

Approved as to form by:

24 Thomas M. Geisness
Thomas M. Geisness, WSBA#30897
Attorney for Defendants