

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

LINH THI MINH TRAN
Petitioner on Writ of Certiorari,

Vs.

STAN THE HOT WATER MAN
Petitioner on Writ of Certiorari,

PETITIONER ON WRIT OF CERTIORARI LINH THI MINH TRAN'S
PETITION FOR WRIT OF CERTIORARI OF OREGON SUPREME COURT'S
DECISION ORDER DENYING RECONSIDERATION WAS ENTERED ON
04/18/2019 BY MARTHA L. WALTERS, CHIEF JUSTICE OREGON
SUPREME COURT.

PETITIONER ON WRIT OF CERTIORARI LINH THI MINH TRAN'S PETITION FOR WRIT OF CERTIORARI OF
OREGON SUPREME COURT'S ORDER DENYING RECONSIDERATION WAS ENTERED ON 04/18/2019.
Oregon Supreme Court Case: S066380, Oregon Court of Appeals Case: A165790, Multnomah County
Circuit Court Case: 16CV19058 | Linh Thi Minh Tran, Petitioner on writ of certiorari, 12542 SE Capella
court, Happy Valley, Oregon 97086 | Tel: 503-558-0886 | Email: minhlinhtrn@gmail.com | Page 39 of 40

PROOF OF SERVICE

I, Linh Thi Minh Tran, Petitioner on writ of certiorari, declares that on 07/16/2019, as required by Supreme Court of the United States Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS AND PETITION FOR A WRIT OF CERTIORARI in the Case Name: Linh Thi Minh Tran vs. Stan The Hot Water Man, Oregon Supreme Court Case Number: S066368, Oregon Court of Appeals Case Number: A165790, Multnomah County Circuit Court Case Number: 16CV19058 on each party to the above-named case proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them with tracking number prepaid commercial carrier for delivery.

The names and addresses of those served are as follows:

Buckley Law, P.C.
Marjorie A. Elken OSB No. 073368
5300 Meadows Road, Ste. 200
Lake Oswego, Oregon 97035
Telephone: 503-620-8900
Email: mae@buckley-law.com
Attorney for Respondent on writ of certiorari Stan the Hot Water Man

I declare under penalty of perjury that the foregoing is true and correct

Executed on 07/16/2019


Linh Thi Minh Tran
Petitioner on writ of certiorari pro se
12542 SE Capella court
Happy Valley, Oregon 97086
Tel: 503-558-0886
Email: minhlinhtrn@gmail.com

IN THE SUPREME COURT OF THE STATE OF OREGON

LINH THI MINH TRAN,
Plaintiff-Appellant,
Petitioner on Review,

v.

STAN THE HOT WATER MAN,
Defendant-Respondent,
Respondent on Review.

Court of Appeals
A165790

S066380

**ORDER DENYING MOTION FOR RELIEF FROM DEFAULT GENERAL JUDGMENT
OF DISMISSAL AND DENYING PETITION FOR RECONSIDERATION**

Upon consideration by the court.

The motion for relief from default general judgment of dismissal is denied. The court has considered the petition for reconsideration and orders that it be denied.

MWB

MARtha L. WALTERS
CHIEF JUSTICE, SUPREME COURT
4/18/2019 7:28 AM

c: Marjorie A Elken
Linh Thi Tran

gk

**ORDER DENYING MOTION FOR RELIEF FROM DEFAULT GENERAL JUDGMENT
OF DISMISSAL AND DENYING PETITION FOR RECONSIDERATION**

REPLIES SHOULD BE DIRECTED TO: State Court Administrator, Records Section
Supreme Court Building, 1100 Court Street, Suite 100, Portland, Oregon 97261

IN THE SUPREME COURT OF THE STATE OF OREGON

LINH THI MINH TRAN,
Plaintiff-Appellant,
Petitioner on Review,

v.

STAN THE HOT WATER MAN,
Defendant-Respondent,
Respondent on Review.

Court of Appeals
A165790

S066380

ORDER DENYING REVIEW

Upon consideration by the court.

The court has considered the petition for review and orders that it be denied.



MARTHA L. WALTERS
CHIEF JUSTICE, SUPREME COURT
2/22/2019 8:55 AM

c: Marjorie A Elken
Linh Thi Tran

jr

ORDER DENYING REVIEW

REPLIES SHOULD BE DIRECTED TO: State Court Administrator, Records Section,
Supreme Court Building, 1163 State Street, Salem, OR 97301-2563

IN THE COURT OF APPEALS OF THE STATE OF OREGON

LINH THI MINH TRAN,
Plaintiff-Appellant,

v.

STAN THE HOT WATER MAN,
Defendant-Respondent.

Multnomah County Circuit Court No. 16CV19058

Court of Appeals No. A165790

ORDER DENYING RECONSIDERATION

Appellant petitions for reconsideration of the court's decision dated October 10, 2018, pursuant to ORAP 6.25. The court has considered the petition and orders that the petition is denied.

The petition for reconsideration is denied.


REX ARMSTRONG
PRESIDING JUDGE, COURT OF APPEALS
11/14/2018 9:09 AM

c: Linh Thi Tran
Marjorie A Elken

ej

ORDER DENYING RECONSIDERATION

REPLIES SHOULD BE DIRECTED TO: State Court Administrator, Records Section,
Supreme Court Building, 1163 State Street, Salem, OR 97301-2563
Page 1 of 1

IN THE COURT OF APPEALS OF THE STATE OF OREGON

LINH THI MINH TRAN,
Plaintiff-Appellant,

v.

STAN THE HOT WATER MAN,
Defendant-Respondent.

Multnomah County Circuit Court
16CV19058

A165790

APPELLATE JUDGMENT and SUPPLEMENTAL JUDGMENT

James D Huegli, Judge *pro tempore*.

Submitted on September 07, 2018.

Before Armstrong, Presiding Judge; Tookey, Judge; and Shorr, Judge.

Attorney for Appellant: Linh Thi Minh Tran, *pro se*.

Attorney for Respondent: Marjorie A. Elken.

AFFIRMED WITHOUT OPINION

DESIGNATION OF PREVAILING PARTY AND AWARD OF COSTS

Prevailing party: Respondent

Costs allowed, payable by Appellant.

APPELLATE JUDGMENT and SUPPLEMENTAL JUDGMENT

REPLIES SHOULD BE DIRECTED TO: State Court Administrator, Records Section,
Supreme Court Building, 1163 State St, Salem OR 97301-2563

MONEY AWARD

Créditor: Stan the Hot Water Man

Attorney: Marjorie A. Elken, 5300 Meadows Rd Ste 200, Lake Oswego OR 97035

Debtor: Linh Thi Minh Tran, *pro se*

Attorney Fees: \$10,246.50

Costs: \$473.00

Total Amount: \$10,719.50

Interest: Simple, 9% per annum, from the date of this appellate judgment.

Appellate Judgment

Effective Date: July 15, 2019

COURT OF APPEALS
(seal)

els

APPELLATE JUDGMENT and SUPPLEMENTAL JUDGMENT

REPLIES SHOULD BE DIRECTED TO: State Court Administrator, Records Section,
Supreme Court Building, 1163 State St, Salem OR 97301-2563

IN THE COURT OF APPEALS OF THE STATE OF OREGON

LINH THI MINH TRAN,
Plaintiff-Appellant,

v.

STAN THE HOT WATER MAN,
Defendant-Respondent.

Multnomah County Circuit Court No. 16CV19058

Court of Appeals No. A165790

ORDER STRIKING EXCERPT OF RECORD

Appellant has tendered for filing a brief containing a voluminous excerpt of record that includes parts of the transcript, photographs, copies of motions and memoranda, and one or more compact discs. ORAP 5.50(6) in material part provides:

**** If a self-represented party files an excerpt of record *** it must contain only those documents specified in ORAP 5.50(2)(a) and (b), must contain no other documents, and must otherwise comply with this rule.⁴

Footnote 4 states:

Under ORAP 6.05(2), cases in which a self-represented party files a brief are submitted without oral argument by any party. For that reason, any excerpt of record *** submitted by a self-represented party shall not contain any of the documents otherwise required by ORAP 5.50(2)(c) to (f) to assist the appellate court in preparing for oral argument.

The court on its own motion strikes appellant's excerpt on the ground that it does not comply with ORAP 5.50(6). Appellant shall have 14 days from the date of this order to file an amended excerpt of record containing only the judgment or order on appeal and any written or oral rulings by the trial court addressing the issues presented by the assignment of error, as provided in ORAP 5.50(2)(a) and (b).

The court directs the Appellate Court Administrator to return to appellant the materials making up the excerpt of record part of appellant's brief filed on April 14, 2018.

James W. Nass
JAMES W. NASS
APPELLATE COMMISSIONER
5/3/2018 10:44 AM

c: Linh Thi Tran
Marjorie A Elken

km

ORDER STRIKING EXCERPT OF RECORD

REPLIES SHOULD BE DIRECTED TO: State Court Administrator, Records Section,
Supreme Court Building, 1163 State Street, Salem, OR 97301-2563
Page 1 of 1

IN THE COURT OF APPEALS OF THE STATE OF OREGON

LINH THI MINH TRAN,
Plaintiff-Appellant,

v.

STAN THE HOT WATER MAN,
Defendant-Respondent.

Multnomah County Circuit Court
16CV19058

A165790

ORDER ALLOWING ATTORNEY FEES IN PART

Before DeVore, Presiding Judge, and James, Judge.

In this tort action assigning error to the trial court's grant of respondent's motion for summary judgment, respondent, who prevailed on review, seeks attorney fees in the amount of \$17,670. Respondent relies on ORS 20.105 and requests findings under ORAP 13.10(7). Appellant objects. For the reasons explained below, we allow attorney fees in the amount of \$10,246.50.

Under ORS 20.105(1), in determining whether a party had an objectively reasonable basis for asserting a particular claim, the primary issue is whether there is evidence in the record to support the claim – that is, whether the party's claim is "entirely devoid of legal or factual support at the time it was made" or, "in light of additional evidence or changes in the law, as litigation proceeds." *Williams v. Salem Women's Clinic*, 245 Or App 476, 482, 263 P3d 1072 (2011); *Lenn v. Bottem*, 221 Or App 241, 248, 190 P3d 399, *rev den*, 345 Or 503 (2008). To facilitate adequate, meaningful review, a "court must enter findings when it either grants or denies a motion for attorney fees under ORS 20.105." *Staten v. Steel*, 22 Or App 17, 42, 191 P3d 778 (2008), *rev den*, 345 Or 618 (2009).

Here, respondent argues that an award is proper pursuant to ORS 20.105(1) on the grounds that respondent is the prevailing party, there is no objectively reasonable basis for appellant's claims on appeal, and appellant acted in bad faith. Appellant objects and contends that her appeal was objectively reasonable. She does this by listing the individual reasons why her complaints were justified. We agree with respondent and find that appellant's objections are not well-founded given the totality of the facts and claims on appeal. Therefore, we award fees to respondent.

ORDER ALLOWING ATTORNEY FEES IN PART

REPLIES SHOULD BE DIRECTED TO: State Court Administrator, Records Section,
Supreme Court Building, 1163 State Street, Salem, OR 97301-2563
Page 1 of 2

PLAINTIFF-APPELANT LINH THI MINH TRAN'S PETITION FOR REVIEW TO OREGON SUPREME COURT
OF order denying reconsideration WAS ISSUED ON 01/11/2019 FROM OREGON COURT OF
APPEAL, Robyn Ridler Aoyagi, Judge Court of Appeals.
Linh Thi Minh Tran, Plaintiff-Appellant pro se, 12542 SE Capella court, Happy Valley, Oregon 97086.
Email: minhlinhtrn@gmail.com | Page 15 of 19

We have considered the factors set out in 20.075(1) and (2) to determine the amount of the fee award. The amount requested award is unreasonably high, particularly given the time and labor required, the nature of the issues, and the results obtained in this appeal. ORS 20.075(2)(a), (d). Accordingly, we award fees in the amount of \$10,246.50.

Respondent is awarded attorney fees in the amount of \$10,246.50.



BRONSON D. JAMES
JUDGE, COURT OF APPEALS
12/17/2018 8:13 AM

c: Linh Thi Tran
Marjorie A Elken

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ORDER ALLOWING ATTORNEY FEES IN PART

REPLIES SHOULD BE DIRECTED TO: State Court Administrator, Records Section,
Supreme Court Building, 1163 State Street, Salem, OR 97301-2563
Page 2 of 2

PLAINTIFF-APPELANT LINH THI MINH TRAN'S PETITION FOR REVIEW TO OREGON SUPREME COURT
OF order denying reconsideration WAS ISSUED ON 01/11/2019 FROM OREGON COURT OF
APPEAL, Robyn Ridler Aoyagi, Judge Court of Appeals.
Linh Thi Minh Tran, Plaintiff-Appellant pro se, 12542 SE Capella court, Happy Valley, Oregon 97086.
Email: minhlinhtrn@gmail.com | Page 16 of 19

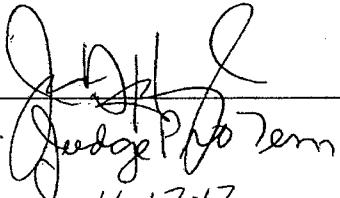
IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

LINH THI MINH TRAN,) Case No.: 16CV19058
Plaintiff,)
) GENERAL JUDGMENT OF DISMISSAL
) OF PLAINTIFF'S CLAIMS
v.)
STAN THE HOT WATER MAN,)
Defendant.)

On August 3, 2017, the Court entered an Order granting Defendant's Motion for Summary Judgment and dismissing all of Plaintiff's claims.

On August 28, 2017, the Court entered a Judgment – Limited Dismissal in the court register which dismissed, without prejudice and without an award of any fees, costs or disbursement to any party, Defendant's counterclaims.

Based on the foregoing, IT IS ADJUDGED that Defendant have judgment on all of Plaintiff's claims against Defendant, and that Defendant is awarded its costs and disbursements in an amount to be determined by supplemental judgment in accordance with ORCP 68.


11-17-17

Submitted by:
By: /s/ Marjorie A. Elken
Marjorie A. Elken, OSB No.: 073368
Attorney for Defendants

Page 1 - GENERAL JUDGMENT OF DISMISSAL OF PLAINTIFF'S CLAIMS

Buckley Law, P.C.
5300 Meadows Road, Ste 200
Lake Oswego, OR 97035
Tel: 503-620-8900 Fax: 503-620-4878

CERTIFICATE OF READINESS

UTCR 5.100(1)

I hereby certify that on November 17, 2017, I served the foregoing **GENERAL JUDGMENT OF DISMISSAL OF PLAINTIFF'S CLAIMS AND MONEY AWARD** on the following individual by First Class Mail and email as indicated below:

Linh Thi Minh Tran
12542 S.E. Capella Court
Happy Valley, Oregon 97086
Email: minhlinhtrn@gmail.com
Phone: 503-558-0886

Plaintiff Pro Se

The PLEADING is ready for judicial signature because:

1. Each opposing party affected by this order or judgment has stipulated to the order or judgment, as shown by each opposing party's signature on the document being submitted.
2. Each opposing party affected by this order or judgment has approved the order or judgment as shown by signature on the document being submitted or by written confirmation of approval sent to me.
3. On November 17, 2017, I have served a copy of this order or judgment on all parties entitled to service and:
 - a. No objection has been served on me.
 - b. I received objections that I could not resolve with the opposing party despite reasonable efforts to do so. I have filed a copy of the objections I received and indicated which objections remain unresolved.
 - c. After conferring about objections, *Plaintiff Pro Se* Linh Thi Minh Tran objects to the form of judgment and has submitted her own proposed form of judgment.

Page 1 – CERTIFICATE OF READINESS

Buckley Law, P.C.
5300 Meadows Road, Ste. 200
Lake Oswego, OR 97035
Tel: 503-620-8900 Fax: 503-620-4878

4. [] The relief sought is against an opposing party who has been found in default.

5. [] An order of default is being requested with this proposed judgment.

6. [] Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or otherwise.

7. [] This is a proposed judgment that includes an award of punitive damages and notice has been served on the Director of the Crime Victims' Assistance section as required by subsection (4) of this rule.

DATED this 17th day of November, 2017.

BUCKLEY LAW P.C.

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By: /s/ Marjorie A. Elken
Marjorie A. Elken, OSB No. 073368
5300 Meadows Road, Suite 200
Lake Oswego, Oregon 97035
Phone: 503-620-8900
Email: mae@buckley-law.com

Attorney for Defendants

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Page 2 – CERTIFICATE OF READINESS

Buckley Law, P.C.
5300 Meadows Road, Ste. 200
Lake Oswego, OR 97035
Tel: 503-620-8900 Fax: 503-620-4878

CERTIFICATE OF SERVICE

I hereby certify that I served this **GENERAL JUDGMENT OF DISMISSAL OF PLAINTIFF'S CLAIMS** certified by me as such, on the following person by mailing, with postage paid, and deposited in the post office, addressed to said persons, with a courtesy copy by email, as follows:

Linh Thi Minh Tran
12542 S.E. Capella Court
Happy Valley, Oregon 97086
Email: minhlinhtrn@gmail.com
Phone Se: 503-558-0886

Plaintiff Pro Se

DATED this 17th day of November, 2017.

BUCKLEY LAW, P.C.

By: /s/ Marjorie A. Elken
Marjorie A. Elken, OSB No. 073368
mae@buckley-law.com
Samuel V. Rayburn, OSB No. 144115
svr@buckley-law.com
5300 Meadows Rd., Suite 200
Lake Oswego, OR 97035
Tel: (503) 620-8200/Fax: (503) 620-4878
Of Attorneys for Defendant

**Additional material
from this filing is
available in the
Clerk's Office.**