



# CIRCUIT COURT OF OREGON

FIFTH JUDICIAL DISTRICT  
CLACKAMAS COUNTY COURTHOUSE  
OREGON CITY, OR 97045

**TODD L. VAN RYSSELBERGHE**  
CIRCUIT COURT JUDGE

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October 2, 2024

**VIA EMAIL**

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**RE: Sharon Neal's Complaint for Nuisance, Reckless Endangerment, and Elder Financial Abuse**

Dear Ms. Neal:

This letter is intended to respond to your request to file a civil suit in Clackamas County against Defendants Natalia Neal, U.S. Bank, Phillip and Trudy Hennemen, Clackamas County, Oregon Department of Transportation, and Tina Kotek.

The complaint seeks money damages, injunctive and declaratory relief, and appointment of a receiver in relation to a retaining wall that spans the Damascus properties of Natalia Neal and the Hennemens. Ms. Neal brings five claims: 1) public nuisance, 2) appointment of a receiver, 3) enforcement of the retaining wall repairs via an injunction, 4) reckless endangerment, and 5) elder abuse. In an Order issued October 9<sup>th</sup>, 2020, this Court declared Ms. Neal a "vexation [sic] litigant" and enjoined her from filing further legal proceedings against Natalia Neal (Natalia) absent the permission of the Court. After a thorough review, the Court is denying permission to file the complaint on the following grounds:

- 1) Ms. Neal seeks to re-litigate matters already put before this Court. These claims are vexatious.
- 2) Because Ms. Neal no longer has a secured interest in the property, many of her claims are now moot.
- 3) Ms. Neal submitted her complaint for an improper purpose under Oregon Rule of Civil Procedure 17.

In his January 2022 Order Appointing a Receiver, in *De Lage Landen Financial Services v. Natalia Neal*, Case No. 17CV03554, Judge Rod Boutin described the relationship between Ms. Neal and Natalia: 1) that Natalia is the ex-wife of Ms. Neal's son; 2) that both parties reside at 17700 SE Forest Hill Drive in Damascus, Oregon (the property), with Ms. Neal living in the upper level and Natalia living in the lower level of the home and, perhaps most importantly, 3) there is acrimony between the parties. Ms. Neal and Natalia's relationship and legal troubles span decades, thus a full review of the factual background, with its many twists and turns, is unnecessary. However, it is important to summarize the preceding cases to show that Ms. Neal's conduct warrants rejecting her pleading.

Ms. Neal purchased the property with her husband many years ago. They conveyed the property to Natalia via a deed of trust in 2008. In 2016, Ms. Neal's son pled guilty to federal health care fraud and conspiracy charges and he and Natalia divorced. Ms. Neal has made extensive efforts to expel Natalia from the property since the finalization of the divorce. This most recent complaint is just one of those efforts. In January 2018, Ms. Neal filed a complaint against Natalia seeking specific performance and to quiet title to the property, among other claims. Judge Steele dismissed the case with prejudice in October 2018, citing Ms. Neal's repeated failure to follow court orders. Ms. Neal unsuccessfully moved for relief from the judgment and then lost on appeal, with the Court of Appeals awarding costs to Natalia.

Following Judge Steele's dismissal, Ms. Neal made the retaining wall the center of her litigation strategy. She filed another complaint against Natalia in February 2020. In that case, Ms. Neal sought to foreclose on her lien on the 17700 SE Forest Hill Drive property and the appointment of a receiver to coordinate repairs to the retaining wall. She also brought a claim of elder abuse against Natalia. Finding that Ms. Neal failed to properly serve Natalia, the Court granted Natalia's motion to dismiss. In her motion, Natalia noted that the complaint was Ms. Neal's "creative attempt to refile and relitigate" claims that had already been adjudicated between the parties. Following the dismissal but before the court issued a judgment, Ms. Neal appealed; the Court of Appeals dismissed the appeal for lack of an appealable judgment. Following the judgment, Ms. Neal moved for relief from the judgment and filed another appeal, both of which were unsuccessful.

Ms. Neal made the most headway in *De Lage Landen v. Neal*. After being made the assignee of judgment creditor, De Lage Landen, Ms. Neal raised the retaining wall in her May 2020 motion for the sale of Natalia's interest in the property under a writ of execution. Again, Ms. Neal moved to appoint a receiver to effectuate repairs to the retaining wall, asserting that it was a "public safety emergency" and a "Class I imminent landslide hazard." Judge Norby granted Ms. Neal's

Motion for Sale of Real Property on July 30, 2020; the writ was not executed until July 2024 after a flurry of litigation ensued between the parties.

In December 2020, Ms. Neal filed an emergency motion to appoint a receiver over the property, claiming that a geotechnical firm had inspected the wall and concluded it was “on the verge of collapse.” Judge Boutin appointed a receiver to investigate the structural integrity of the retaining wall in February 2021, contingent on Ms. Neal’s agreement to pay the Receiver’s fees and expenses. In his April 2021 report, the Receiver concluded the wall was “in danger of collapse” and “highly susceptible for both shallow and deep landslides,” increasing risk of potential failures. Despite this, in January 2022, Judge Boutin found that the record did not fully support Ms. Neal’s contention that the wall was an imminent hazard, nor Natalia’s contention that the wall was safe, and only concluded there was “sufficient evidence to *question* the structural integrity of the retaining wall.” Judge Boutin noted that, although the appointment of the receiver was contingent on Ms. Neal’s ability to pay the Receiver’s fees and expenses, she thereafter “serially represented” that she could not do so. Judge Boutin then authorized the Receiver to grant U.S. Bank a super-priority lien to finance the repairs should the Receiver and U.S. Bank choose to enter such an agreement.

U.S. Bank never acted on that order. In 2022, Natalia filed for bankruptcy. U.S. Bank purchased the property in a nonjudicial foreclosure sale in February 2023. Natalia did not receive proper notice of the sale and challenged, subsequently entering a stipulated judgment with U.S. Bank in which her existing rights in the property continued. U.S. Bankruptcy Judge McKittrick permitted Ms. Neal to bring a claim in Natalia’s bankruptcy case as a “nonpriority, unsecured” claim, citing the effects of the foreclosure on Ms. Neal’s interest in a corresponding letter. Ms. Neal unsuccessfully appealed the foreclosure multiple times. On her third motion for reconsideration, Judge McKittrick noted that Ms. Neal had raised all the same arguments as in her previous motions and failed to assert an intervening change in law or introduction of new evidence warranting a reconsideration.

Ms. Neal continues to litigate her challenge to the validity of the foreclosure sale in this Court, Case No. 23CV05670. Following a series of dismissals in that case, Ms. Neal filed her second amended complaint, where she acknowledged that the foreclosure extinguished her interests in the property as a junior lienholder. Despite this—and the ruling in federal court—Ms. Neal executed her writ of execution on July 9, 2024, seeking to enforce Judge Norby’s 2020 order authorizing the sale of Natalia’s interest in the property. U.S. Bank moved to vacate or stay both the writ and the 2020 order on the grounds that Ms. Neal’s judgment lien is now unsecured. On September 16, 2024, Judge Boutin ruled on the record that the foreclosure sale terminated Ms. Neal’s interest in the property, striking the writ and vacating the 2020 order. In holding that the 2020 order was no longer enforceable, Judge Boutin cited the need to have “certainty” in these matters.

The Court is rejecting Ms. Neal’s complaint on three grounds. First, certain claims in the complaint are duplicative of other claims already put before and adjudicated by this Court. These claims are vexatious and subject to dismissal. Second, Ms. Neal’s interest in the property was extinguished in the February 2023 foreclosure sale, making many of her claims moot. Finally,

Ms. Neal submitted this complaint for an improper purpose in violation of Oregon Rule of Civil Procedure 17 C(3). Her pattern of abusive litigation tactics warrants wholesale rejection of the complaint.

#### I. CLAIMS TWO AND THREE IN MS. NEAL'S COMPLAINT ARE VEXATIOUS.

In *Wolfe Invs. v. Shroyer*, 240 Or. 549 (1965), the Oregon Supreme Court defined a “vexatious proceeding” as one in which the party bringing the claim is “not acting *bona fide*, and merely wishes to annoy or embarrass his opponent, or when it is not calculated to lead to any practical result.” *Id.* at 553. In *Wolfe*, a plaintiff brought an action against a defendant and after a motion hearing was set, the plaintiff filed another complaint upon an identical cause of action in the same court. On the defendant’s motion, the trial court dismissed the first case for want of prosecution and the second case on the grounds that it constituted “vexatious conduct on the part of the plaintiff.” *Id.* at 518. On appeal, the Oregon Supreme Court held that whether a “second action is brought with the intent to vex is a question of fact.” *Id.* at 518. *Wolfe* found that plaintiff’s “active opposition” to the dismissal of the first case after the plaintiff “knew that the defendant had been put to the expense of entering appearance...in the second case was certainly evidence ... that the second case was not filed for *bona fide* purposes but with the intent to annoy or embarrass defendant.” *Id.* at 518-19.

As detailed above in the factual background, Ms. Neal has brought numerous actions against Natalia over the years, nearly all of which have failed. Many of her subsequent appeals have also been unsuccessful. Records show that Ms. Neal has sued Natalia in Clackamas County in one manner or another upwards of eleven times since 2017. Natalia, in her motion to classify Ms. Neal as a vexatious litigant, alleged that Ms. Neal had filed complaints against her in other counties—despite the uninterrupted residence of both parties in Clackamas County. This would be Ms. Neal’s third suit brought against U.S. Bank and at least the second action pertaining to the retaining wall.

Claim Two, to appoint a receiver and Claim Three, to enforce retaining wall repairs, have been extensively litigated in *De Lage Landen v. Neal*. Judge Boutin noted in the most recent hearing that there were over 300 filings between the parties in that case. Bankruptcy proceedings and multiple appeals have protracted the litigation, but these issues have been thoroughly adjudicated and are technically still pending, as that case is not closed. Indeed, the Court appointed a receiver and that receiver issued a report, but Ms. Neal never produced the funds necessary to pay the Receiver’s fees and costs. U.S. Bank was given leave to assume a super-priority lien to finance the repairs, per Ms. Neal’s request. In her complaint, Ms. Neal takes issue with the fact that U.S. Bank has not acted on this order and that Natalia has not repaired the retaining wall. However, because Ms. Neal is still actively litigating these issues in *De Lage Landen v. Neal*, bringing a second action against U.S. Bank and Natalia on these grounds is improper. Ms. Neal attempted to file this complaint despite U.S. Bank’s pending motion in *De Lage Landen v. Neal*; she appeared in that case as recently as September of this year. The Court views Ms. Neal’s continued prosecution of these issues in *De Lage Landen v. Neal* as “active opposition” under *Wolfe* and

evidence that Claims Two and Three were not brought for a *bona fide* purpose beyond to harass Natalia and U.S. Bank.

**II. BECAUSE MS. NEAL NO LONGER HAS A SECURED INTEREST IN THE PROPERTY, MANY OF HER CLAIMS ARE NOW MOOT.**

The Oregon Supreme Court summarized the law on when a case is moot in *Rogue Advocates v. Board of Commissioners of Jackson County*, 362 Or. 369 (2017). Whether a case is moot turns on “whether a justiciable controversy exists.” *Id.* at 272 (citing *Brummet v. PSRB*, 315 Or. 402, 405 (1993)). A justiciable controversy “must involve a dispute based on present facts.” *Id.* “[A] case is moot if, because of changed circumstances, a decision no longer will have a practical effect on or concerning the rights of the parties.” *Id.* (citations omitted).

Many of Ms. Neal’s claims are moot following Judge Boutin’s ruling on the record in the September 16, 2024 hearing. There, Judge Boutin granted U.S. Bank’s motion to strike Ms. Neal’s writ of execution and to vacate the 2020 order authorizing the sale of the property to Ms. Neal. Judge Boutin found that the foreclosure sale had extinguished Ms. Neal’s interest in the property as a junior lienholder, and that judgment lien did not reattach to Natalia’s interest in the property once Natalia’s interest was “reinstated” or “continued” pursuant to the stipulated judgment between herself and U.S. Bank. Each action brought by Ms. Neal in her complaint is predicated, at least in part, on her secured interest in the property via her judgment lien and Defendants’ alleged harm to that interest. An order to repair the retaining wall, for example, would have no practical effect on her rights because her lien is no longer secured in the property. Permitting Ms. Neal to bring these claims would not be in the interest of judicial economy.

Indeed, Ms. Neal has not had a secured interest in the property since the foreclosure sale in February 2023. The Court has not overlooked the fact that Ms. Neal filed this complaint knowing that, pursuant to Judge McKittrick’s March 2023 order, her interest had been extinguished. Ms. Neal acknowledged as much in her second amended complaint to set aside the foreclosure sale. Ms. Neal continues to challenge the validity of the foreclosure. However, she did not disclose the effect of the foreclosure sale on her secured interest in this complaint, nor did she disclose the effect of the foreclosure when she filed her July 2024 writ of execution in which she sought an order from this Court to sell Natalia’s interest in the property to satisfy her judgment lien. Further, Ms. Neal refiled this complaint on September 24, 2024, presumably to reflect Judge Boutin’s ruling at the September 16<sup>th</sup> hearing. In the new complaint, she re-characterizes her judgment lien as “contested.” Ms. Neal continues to shroud the truth in her pleadings. Not only are many of her claims now moot, but Ms. Neal’s failure to disclose the realities of her interest in the property suggests she acted in bad faith.

### III. MS. NEAL'S SUBMISSION OF THIS COMPLAINT VIOLATES OREGON RULE OF CIVIL PROCEDURE 17.

Under Oregon Rule of Civil Procedure 17 C(2), a party or attorney that signs and therefore certifies a pleading certifies that the pleading is “not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.” ORCP C(3) specifies that a party also certifies that the “claims ... in the pleading ... are warranted by existing law or by a nonfrivolous argument” for changing the existing law. In *Taylor v. Kerber*, 17 Or. App. 301 (2000), the trial court sanctioned defendants for violation of ORCP C(2); the Court of Appeals reviewed for abuse of discretion. On appeal, the Court of Appeals explained that, “if a finding that a motion was not warranted by existing law under ORCP 17 C(3) were a necessary prerequisite for a finding that the motion was presented for an improper purpose under ORCP 17 C(2), ORCP C(2) would be reduced to a nullity.” *Id.* at 307-308. In other words, whether a pleading was filed for an improper purpose does not turn solely on whether the claim put forth in the pleading was colorable or nonfrivolous. *Taylor* specifically noted that a “pattern of abusive litigation activity[] may convince a court that even a nonfrivolous motion is filed for reasons that ORCP 17 C(2) declares improper.” *Id.* at 308.

Similarities exist between *Taylor* and this case, although the procedural posture is different. There, parties had engaged in lengthy litigation over the plaintiff's foreclosure on the defendant's note and deed of trust. On the day of the foreclosure sale, defendants moved to vacate the judgment; the Court denied the motion but reset the foreclosure date. After close of business on the Friday before the new foreclosure sale date, defendants again moved *ex parte* to stay the sale. Plaintiff's attorney did not receive notice until five minutes before the hearing. At the show cause hearing, defendants had no explanation for the lack of notice, nor could they provide any authority for moving *ex parte*. The trial court observed that, “[t]his file is full of at the last minute your [clients'] doing everything in their power to stop the judgment that's been entered. At some point it simply has to stop ... You've lost at every turn.” *Id.* at 304. Finding that the defendants had a “pervasive pattern of needless delay” and had acted in “direct contravention” of the earlier ruling denying the motion to vacate, the trial court issued sanctions. *Id.* at 309. The Court of Appeals affirmed.

Ms. Neal, or her attorney Trevor Robins, has certified each of her pleadings. Even if her claims were not moot and were in fact colorable, she shows a similar pattern of the “abusive litigation” discussed in *Taylor* that warrants rejection of her complaint under ORCP 17 C(3). Ms. Neal's general disregard for the rules and formalities of the Court is clear in reviewing her pleadings. She frequently causes needless delay by filing interlocutory appeals and oft-denied motions for continuance. Several judges have pointed out her pattern of noncompliance with court orders. For example, Judge Steele dismissed her 2018 action with prejudice on the basis that she “repeatedly failed to follow the order(s) of this Court.” In that case, Ms. Neal had sought and received a Temporary Restraining Order (TRO) against Natalia as part of her elder abuse claim. Following a hearing on the matter, Judge Weber vacated the TRO and enjoined Ms. Neal from seeking further injunctive relief related to the matters adjudicated at the hearing, including the elder abuse protective order. Ms. Neal then filed for a protective order in Washington County

under a claim of elder abuse, in direct violation of Judge Weber's order. Natalia successfully moved for sanctions against Ms. Neal and Judge Steele dismissed with prejudice. In another instance, Judge Boutin dismissed Ms. Neal's 2020 complaint because she did not properly serve Natalia, despite the fact that Ms. Neal filed a Certificate of Service.

Ms. Neal frequently makes misrepresentations to the Court in her pleadings, including in this complaint, discussed in Section II. A brief review of just some of these misrepresentations or misleading exaggerations reveals she is a litigant with a propensity to act in bad faith or with an improper purpose.

- Ms. Neal asserts in her most recent motion for judicial notice in *De Lage Landen v. Neal* that the 2020 Order permitting the foreclosure of the property was “upheld” by the Oregon Supreme Court, when in fact the Supreme Court denied review. Denial of review is not an endorsement of the lower court's disposition. *1000 Friends of Oregon v. Board of County Commissioners, Benton County*, 284 Or. 41, 44 (1978). In fact, “denial of review ... may not be taken as expressing even a slight sign that [the Supreme Court] approves the decision or the opinion of the Court of Appeals.” *Id.* at 45.
- Ms. Neal alleged in a pleading that, following a surface-level investigation of the retaining wall, geotechnical firm Terre Dolce concluded that it was on the “verge of collapse,” when the firm merely concluded that the risk that the wall will eventually fail, all else remaining equal, was high.
- Ms. Neal moved for sanctions against Natalia following a deposition in another proceeding, in which she claimed that Natalia violated the Washington County elder abuse restraining order by being at the same table as her during the deposition. The court denied the motion for sanctions, noting that distance requirements are relaxed for court proceedings. Ms. Neal asserted that she was “seated so very closely ... within arm's reach” of Natalia but the record showed that Ms. Neal chose her seat and was not required to sit in any one location. Ms. Neal further alleged that Natalia and her attorneys acted “menacingly and intimidatingly” towards her during the deposition. The order denying sanctions noted that Ms. Neal could take a break at any time and neither she nor her attorney made any objections of any kind during the deposition.
- In the September 16<sup>th</sup> hearing with Judge Boutin, Ms. Neal made representations to the Court that, should Ms. Neal's interest reattach to the property, she could finance the repairs to the retaining wall. Ms. Neal made similar representations in *De Lage Landen v. Neal* until the Receiver was appointed. Following his

appointment, she “serially represented” that she could not pay his fees or costs. In light of this, Ms. Neal’s recent representation to the Court invites skepticism.

Ms. Neal does not hesitate to act outside the bounds of court orders, the Oregon Rules of Civil Procedure, or the truth. Her pattern of abusive litigation justifies denial of permission to file the complaint. Ms. Neal may seek a refund of any filing fee tendered with the pleading.

Respectfully,

A handwritten signature in black ink, reading "Todd L. Van Rysselberghe". The signature is written in a cursive, flowing style with a large initial "T" and "V".

TODD L. VAN RYSSELBERGHE

Circuit Court Judge