

1 Law Office of Joseph W. Geldhof
2 2 Marine Way, Suite 207
3 Juneau, Alaska 99801
4 Telephone: (907) 586-8193
5 E-mail: joeg@alaskan.com
6 Counsel for Ray M. Collins and Carol J. Collins

COPY
Original Received

MAY - 6 2016

Clerk of the Trial Courts
By  Deputy

5 **IN THE SUPERIOR COURT FOR THE STATE OF ALASKA**
6 **FIRST JUDICIAL DISTRICT AT JUNEAU**

7 RAY M. COLLINS and CAROL J.)
8 COLLINS,)
9 Plaintiffs,)
10 vs.)
11)
12 DAVID W. HALL and MARGARET R.)
13 HALL Trustees, and their successors in)
14 trust, of the D & M Hall Community)
15 property trust, dated March 14, 2005, and)
16 also all other persons or parties unknown)
17 claiming a right, title, estate, lien, or)
18 interest in the real estate described in the)
19 complaint in this action,)
20 Defendants.)

Case No.: 1JU-14-00771 Civil

17 **PLAINTIFF'S REPLY TO DEFENDANT'S RESPONSE TO PLAINTIFF'S**
18 **OBJECTIONS TO EXPERT WITNESS JOHN BENNETT**

18 Ray M. and Carol J. Collins (Plaintiff), through counsel, reply to defendants' response
19 related to the use of John Bennett as an expert witness.

20 Having exposed the various reports authored by John Bennett in their response, the issue
21 of what to do about the information becomes as problematic as whether or not Bennett will
22 testify at all. Having cleverly exposed much of what is likely to be the "evidence" Bennett will
23 provide at trial, crafting an appropriate reply presents challenges.

24 The basic point made by the Collins' in their initial objection to allowing Bennett to
25 testify was that they assumed his efforts and work product was to be prepared for the purpose
26 of settlement and not for trial. At the time Bennett was seemingly engaged to prepare a report
27 on the boundary issue in dispute in this case, the time for naming "expert witnesses" had
28 expired. From the Collins' perspective, John Bennett was not going to participate in a trial if

1 settlement was not reached. [*See generally*, discussion in redacted e-mail between Dan Bruce
2 (then counsel for Ray & Carol Collins), and Ray Collins dated January 25, 2016, attached to
3 this reply as Attachment 1]. Tellingly, the contractual document counsel for the Halls provided
4 as justification for allowing Bennett to testify as an expert lacks a signature by Dan Bruce. [*See*,
5 Attachment 2 to *Defendant's Response to Plaintiffs' Objections to John Bennett* at page 6 of 7].

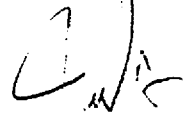
6 So what to do about the now exposed Bennett reports that were thought, at least by the
7 Collins' to be used for settlement? Collins' continue to believe the use of Bennett as an expert
8 witness in this dispute is more likely than not to generate confusion instead of evidence
9 necessary to resolve this case. Much of Bennett's reports consist of superficial analysis and a
10 surprising number of conclusions that are detached from standard surveying standards and in
11 some instances deviate from applicable legal standards.

12 Under the circumstances, given that the Bennett reports have been exposed, Collins
13 believe the only course of action that makes sense and is fair is to allow Bennett to testify. That
14 way Bennett will be subject to cross-examination and his obvious encroachment on the court's
15 legal prerogatives will likely be obvious and properly contained.

16 In conclusion, Collins' simply note now their generic objection to Bennett's testimony
17 as being inconsistent with settlement purposes. Collins' will renew their generic objection at
18 trial regarding Bennett's testimony and rely on cross-examination and the court's ability to
19 winnow testimony and allocate the proper weight that should be given to this so-called "expert
20 testimony.

21 **DATED** this 6th day of May, 2016 at Juneau, Alaska.

22 **LAW OFFICE OF**
23 **JOSEPH W. GELDHOF**

24 


25 _____
26 Joseph W. Geldhof
27 Alaska Bar # 8111097
28

CERTIFICATION

I certify that on this date, a copy
of this document, together with
Attachment I was sent via
USPS to:

Lael Harrison,
Attorney for Defendants
Faulkner Banfield, P.C.
8420 Airport Boulevard,
Suite 101
Juneau, Alaska 99801

DATE: May 6, 2016


Joseph W. Geldhof