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**IN THE SUPERIOR COURT OF WASHINGTON  
FOR SPOKANE COUNTY**

ROBERT LEE, an individual; JAMES  
POWERS, an individual; SUSAN EMRY, an  
individual; NEAL KIMBALL, an individual;  
and RUSS BISHOP, an individual,

Plaintiffs,

vs.

REFLECTION LAKE COMMUNITY  
ASSOCIATION, a Washington non-profit  
corporation,

Defendant.

No. 20-2-03213-32

**AMENDED COMPLAINT  
FOR DECLARATORY AND  
OTHER RELIEF**

Plaintiffs, through their counsel, by way of Complaint against Defendant, allege as follows:

**PARTIES**

1. Defendant Reflection Lake Community Association (“Community Ass’n”) is a non-profit corporation organized under the laws of Washington, with its principal place of business in Spokane County, Washington.

2. Plaintiff Robert Lee, an individual, owns real property in Reflection Lake First Addition.

1           3.    Plaintiff James Powers, an individual, owns real property in Reflection Lake  
2 First Addition.

3           4.    Plaintiff Susan Emry, an individual, owns real property in Reflection Lake First  
4 Addition.

5           5.    Plaintiff Neal Kimball, an individual, owns real property in Reflection Lake  
6 First Addition.

7           6.    Plaintiff Russ Bishop, an individual, owns real property in Reflection Lake  
8 First Addition.

9  
10   **JURISDICTION AND VENUE**

11           7.    This Court has jurisdiction over the parties and the subject matter. RCW  
12 2.08.010; RCW 7.24.010; RCW 24.03.266; and RCW 64.38.050.

13           8.    As this matter concerns both real property and a non-profit corporation located  
14 in Spokane County, venue is proper. RCW 4.12.010(1); RCW 4.12.025(3); RCW  
15 24.03.271(1).  
16

17   **APPLICABLE LAW**

18           9.    Washington law requires that any contract creating an encumbrance on real  
19 property be by deed. RCW 64.04.010.  
20

21           10. For a deed to be valid, it must be in writing, "signed by the party bound  
22 thereby", and bear a notarized acknowledgement. RCW 64.04.020.

23           11. The Washington Nonprofit Corporation Act (RCW 24.03 *et seq.*), enacted in  
24 1967, was modified significantly in 2010. Among other changes, the Legislature created new  
25 standing for members and directors of nonprofit corporations to seek judicial intervention,  
26 appointment of receivers, and dissolution.

1           12. RCW 24.03.266 establishes that members holding 5% or more of a nonprofit  
2 corporation's voting power, or one or more directors of the company have standing, and that  
3 they need to establish one or more of the following:

4                   (a) The directors are deadlocked in the management of the  
5 corporate affairs, the members, if any, are unable to break the  
6 deadlock, and irreparable injury to the corporation or its mission  
7 is threatened or being suffered because of the deadlock;

8                   (b) The directors or those in control of the corporation have acted,  
9 are acting, or will act in a manner that is illegal, oppressive, or  
10 fraudulent;

11                   (c) The members are deadlocked in voting power and have failed,  
12 for a period that includes at least two consecutive annual meeting  
13 dates, to elect successors to directors whose terms have, or  
14 otherwise would have, expired;

15                   (d) The corporate assets are being misapplied or wasted; or

16                   (e) The corporation has insufficient assets to continue its  
17 activities and it is no longer able to assemble a quorum of  
18 directors or members[.]

19 RCW 24.03.266(1).

20           13. The court has the power to appoint one or more receivers, general or custodial,  
21 to manage the affairs of the corporation. RCW 24.03.271(3) ~ (7).

22           14. The Homeowners' Associations Act came into effect in 1995. The Community  
23 Ass'n falls within the ambit of this Act, as "homeowners' association" or "association" means  
24 "a corporation, unincorporated association, or other legal entity, each member of which is an  
25 owner of residential real property located within the association's jurisdiction, as described  
26 in the governing documents, and by virtue of membership or ownership of property is  
27 obligated to pay real property taxes, insurance premiums, maintenance costs, or for  
28 improvement of real property other than that which is owned by the member." RCW  
64.38.010(11).



1           23. County records provide that Reflection Lake, Inc. was active from 1958 until  
2 2001, as it sold individual lots within the two platted developments surrounding Reflection  
3 Lake.

4           24. The West Shore of the Lake was platted in 1957, under the name Reflection  
5 Lake Addition.

6           25. The Dedication provides that the “Subdivider assumes no responsibility for the  
7 furnishing of domestic water to the purchaser.”

8           26. West Shore property owners subsequently obtained domestic water service  
9 from another entity.

10           27. The Dedication also provides that the Subdivider “dedicate[s] to the property  
11 owners in this addition... the roads and drives... for the right to ingress and egress[.]”  
12

13           28. The roads within the West Shore remain private, and are not owned or  
14 maintained by Spokane County.

15           29. County records provide that the owners of West Shore lots organized into the  
16 Reflection Lake Homeowners’ Association, which was active from 1978 until 2002.  
17

18           30. The East Shore of the Lake was platted in 1967, under the name Reflection  
19 Lake First Addition.

20           31. The Dedication provides that “Spokane County will bear no maintenance  
21 responsibility” for the private roads within the East Shore.

22           32. East Shore owners subsequently dedicated their private roads to Spokane  
23 County, which now maintains said roads as public rights-of-way.

24           33. The Dedication also provides that “domestic water shall be provided to each  
25 lot prior to sale of a lot in this plat.”  
26

1           34. The owners of lots in the East Shore formed the Reflection Lake Community  
2 Association in 1978, as a Washington non-profit corporation.

3           35. Also in 1978, by apparent accident corrected six (6) years later, the developer  
4 of the subdivision (Reflection Lake, Inc.) transferred title of common property within the  
5 East Shore – Reflection Lake First Addition, to the Reflection Lake Homeowners’  
6 Association, which was the association of owners within the West Shore – Reflection Lake  
7 Addition.  
8

9           36. In 1980, owners within the East Shore – Reflection Lake First Addition, formed  
10 the Reflection Water Ass’n, for the purpose of maintaining “that water system which  
11 furnishes domestic water” to East Shore lots.  
12

13           37. The natural spring which is the source of the domestic water flows into the east  
14 side of the Lake, and its Water System ID # is 71700, regulated by the Office of Drinking  
15 Water within the Department of Social and Human Services.

16           38. In 1984, there was confusion between the Reflection Lake Homeowners’  
17 Association (West Shore owners) and the Reflection Lake Community Association (East  
18 Shore owners), when the Homeowners’ Ass’n apparently placed a lien on property located  
19 within the purview of the Community Ass’n.  
20

21           39. In 1984, H.D. Hackney, president of Reflection Lake, Inc., filed a correction to  
22 the 1978 deed, specifying that the title to common property within the East Shore – Reflection  
23 Lake First Addition would belong to the Community Ass’n, rather than the association of  
24 owners on the other side of the Lake.

25           40. In December of 1984, the Community Ass’n recorded CC&Rs which combine  
26 elements from the dedications of both the 1957 West Shore plat and the 1967 East Shore plat.

1           41. In 2001, the Community Ass'n entered into leases with the owners of five (5)  
2 lots situated above the spring, recorded under No. 4585199.

3           42. In 2003, the Homeowners' Ass'n formally merged into the Community Ass'n,  
4 and adopted new bylaws and CC&Rs. The surviving entity, which is the homeowners'  
5 association for owners of all lots on both sides of the lake, continues to operate under the  
6 Community Ass'n name.

7           43. The 2003 CC&Rs also combine elements from the dedications of both the 1957  
8 West Shore plat and the 1967 East Shore plat.

9           44. In 2006, the Community Ass'n recorded Amended CC&Rs and bylaws.

10           45. In 2017, the Board of the Community Ass'n sent a notice seeking termination  
11 of the five-lot-lease recorded under No. 4585199, referenced *supra*.  
12

13           46. In 2019, the Board of the Community Ass'n recorded in its meeting minutes its  
14 discussion of a plan to dispute the authority of the Water Ass'n, and to take control of the  
15 water system serving East Shore lots, of the Water Ass'n itself, or both.  
16

17           47. In October of 2019, Board member Charles Bennet sent an email which had  
18 the effect of blocking the Water Ass'n's effort to obtain grant funding for water system  
19 maintenance and improvement.  
20

21           48. In December of 2019, the Water Ass'n made publicly available an opinion  
22 letter from an attorney, explaining that the Community Ass'n did not have legal authority  
23 over the Water Ass'n.

24           49. On January 14, 2020, the Community Ass'n held a special meeting concerning  
25 the water system and the Water Ass'n.  
26

1           50. On January 21, 2020, the Board of the Community Ass'n sent notices to the  
2 officers of the Water Ass'n, purporting to "terminate the services" of the Water Ass'n.

3           51. On February 6, 2020, the Board of the Community Ass'n had another meeting,  
4 framing the issue as a dispute between the Community Ass'n and the Water Ass'n.

5           52. In early March of 2020, the Board of the Community Ass'n resigned as a  
6 consequence of that dispute, with the exception of Richard Miller.

7           53. However, the same members who caused the dispute and resigned as a  
8 consequence, have now re-assumed control of the Community Ass'n and intend to re-ignite  
9 their pointless and baseless attacks on the operators of the private water system providing  
10 domestic water to residents of Reflection Lake First Addition.  
11

12           **FIRST CAUSE OF ACTION – DECLARATORY RELIEF – COMMUNITY ASS'N  
13 DOES NOT LEGALLY CONTROL WATER ASS'N**

14           54. The preceding paragraphs are re-alleged as if fully set forth herein.

15           55. The Water Ass'n was established in the same fashion as the Community Ass'n,  
16 as a non-profit corporation comprised only of East Shore property owners who receive  
17 domestic water from the private water system maintained by the Water Ass'n.  
18

19           56. The Community Ass'n, through members of the Board, continues to assert that  
20 it controls the Water Ass'n.

21           57. The Community Ass'n does not have authority or control over the Water Ass'n.

22           58. Plaintiffs seek declaratory relief, that the Court determine that the Community  
23 Ass'n has no legal basis to assert control over the Water Ass'n.  
24

25           59. Plaintiffs further seek the Court's determination that the remedy for any  
26 property owner aggrieved by the acts or omissions of the Water Ass'n, is through each



1 owner's membership in the Water Ass'n, per the recorded instrument establishing the Water  
2 Ass'n.

3 **SECOND CAUSE OF ACTION – REALIGNMENT OF OWNERS INTO COMMON**  
4 **OWNERSHIP INTEREST COMMUNITIES**

5 60. The preceding paragraphs are re-alleged as if fully set forth herein.

6 61. The lot owners within the West Shore - Reflection Lake Addition own in  
7 common the private roads within that development, but have domestic water service from,  
8 *inter alia*, Spokane County.

9 62. The lot owners within the East Shore – Reflection Lake First Addition own in  
10 common the private domestic water system, but the roads within that development are public  
11 rights-of-way, maintained by Spokane County.

12 63. All lot owners on both halves of the Lake have common ownership interests in  
13 maintenance of the Lake and its related facilities (dams, pumps, common recreation areas,  
14 etc.).

15 64. The 2003 merger of the associations for the West Shore and the East Shore,  
16 into the surviving Community Ass'n, apparently, inadvertently granted to disinterested lot  
17 owners common ownership interests in the private roads and private water system of the other  
18 set of owners.

19 65. Plaintiffs request that the Court appoint an independent custodial receiver to  
20 direct and control the Community Ass'n, for the benefit of all members. RCW 24.03.266,  
21 .271.

22 66. Plaintiffs further request, pursuant to RCW 64.90 *et seq.*, that the Court re-  
23 organize and re-align the property owners at Reflection lake into separate common ownership  
24

1 interest entities, such that property owners with no ownership interest in a particular facility  
2 (e.g. the water system for the East Shore residents) will no longer be members of the non-  
3 profit entity responsible for maintenance of said facility.

4  
5 **PRAYERS FOR RELIEF**

6 WHEREFORE, Plaintiffs pray for relief as follows:

- 7 1. For declaratory relief, as set forth *supra*;
- 8 2. For appointment of a custodial receiver for the Community Ass'n;
- 9 3. For re-organization and re-alignment of the lot owners at Reflection Lake into  
10 separate common ownership interest communities for private water, for private roads, and  
11 for the Lake and related facilities;
- 12 4. For costs and attorney's fees, as allowed by law; and
- 13 5. For such other and further relief as the Court deems just and equitable.

14  
15 Dated: February 1, 2020.

**KSB LITIGATION, P.S.**

16  
17 By: 

18 William C. Schroeder, WSBA No. 41986  
19 Attorneys for Plaintiffs

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**CERTIFICATE OF SERVICE**

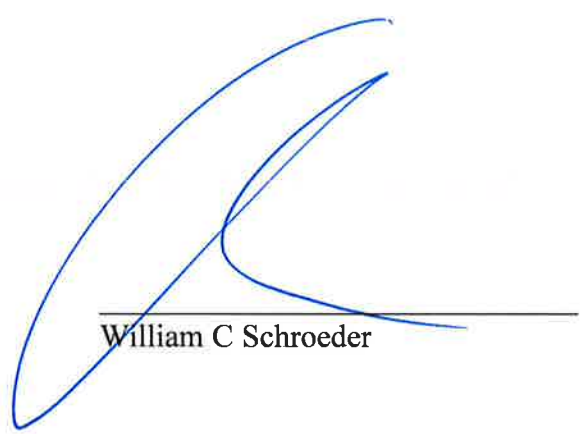
I hereby certify that on this 1st day of February, 2021, I caused to be served a true and correct copy of the foregoing **Amended Complaint**, by the method indicated below and addressed as follows:

McNEICE WHEELER, PLLC  
Tyler Lloyd  
221 W. Main Ave.  
Spokane, WA 99201  
[tyler@mcneicewheeler.com](mailto:tyler@mcneicewheeler.com)

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*Attorney for Defendants*



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William C Schroeder