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

BANNER BANK, a Washington Bank
Corporation,

Plaintiff,

vs.

REFLECTION LAKE COMMUNITY
ASSOCIATION, a Washington nonprofit
corporation; JAMES POWERS; and RICK
SMITH,

Defendants.

No. 20-2-03199-32

**NOTICE OF APPEAL TO
DIVISION III OF THE COURT
OF APPEALS**

Defendant James Powers seeks review of the Superior Court's January 29, 2021 Order Granting Defendants' Motion for Summary Judgment, a copy of which is attached hereto.

Dated this 19th day of February, 2021.

KSB LITIGATION, P.S.


William C. Schroeder, WSBA No. 41986
Attorneys for Defendant James Powers

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of February, 2021, I caused to be served a true and correct copy of the foregoing **Notice of Appeal**, by the method indicated below and addressed as follows:

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*Attorney for Defendants Reflection Lake
Community Association and Rick Smith*

WASHINGTON COURT OF
APPEALS, DIVISION III
500 N. Cedar St.
Spokane, WA 99201

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William C. Schroeder

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Original Filed

JAN 29 2021

TIMOTHY W. FITZGERALD
SPOKANE COUNTY CLERK

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

BANNER BANK, a Washington Bank Corporation,	No. 20-2-03199-32
Plaintiff,	
v.	
REFLECTION LAKE COMMUNITY ASSOCIATION, a Washington nonprofit corporation; JAMES POWERS; and RICK SMITH;	[PROPOSED] ORDER GRANTING DEFENDANTS REFLECTION LAKE COMMUNITY ASSOCIATION AND RICK SMITH'S MOTION FOR SUMMARY JUDGMENT
Defendant.	

I. ORDER

THIS MATTER came on for hearing before the Honorable Tony Hazel on Defendants Reflection Lake Community Association ("RLCA") and Rick Smith's Motion for Summary Judgment. The Court has reviewed all pleadings, exhibits, and affidavits filed herein, has heard oral argument by the parties, and finds no genuine issues of material fact regarding Rick Smith and the RLCA's superior claim to the interpleaded funds.

NOW, THEREFORE, pursuant to CR 56 and RCW 4.08.180,
IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

1. Defendants RLCA and Rick Smith's Motion for Summary Judgment is hereby granted.
2. The RLCA election of September 26 complied in all material respects with applicable

laws, bylaws, and procedures, and was therefore a valid exercise of the RLCA members' authority to

oral record shall be incorporated by reference.

1 elect their Board of Directors.

2
3 3. Rick Smith, Jeff Toffer, Joe Dickinson, Bill Pease, Charlie Bennett, Jim Boothby, and
4 Chris Cato and were duly elected to the RLCA Board of Directors on September 26, 2020.

5 4. The seven people named above, together with Richard Miller, who retained his position
6 on the board, constitute the RLCA Board of Directors, and the only authorized RLCA representatives.
7 Any vacancy on the Board may be filled by appointment in accordance with RLCA Bylaws.


8 5. James Powers and the other former members of the RLCA Board appointed to that
9 position in March, 2020, having failed to secure reelection on September 26, 2020, no longer have any
10 authority to act on behalf of the RLCA.

11 6. Pursuant to RCW 4.08.180, the RLCA Board have the superior claim to the funds and
12 accounts interpleaded by Banner Bank, and are entitled to all necessary relief to secure that claim.

13 7. Banner Bank shall update its records to reflect the change in the makeup of the RLCA
14 Board effective September 26, 2020, and shall immediately restore to the RLCA Board full and exclusive
15 access to and control of all RLCA accounts.

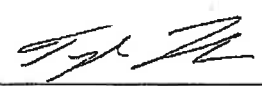
16 8. ~~James Powers shall bear the reasonable costs and attorney's fees expended by Rick Smith~~
17 ~~and the RLCA in this matter, as shall be established by subsequent declaration.~~

18
19 DONE IN OPEN COURT this 29th day of January, 2021

20
21 
22 THE HONORABLE TONY HAZEL
23 Spokane County Superior Court Judge

24 Presented by:

25 McNEICE WHEELER, PLLC

26
27 
28 Tyler Lloyd, WSBA #50748
Attorney for Defendants RLCA and Rick Smith