

✓ 4  
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

Honorable Diane M. Woolard

**FILED**

**SEP 29 2006**

JoAnne McBride, Clerk, Clark Co.

SUPERIOR COURT OF WASHINGTON FOR CLARK COUNTY

CATHRYN CHUDY, EMMY  
WINTERBURN, AND KATHRYN  
EDGECOMB, on behalf of Columbia  
Community Credit Union, and CATHRYN  
CHUDY, EMMY WINTERBURN, AND  
KATHRYN EDGECOMB, as individuals,

Plaintiffs,

v.

DUANE BEQUETTE, STEVE STRAUB,  
JOHN CHEEK, MARK AIL, ROBERT  
BYRD, AND PARKER CANN,

Defendants.

Case No. 06 2 03426 4

ORDER GRANTING DEFENDANTS'  
MOTION TO DISMISS PLAINTIFFS'  
COMPLAINT PURSUANT TO CR  
12(b)(6)

This matter came before the Court on September 6, 2006, on the defendants' motion to dismiss plaintiffs' complaint pursuant to CR 12(b)(6). The Court heard the oral argument of counsel and considered the files and records herein.

Based on the analysis set forth in Save Columbia CU Committee v. Columbia Community Credit Union, --- P.3d ---, 2006 WL 2053479 (2006), and the cases cited therein, and there being no authority cited by the plaintiffs, either statutory or otherwise, for the proposition that directors of a credit union may sue their fellow directors under these circumstances, and for the additional reasons set forth in the Court's letter of opinion dated September 12, 2006,

ORDER GRANTING DEFENDANTS' MOTION TO  
DISMISS PLAINTIFFS' COMPLAINT PURSUANT  
TO CR 12(b)(6) - 1

PDXDOCS:1520098.1

MILLER NASH LLP  
ATTORNEYS AT LAW  
TELEPHONE (503) 224-2859  
3400 U.S. BANKCOMPTOWER  
111 S.W. FIFTH AVENUE, PORTLAND, OREGON 97204-3699

46

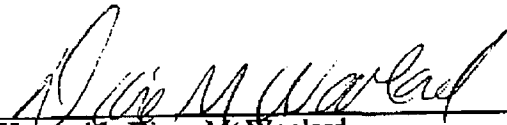
1 attached hereto, the Court finds that the complaint fails to state a claim against defendants upon  
2 which relief may be granted.

3 Based on the above findings, it is hereby ORDERED:

- 4 1. Defendants' motion is GRANTED.  
5 2. The action is dismissed with prejudice.  
6 3. Defendants' are awarded their statutory costs.

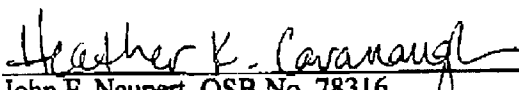
7 Judgment of dismissal consistent with this Order shall be entered forthwith.

8  
9 DATED this 29 day of September, 2006.

10  
11   
12 Honorable Diane M. Woolard

13 Presented by:


14 MILLER NASH LLP

15   
16 John F. Neupert, OSB No. 78316  
17 (Specially Admitted)  
18 Heather K. Cavanaugh, WSB No. 33234  
(503) 224-5858  
19 Fax: (503) 224-0155

20 Attorneys for Defendants

21 Approved as to form, notice of presentation  
22 waived:

23 REEVES KAHN & HENNESSY

24   
25 Peggy Hennessy, WSB No. 17889

26 Attorney for Plaintiffs

ORDER GRANTING DEFENDANTS' MOTION TO  
DISMISS PLAINTIFFS' COMPLAINT PURSUANT  
TO CR 12(b)(6) - 2  
PDXDOCS:1520098.1

MILLER NASH LLP  
ATTORNEYS AT LAW  
TELEPHONE (503) 224-3538  
1400 U.S. BANK CORP TOWER  
111 S.W. FIFTH AVENUE, PORTLAND, OREGON 97204-3699

SUPERIOR COURT OF  
THE STATE OF WASHINGTON FOR CLARK COUNTY  
DEPARTMENT NO. 8  
PO BOX 8000  
VANCOUVER, WA 98666-8000



TELEPHONE (360) 397-2068  
FAX (360) 397-6078  
TDD (360) 397-6172

DIANE M. WOOLARD  
JUDGE

September 12, 2006

RECEIVED BY  
SEP 15 2006  
MILLER NASH LLP

Heather Cavanaugh  
Attorney at Law  
3400 US Bancorp  
111 SW Fifth Avenue  
Portland, OR 97204-3699

Peggy Hennessy  
Attorney at Law  
P.O. Box 86100  
Portland, OR 97286

Re: Chuddy, et al v. Bequette, et al  
Case No. 06-2-03426-4

Counsel:

The court having heard the argument of counsel and reviewed the materials issues this letter of opinion.

According to the Washington State Credit Act 31.12.225, determines the business of the credit union will be governed by a board of directors elected to terms and vacancies will be filled.

Section 31.12.255 determines the powers and duties of the board. The actions alleged by plaintiffs' that the defendants' engaged in are outside RCW 13.

Section 31.12.267 determines that director and board officers have a fiduciary relationship to the credit union and determine their duties to the credit union, not each other.

September 12, 2006

Page 2

Beginning with 31.12.516, the duties of the examination and duties of the Director of Financial Institution are solely that responsibility and action, not anyone else except those designated by the DFI.

While there are somewhat different set of factors and parties present in the lawsuit at bench, from SAVE v. CCU, the principles are the same.

The appellate court in SAVE cited State ex rel WICK (cites omitted). The act RCW 31.12 shareholders of a savings and loan do not have standing to compel an issue to give shareholders records WICKS at 8. SAVE "and like the savings and loan association in WICKS, a credit union is a creature of statute."

Throughout the appellate decision in WICKS and SAVE the courts delineate the rights of members as given in the WSCUA. The courts have held that absent rights and processes granted specifically to shareholders, there are none at common law or other statutes. I am finding that the same holds true for the directors. While I understand the current situation is difficult for the directors, the legislature didn't mandate civility. The DFI has oversight responsibility if there is deemed as problems issues such as claimed in the case at bench.

Thus dismissal is appropriate under CR 12(b)(6). The plaintiff can not prove any set facts under which there would be grounds for relief. The WSCUA does not contain a provision for relief or giving right to suit amongst or between directors that is contained in the complaint herein.

The prevailing party will present findings and conclusions consistent with the argument of counsel, facts and authority cited.

Sincerely,



Diane M. Woolard  
JUDGE

DMW:dr