

Spencer Law Offices, PLLC

June 7, 2006

VIA MESSENGER & FACSIMILE

Craig Miller
Davis Wright Tremaine
2600 Century Square
1501 Fourth Avenue
Seattle, Washington 98101-1688

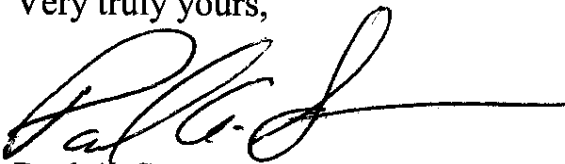
Re: Crest A.E.R.O., Inc. et al. v. Norman C. Grier et al.
King County Cause No. 06-2-07149-2 KNT

Dear Mr. Miller:

I am enclosing a copy of Defendants' Answer and Counterclaim in the above referenced matter. The original of this pleading has been forwarded for filing. Please confirm that you have stricken Plaintiffs pending motion for default noted for Wednesday June 14th 2006.

We talked briefly before about certification of Plaintiffs' class. If you want to make a proposal in the form of a Stipulation, I would be happy to review such a proposal.

Very truly yours,



Paul A. Spencer

cc: Grier Family Holdings, LLC
Norm Grier
Crest Airpark, Inc.

GrierFamilyHoldingsLLC/CrestAERO/Notes&Correspondence/MillerLtr060706

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

CREST AERO, Inc., a Washington Corporation; ARTHUR BERKELL and LYNN BERKELL; MIKE McGAHAN and CHARLENE McGAHAN; LEIGH LEWIS and JOY LEWIS; WILLIAM SWICKARD and KAY SWICKARD; JOHN TOMLINSON; JOSEPH GISH and RAMONA GISH; RODNEY CLAUS and JILL CLAUS, all as representatives of a Class of persons,

Plaintiffs,

v.

NORMAN C. GRIER and JANE DOE GRIER, and the marital community composed thereof; GRIER FAMILY HOLDINGS, L.L.C., a Washington Limited Liability Company; and CREST AIRPARK, INC., a Washington Corporation,

Defendants.

No. 06-2-07149-2 KNT

**DEFENDANTS' ANSWER
AND COUNTERCLAIM**

I. ANSWER

Comes now the Defendants, by and through their attorneys of record Paul A. Spencer and Spencer Law Offices, PLLC and answer Plaintiffs' complaint as follows:

1 1. In answer to paragraph 1 of Plaintiffs' complaint, Defendants admit that Plaintiff
2 Crest A.E.R.O., Inc. is a Washington non profit corporation. Defendants lack sufficient
3 information to form a belief as to the truth or falsity of the allegations contained in the balance
4 of paragraph 1 of Plaintiffs' complaint, therefore, they are denied.

5 2. In answer to paragraph 2 of Plaintiffs' complaint, Defendants lack sufficient
6 information to form a belief as to the truth or falsity of the allegations contained in this portion
7 of Plaintiffs' complaint, therefore, they are denied.

8 3. In answer to paragraph 3 of Plaintiffs' complaint, Defendants lack sufficient
9 information to form a belief as to the truth or falsity of the allegations contained in this portion
10 of Plaintiffs' complaint, therefore, they are denied.

11 4. In answer to paragraph 4 of Plaintiffs' complaint, Defendants lack sufficient
12 information to form a belief as to the truth or falsity of the allegations contained in this portion
13 of Plaintiffs' complaint, therefore, they are denied.

14 5. In answer to paragraph 5 of Plaintiffs' complaint, Defendants lack sufficient
15 information to form a belief as to the truth or falsity of the allegations contained in this portion
16 of Plaintiffs' complaint, therefore, they are denied.

17 6. In answer to paragraph 6 of Plaintiffs' complaint, Defendants lack sufficient
18 information to form a belief as to the truth or falsity of the allegations contained in this portion
19 of Plaintiffs' complaint, therefore, they are denied.

20 7. In answer to paragraph 7 of Plaintiffs' complaint, Defendants lack sufficient
21 information to form a belief as to the truth or falsity of the allegations contained in this portion
22 of Plaintiffs' complaint, therefore, they are denied.

1 8. In answer to paragraph 8 of Plaintiffs' complaint, Defendants lack sufficient
2 information to form a belief as to the truth or falsity of the allegations contained in this portion
3 of Plaintiffs' complaint, therefore, they are denied.

4 9. Paragraph 9 of Plaintiffs' complaint is admitted.

5 10. Paragraph 10 of Plaintiffs' complaint is admitted.

6 11. In answer to paragraph 11 of Plaintiffs' complaint, Defendants admit that Crest
7 Airpark, Inc. is a Washington corporation which has its principal place of business in King
8 County Washington. Defendants further admit that the corporation is owned by Defendant
9 Norm Grier. Defendants further admit that Crest Airpark, Inc, manages the airport at issue.

10 12. In answer to paragraph 12 of Plaintiffs' complaint, Defendants admit that the
11 Nesland Easement exists for the benefit of the persons identified therein for the uses stated
12 therein. Defendants further admit that there are presently over 110 homeowners that have
13 easement rights under the Nesland easement.

14 13. Defendants lack sufficient information to form a belief as to the truth or falsity of
15 the allegations contained in paragraph 13 of plaintiffs' complaint therefore, they are denied.

16 14. Defendants lack sufficient information to form a belief as to the truth or falsity of
17 the allegations contained in paragraph 14 of plaintiffs' complaint therefore, they are denied.

18 15. Defendants admit that joinder of 110 people would be impracticable. Defendants
19 lack sufficient information to form a belief as to the truth or falsity of the balance of the
20 allegations contained in paragraph 15 of plaintiffs' complaint therefore, they are denied.

21 16. In answer to paragraph 16 of Plaintiffs' complaint, Defendants admit that the
22 beneficiary homeowners of the Nesland Easement reside along two sides of the airport.
23 Defendants further admit a number of the taxiways under the Nesland Easement are grass and
24

1 provide the beneficiaries of the Nesland Easement access to the landing strip. Defendants
2 admit that the real property upon which the Crest Airpark/Nesland Easement are located is
3 owned by Mr. Grier or Defendant Grier Family Holdings, LLC and that the Crest Airpark is
4 run/managed by Crest Airpark, Inc. Defendants further admit that a number of the surrounding
5 homeowners have their own aircraft hangers. The balance of the allegations in this portion of
6 Plaintiffs' complaint are denied either outright or due to lack of information.

7 17. In answer to paragraph 17 of Plaintiffs' complaint, Defendants admit that the
8 taxiways have been at times used as a walking and jogging path by beneficiaries of the Nesland
9 Easement/homeowners and at times such usage has been visible. The balance of the allegations
10 contained in paragraph 17 of Plaintiffs' Complaint are denied.

11 18. Paragraph 18 of Plaintiffs' complaint is denied.

12 19. Defendants lack sufficient information to form a belief as to the truth or falsity of
13 the allegations contained in a portion of paragraph 19 of Plaintiffs' complaint as to whether any
14 of the identified Plaintiffs have walked or jogged on the taxiways at issue. As to the balance of
15 the allegations contained in paragraph 19 of Plaintiffs' complaint they are denied.

16 20. Paragraph 20 of Plaintiffs' complaint is denied.

17 21. In answer to paragraph 21 of Plaintiffs' complaint, Defendants admit that in
18 conjunction with a prior lawsuit filed by Plaintiff Crest A.E.R.O., Inc. against some of these
19 defendants, Defendants advised area homeowners including several of the identified Plaintiffs
20 to cease walking or jogging on the taxiways at issue.

21 22. Paragraph 22 of Plaintiffs' complaint does not contain factual allegations requiring
22 and admission or a denial, to the extent factual allegations can be inferred, they are denied.

1 23. Paragraph 23 of Plaintiffs' complaint does not contain factual allegations requiring
2 an admission or a denial, to the extent factual allegations can be inferred, they are denied.

3 24. Paragraph 24 of Plaintiffs' complaint does not contain factual allegations requiring
4 and admission or a denial, to the extent factual allegations can be inferred, they are denied.

5 25. Paragraph 25 of Plaintiffs' complaint does not contain factual allegations requiring
6 and admission or a denial, to the extent factual allegations can be inferred, they are denied.

7 26. Paragraph 26 of Plaintiffs' complaint does not contain factual allegations requiring
8 and admission or a denial, to the extent factual allegations can be inferred, they are denied.

9 27. Any allegations contained in Plaintiffs' complaint not previously herein having
10 been expressly admitted, are hereby denied.

11 By way of further answer and affirmative defense Plaintiffs' claims are barred by the
12 following affirmative defenses, waiver, laches, estoppel, collateral estoppel and/or res judicata,
13 unclean hands. Further, Plaintiffs' have failed to state one or more claims upon which relief
14 can be granted. Plaintiffs' claim is frivolous and advanced without cause. Plaintiffs' limited
15 use of the easement has been by permission under the terms of the easement and with the full
16 permission and consent of Defendant Norman Grier.

17 Defendants reserve the right to amend the above affirmative defenses as discovery takes
18 place in this matter.

19 II. COUNTERCLAIM

20 By way of further Answer and as a Counterclaim, defendants allege the following:

21 28. Defendants are the owners of the real property and/or operators of the Crest Airpark
22 located in Covington King County Washington.

23 29. The Crest Airpark is a private airport that is open to the public.
24

1 30. Since 1975 when the Nesland Easement was granted to the stated beneficiaries, the
2 beneficiaries access to the real property which is the Nesland Easement has been by
3 permission.

4 31. Between approximately 1975 and 2001, Defendants have given express permission
5 to beneficiaries of the Nesland Easment to walk and/or jog on outside portions of the Easement
6 taxiways. In 2001, Plaintiff Crest A.E.R.O., Inc. and its constituents filed suit against
7 Defendants with respect to the extension of the Nesland Easement, 'prescriptive rights' and
8 allocation of rights under the extension to pay maintenance costs.

9 32. The lawsuit referenced above was brought under King County Cause No. 01-2-
10 33022-5 KNT ["Prior Action] and included allegations and causes of action for prescriptive
11 rights directly pertaining to the real property which was the subject of the Nesland Easement.

12 33. The Prior Action was reduced to written Findings of Fact and Conclusions of Law
13 and a Judgment on February 11, 2005.

14 34. Finding of Fact No. 34 in the Prior Action specifically prohibits beneficial
15 homeowners of the Nesland Easement from walking or jogging on the real property [including
16 the taxiways] that makes up the Easement.

17 35. In the spring of 2005, Crest Airpark, Inc. circulated to Crest A.E.R.O., Inc. and its
18 then attorney "draft" Rules and Regulations for Crest Airpark's usage. The Rules and
19 Regulations were updating a prior set of Rules and Regulations of the Airpark as a result of
20 recent recommendations of the Transportation and Safety Administration. After receiving
21 input from Crest A.E.R.O., the Rules and Regulations were finalized and circulated to users of
22 the Crest Airpark, including area homeowners that utilized the Crest Airpark under the Nesland
23 Easement.

1 36. Shortly thereafter, numerous homeowners including Crest A.E.R.O. members
2 advised Crest Airpark, Inc. employees that they would not honor the Crest Airpark rules and
3 began walking on the runways and on several occasions occupied for extended periods of time
4 portions of the actual runway and taxiways for the sole purpose of disrupting the use of the
5 airport.

6 37. Since the fall of 2005, Crest A.E.R.O. members and others have been openly
7 confronting Defendants and their employees claiming the right to sit, walk, drive, run their
8 dogs and otherwise use Crest Airpark property in any manner they saw fit. Law enforcement
9 has been summoned more than once and the offending homeowners dissipate.

10 38. Defendants as owners and/or managers of the Crest Airpark have the right to
11 implement rules for the use of their real property by Plaintiffs' and/or Crest A.E.R.O.
12 participants/homeowners or the public at large.

13 39. With respect to the Plaintiff/Homeowners who are the beneficiaries of the Nesland
14 Easement the only limitation on such rules should be that they do not interfere with the stated
15 purpose of the Easement – ie. to allow them to use taxi areas and runway in question for the
16 purpose of landing or taking off from the Crest Airpark.

17 40. Defendants are entitled to an injunction against Plaintiffs that expressly precludes
18 them from using any portion of the Crest Airpark for any purpose other than landing or taking
19 off an aircraft.

20 41. Defendants are entitled to both declaratory relief and injunctive relief.

21 Defendants having answered Plaintiffs' complaint and having counterclaimed, now
22 requests the following relief:

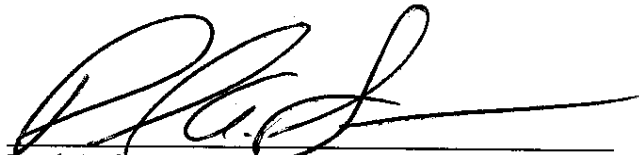
23 A. Dismissal of Plaintiffs' claims with prejudice;

1 B. For entry of judgment against Plaintiffs for damages and injunctive relief in the
2 amount of and in the form as proven at the time of trial;

3 C. For Defendants' costs and attorneys fees incurred in defending against Plaintiffs'
4 claims and prosecuting their counterclaims for relief; and

5 D. For such other further relief as the Court deems just and equitable.

6 Dated this 6th day of June, 2006.

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10 Paul A. Spencer, WSBA #19511
11 Spencer Law Offices, PLLC
12 Attorneys for Defendants
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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

CREST AERO, Inc., a Washington Corporation
et al.,

No. 06-2-07149-2 KNT

Plaintiffs,

DECLARATION OF SERVICE

v.

NORMAN C. GRIER and JANE DOE GRIER,
et al.,

Defendants.

The undersigned states and declares under penalty of perjury under the Laws of the
State of Washington the following:

- 1. I am over the age of eighteen years and competent to make this declaration.
- 2. I am an employee of Spencer Law Offices, PLLC and make this declaration upon my
first hand knowledge.
- 3. On the 7th day of June 2006, I caused to be filed with the Court and served on counsel
of record for the Plaintiffs – Craig Miller at Davis Wright Tremaine at 2600 Century Square,


DECLARATION OF SERVICE
PAGE - 1-

SPENCER LAW OFFICES, PLLC
Suite #350, 11100 NE 8th Street
Bellevue, WA 98004
206-464-1001; FAX 425-283-5885

1 1501 Fourth Avenue, Seattle Washington 98101, by messenger and forwarded by fax, the
2 following pleadings:

3 Defendants' Answer and Counterclaim
4

5 Dated at Seattle this 7th day of June, 2006.
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8 Cheryl C. Cook
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DECLARATION OF SERVICE
PAGE - 2-

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