

Judge refuses to sanction vineyard over marijuana allegations

Neighbors claimed to be falsely accused of commercial activity

By **MATEUSZ PERKOWSKI**
Capital Press

An Oregon marijuana producer has failed to convince a federal judge to impose sanctions on a neighboring vineyard for making allegedly false claims in a racketeering lawsuit.

Senior U.S. District Judge Anna Brown has ruled that Richard Wagner and his parents, who own the marijuana property, haven't proven the complaint filed by the Momtazi family, which owns the vineyard,

is "frivolous, legally unreasonable, or without factual foundation" as required for sanctions.

Earlier this year, the Momtazi family claimed the Wagners were violating the federal Racketeer Influenced and Corrupt Organizations Act, or RICO, by growing and processing marijuana on their land in Yamhill County.

The complaint alleges the "stench" from the adjacent marijuana operation has caused a vineyard customer to cancel an order of wine grapes due to fears of contamination.

Because marijuana remains illegal under federal law, the complaint claims the Wagners have engaged in a "pattern of racketeer-



A federal judge has refused to sanction an Oregon vineyard for making allegations against a neighboring marijuana operation.

ing" and seeks compensation for three times the alleged damages caused by the marijuana operation.

The Wagners filed a motion asking the judge to dismiss the lawsuit and order the Momtazi family to reimburse them for litigation expenses as a sanction for making "numerous misrepresentations of fact," such as claiming the property is producing marijuana "in any commercial capacity whatsoever."

"To date, Richard Wagner has only grown marijuana plants on the Wagner Property for his own personal use as a registered medical marijuana patient under the State of Oregon Medical Marijuana Program," the motion said.

The Wagners say they have never commercially produced marijuana, don't have an Oregon license to

grow the psychoactive plant and haven't constructed commercial greenhouses on their property, contrary to allegations in the RICO lawsuit.

"Plaintiff and its attorney are keenly aware that the Wagner Property is not operational for commercial purposes, yet Plaintiff and its attorney have refused to withdraw or correct these false allegations," the motion said.

In a response filing, the Momtazi family's attorney countered that it's irrelevant under RICO whether the marijuana grown on the Wagners' property is medical or recreational since both are illegal under federal law.

Rachel Kosmal McCart, the Momtazi family's attorney,

also said photos posted on social media detail the "marijuana-related construction, growing and harvested marijuana plants and marijuana concentrates, all on the Wagner Property."

"Plaintiff and its counsel were entitled to rely on the totality of the evidence available to them at the time the Complaint was filed, and such evidence supports the factual allegations in the Complaint," McCart said.

In her order, Judge Brown determined the Wagners "from an objective perspective failed to meet their burden" that the Momtazi family's allegations were unfounded and that the plaintiff hadn't "conducted a reasonable and competent inquiry before filing the Complaint."

China may buy more U.S. apples

By **DAN WHEAT**
Capital Press

WENATCHEE, Wash. — China apparently is preparing to buy more Washington apples.

"Our China rep says custom authorities and importers are working together to try to increase imports," Todd Fryhover, head of the Washington Apple Commission, told Capital Press.

China has a 60% tariff on U.S. tree fruit in its trade war with the U.S. and a ban on governmental buying of U.S. agricultural products. But in the last two weeks, President Donald Trump has been saying China will lift its ban and buy \$40 billion to \$50 billion worth of U.S. agricultural products if the U.S. forgoes planned tariff hikes.

Over the weekend, Chinese officials confirmed Trump and China President Xi Jinping are expected to sign a phase-one deal at an economic meeting in Chile on Nov. 16-17, Bloomberg reported.

China has resumed soybean purchases and is buying a lot of pork as it has lost pigs to disease, Bloomberg reported.

"In general there's optimism China may respond to increasing ag imports. Nothing concrete has changed but we are hopeful with the signaling from our rep in China and Trump that things are more positive than not. So we're happy about that," Fryhover said.

Mark Powers, president of the Northwest Horticultural Council in Yakima, said hopes are high for an announcement in Chile. He said there's speculation the tariffs will be reduced but that it's hard to put much stock in that.

"It's a very dynamic situation. Hopefully, we will have good news and be able to ship more product to our customers in China," Powers said.

Red and Golden Delicious apples



Dan Wheat/Capital Press File

Red Delicious apples, like these being packed at Olympic Fruit in Moxee, Wash., have been the main U.S. variety going into China for the past two decades. The prospect of more apples going to China was raised with the latest trade talks.

from Washington, Oregon and Idaho were allowed into China in 1993. Shipments to China and Hong Kong peaked at 3 million, 40-pound boxes, worth about \$55 million, in the 2010-2011 sales season.

China banned U.S. apples from Aug. 9, 2012, to Oct. 31, 2014, citing post-harvest disease in shipments. Washington industry officials believed the real reason was to pressure the U.S. into accepting Chinese Fuji apples.

The industry realized a 20-year goal in January 2015 when China agreed to accept all U.S. apples and the U.S. agreed to accept Chinese apples. The Washington industry was hopeful of a 10 million-box, \$250 million market within several years.

Exports reached 1.7 million boxes in 2017. Sales dropped to 900,000 boxes in the 2018-19 season because of a 50% China tariff in the U.S.-

China trade war.

Fryhover said he was "amazed" exports held up that well.

"It's a testament to our quality and aspiring consumers in China. I don't think that will change. I think we should anticipate a similar season to last year," he said, adding Washington has a larger crop and greater need to export.

Fruit quality, color and size distribution and new varieties will all be attractive, he said.

Meanwhile, exports to India hit 8 million boxes in 2017-18 because India banned Chinese apples and because Indian importers were anticipating an increase in India's tariff on U.S. apples from 50% to 70%. That happened in June. Shipments this season totaled 2.6 million boxes. Fryhover expects 2 million to 2.5 million this season as Europe, still with just a 50% tariff, moves in.

Farmers told to start early on getting Columbia River water

By **MATTHEW WEAVER**
Capital Press

MOSES LAKE, Wash. — Landowners in Eastern Washington seeking to replace declining wells should start now if they want to bring Columbia River water to their farms, irrigation district representatives say.

"It's important to start early with these processes," said Jed Crowther, development coordinator for the East Columbia Basin Irrigation District, based in Othello, Wash. "They're not extremely difficult, they just take some time. It's important for landowners to have these steps completed as soon as they can so they can fully participate with their neighbors in developing a system that will serve those acres that are eligible."

Crowther spoke during the Columbia Basin Development League annual meeting Oct. 29 in Moses Lake, Wash.

Eight delivery systems are currently anticipated. Landowners have several options, Crowther said:

- The irrigation district can design it.
- A landowner-led group can design it.
- The irrigation district or a consultant can offer design options.
- The U.S. Bureau of Reclamation can step in after 30% of the design is in place from the other three options.

All options must meet bureau standards to be accepted and require district oversight and review, Crowther said.

Landowners also must have their water rights reviewed by the state Department of Ecology, Crowther said.

In addition, each delivery system will need some level of environmental review.

Upon application by the landowner, the district will certify that land is within and able to be serviced by the federal Columbia Basin Project.

Crowther warned that the process can require "lengthy hearing procedures" to have land included if it was previously excluded.

Some land may need to be reclassified with changes in irrigation technology. Landowners must submit an application, which will be reviewed by the bureau.

Easement acquisition includes cultural resource and historic preservation studies, title review, surveying and easement deed preparation.

The irrigation district has set a cap of \$190 per acre per year for 30 years as the landowners' share of the delivery system construction costs. That doesn't include the cost of water delivery, \$65.90 per acre this year.

So far, the state has invested a little more than \$100 million in the Odessa Groundwater Replacement Program, including \$36 million to increase the capacity of the East Low Canal, which currently serves more than 1,000 farmers.

Landowner investment in the systems is part of the balance, Crowther said. The district is conducting outreach through the USDA Natural Resource Conservation Service to leverage the state funds, he noted.

LEGAL PURSUANT TO ORS CHAPTER 87

Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 11/11/2019. The sale will be held at 10:00am by

SAFECO INSURANCE
2885 NATIONAL WAY WOODBURN, OR
2017 SUBARU OUTBACK UT
VIN= 45485AF6G3327101
Amount due on lien \$1,435.00
Reputed owner(s)
GRANT A & SARAH M GIBSON
FIRST COMMUNITY C.U

43-2-30999

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SAFECO INSURANCE
2885 NATIONAL WAY WOODBURN, OR
2015 V W GTI 4DR
VIN= 3VW577AU1FM001720
Amount due on lien \$1,435.00
Reputed owner(s)
NICHOLAS IAN BUSS

43-2-30999

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ALLSTATE INSURANCE CO (WEST)
2885 NATIONAL WAY WOODBURN, OR
2018 V W TIGUAN 4DR
VIN= 3V2V287AX9JM001235
Amount due on lien \$1,435.00
Reputed owner(s)
JUDY KAY COLLINS
V W CREDIT INC

43-2-30999

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SAFECO INSURANCE
2885 NATIONAL WAY WOODBURN, OR
2015 NISSAN ROGUE UT
VIN= 5N1AT2MVF9C925935
Amount due on lien \$1,435.00
Reputed owner(s)
TRACY H MA & LEIN H THACH
CLACKAMAS FEDERAL C.U

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LIBERTY MUTUAL INSURANCE CO
2885 NATIONAL WAY WOODBURN, OR
2015 TOYOTA SIENNA VAN
VIN= 5TDJK3DC9F5114735
Amount due on lien \$1,435.00
Reputed owner(s)
ROLLAND O'CONNOR
TOYOTA MOTOR CREDIT CORP

43-2-30999

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LIBERTY MUTUAL INSURANCE CO
2885 NATIONAL WAY WOODBURN, OR
2014 NISSAN PATHFINDER UT
VIN= 5N1AR2MM3EC630938
Amount due on lien \$1,835.00
Reputed owner(s)
GUILLERMINA BAUTISTA LUNA
ALASKA USA FEDERAL C.U

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ESURANCE
2885 NATIONAL WAY WOODBURN, OR
2013 AUDI A4 4DR
VIN = WAUBGAF19DA187084
Amount due on lien \$1,835.00
Reputed owner(s)
MICHAEL G LEBRUN
V W CREDIT LEASING LTD

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ALLSTATE RAPID SETTLEMENT
2885 NATIONAL WAY WOODBURN, OR
2012 NISSAN LEAF 4DR
VIN = JN1AZ0CP2CT022803
Amount due on lien \$1,435.00
Reputed owner(s)
KRYSYNAH JAMIE SPARKS
AMERICAN CREDIT ACCEPTANCE

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AMERICAN NATL PROPERTY &
2885 NATIONAL WAY WOODBURN, OR
2017 NISSAN MAXIMA 4DR
VIN = 1N4AA6AP8HC371990
Amount due on lien \$1,435.00
Reputed owner(s)
JORGE LUIS SAUCEDO II PRESTIGE
FINANCIAL SERVICES INC

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LIBERTY MUTUAL INSURANCE CO
2885 NATIONAL WAY WOODBURN, OR
2010 AUDI Q5 UT
VIN = WA1KAFP1AA034844
Amount due on lien \$1,435.00
Reputed owner(s)
KRISTIN J W & ANDREW P KILSHAW
AUDI FINANCIAL SERVICES

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LIBERTY MUTUAL INSURANCE CO
2885 NATIONAL WAY WOODBURN, OR
2016 AUDI Q5 UT
VIN = WA1L2AFPXGA049593
Amount due on lien \$1,435.00
Reputed owner(s)
STEVEN R & JODI R WILKINS
ONPOINT COMMUNITY C.U

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SAFECO INSURANCE
2885 NATIONAL WAY WOODBURN, OR
2016 H.D FLHR MC
VIN = 1HD1F8M10G8651739
Amount due on lien \$1,835.00
Reputed owner(s)
WAYNE MICHAEL ELLIOTT
EAGLEMARK SAVINGS BANK

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LIBERTY MUTUAL INSURANCE CO
2885 NATIONAL WAY WOODBURN, OR
2016 HONDA CR V UT
VIN = 2HKRM4H53GH685238
Amount due on lien \$1,835.00
Reputed owner(s)
BRIAN D BANGERTER
AMERICAN HONDA FINANCE CORP

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LIBERTY MUTUAL INSURANCE CO
2885 NATIONAL WAY WOODBURN, OR
2016 JEEP WRANGLER 4W
VIN = 1C4BWE67GL153868
Amount due on lien \$1,835.00
Reputed owner(s)
MAX ALATRISTE
US BANK NA

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LIBERTY MUTUAL INSURANCE CO
2885 NATIONAL WAY WOODBURN, OR
2012 AUDI A 5 CP
VIN = WAULFAFR8CA044198
Amount due on lien \$1,835.00
Reputed owner(s)
FREDERICK M & HEIDI M BAUM
AUDI FINANCIAL SERVICES

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ESURANCE
2885 NATIONAL WAY WOODBURN, OR
2009 DODGE 1500 PU
VIN = 1D3HV13T695725868
Amount due on lien \$1,835.00
Reputed owner(s)
ALEXIS RAFAEL ARGUELLO

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LIBERTY MUTUAL INSURANCE CO
2885 NATIONAL WAY WOODBURN, OR
2012 NISSAN ROGUE 4DR
VIN = KNMAT2MVXHP530055
Amount due on lien \$1,835.00
Reputed owner(s)
ANTONIO SIQUEIROZ MATA
OREGON COMMUNITY C.U

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REVIS KEIZER AUTOMOTIVE
6558 WHEATLAND RD N KEIZER, OR
2007 DODGE CALIBER 4DR
VIN = 1B3HB48X7D504344
Amount due on lien \$624.00
Reputed owner(s)
KRISTOPHER LEE FAILE
UNITED FINANCO CO

43-2-30999

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NATIONAL BUILDERS
2885 NATIONAL WAY WOODBURN, OR
2007 DODGE 2500 PU
VIN = 3D7KS29C77G712917
Amount due on lien \$1,435.00
Reputed owner(s)
JOE D REUTOV
ONPOINT CCU

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METROPOLITAN P & C
2885 NATIONAL WAY WOODBURN, OR
2011 TOYOTA PRIUS 4DR
VIN = JTDKN3DU0B0270227
Amount due on lien \$1,435.00
Reputed owner(s)
PETER L & AMANDA K VERONESI
OREGON STATE CU

43-2-30999

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LIBERTY MUTUAL INSURANCE CO
2885 NATIONAL WAY WOODBURN, OR
2016 KIA OPTIMA 4DR
VIN = 5XXGT4L33G063895
Amount due on lien \$1,835.00
Reputed owner(s)
TYLER E MCCLURE
FINANCIAL PARTNERS C.U

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LIBERTY MUTUAL INSURANCE CO
2885 NATIONAL WAY WOODBURN, OR
2016 TOYOTA SCION 4DR
VIN = 3MYDLBZV5G110269
Amount due on lien \$1,835.00
Reputed owner(s)
A. MARTINEZ &
D. RICHARDSON COPART

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TRAVELERS INDEMNITY CO
2885 NATIONAL WAY WOODBURN, OR
2012 HONDA CR V UT
VIN = 5J6RM3H37CL019086
Amount due on lien \$1,835.00
Reputed owner(s)
MEI SHAN &
CUI TING HUANG

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