

1 THE HONORABLE SUSAN CRAIGHEAD

2 **FILED**  
3 KING COUNTY, WASHINGTON

4 NOV 15 2010

5 SUPERIOR COURT CLERK  
6 BY LORRAINE SYMONDS  
7 DEPUTY,

8 SUPERIOR COURT OF WASHINGTON  
9 FOR KING COUNTY

10 AERO CONSTRUCTION COMPANY, INC.,  
11 a Washington corporation,

12 Plaintiff,

13 v.

14 LEDCOR CONSTRUCTION, INC., et al.,

15 Defendants.

16 NO. 09-2-16775-3 SEA

17 ORDER, CR 54(b)  
18 CERTIFICATION, AND  
19 JUDGMENT

20 **Judgment Summary**

21 **A. Judgment Creditors**

22 **1. Aero Construction Company, a division of Pacific Commercial  
23 Equipment, Inc.**

24 Principal: \$810,661.82.

Prejudgment interest: \$279,445.12 from December 1, 2008 to  
October 31, 2010, with additional interest accruing at the rate of  
\$399.78 per day thereafter.

Attorney fees and other litigation expenses: To be determined by post-  
judgment petition and Order.

Post-judgment interest: At the rate of 18 percent per annum.

Attorney:

John S. Riper  
Ashbaugh Beal LLC  
701 Fifth Avenue, Suite 4400

ORDER, CR 54(b) CERTIFICATION, AND  
JUDGMENT - 1

**Ashbaugh Beal**  
701 FIFTH AVE., SUITE 4400  
SEATTLE, WA 98104  
T. 206.386.5900 F. 206.344.7400

1 Seattle, WA 98104  
2 Phone: (206) 386-5900  
3 E-mail: jriper@lawasresults.com

4 **2. Ledcor Construction, Inc.**

5 Principal: \$2,998,016.49.

6 Prejudgment interest: \$1,033,453.25 from December 1, 2008 to  
7 October 31, 2010, with additional interest accruing at the rate of  
8 \$1,478.47 per day thereafter.

9 Attorney fees and other litigation expenses: To be determined by post-  
10 judgment petition and Order.

11 Post-judgment interest: At the rate of 18 percent per annum.

12 Attorney:

13 Anthony R. Scisciani III, WSBA #39979  
14 Scheer & Zehnder, LLP  
15 701 Pike St., Suite 2200  
16 Seattle, WA 98101-2358  
17 Phone: (206) 262-1200  
18 E-mail: ascisciani@scheerlaw.com

19 **3. Kleinfelder West, Inc.**

20 Principal: \$237,013.54.

21 Prejudgment interest: \$95,096.90 as of October 1, 2010, and  
22 \$116.88 per day thereafter.

23 Attorney fees and other litigation expenses: To be determined by post-  
24 judgment petition and Order.

Post-judgment interest: At the rate of 18 percent per annum.

Attorney:

David K. Eckberg, WSBA #16273  
Skellenger Bender PS  
1301 Fifth Avenue, Suite 3401  
Seattle, WA 98101-2605  
Phone: 206.623.6501  
E-mail: deckberg@skellengerbender.com

**4. 3922 SW Alaska LLC**

Principal: \$18,984,594.33.

Prejudgment interest: At 9% per annum on the Principal from  
June 25, 2008 per Ex. 93, ¶2.

Post-judgment interest: At the rate of 9 percent per annum.

1 Attorney: *Greg Ursick*  
2 Jon G. Hengladrom, WSBA 16323  
3 ~~Eoster Pepper LLC~~ *Inislee Best*  
4 1111 Third Avenue, Suite 3400- *777 08<sup>th</sup> Ave. NE*  
Seattle, WA 98101 *Suite 1900.*  
Phone: (206) 447-4400 *Bellevue, WA 98003*  
*425-455-1234*

5 **5. Waste Management Disposal Services of Oregon, Inc.**

6 Principal, costs and interest: \$256,687.98.

7 Attorney:  
8 John P. Plovie  
9 Plovie Law Firm PS  
10 8118 165<sup>th</sup> Ave NE  
11 Post Office Box 878  
12 Redmond WA 98073  
13 Phone: (425) 881-1882  
14 Email: jplovie@plovielaw.com

15 **B. Judgment Debtor**

16 **Fautleroy Place, LLC.**

17 Attorney:  
18 Amit D. Ranade  
19 Hillis Clark Martin & Peterson  
20 1221 Second Avenue, Suite 500  
21 Seattle, W 98101  
22 Phone: (206) 623-1745  
23 E-mail: adr@hcmp.com

24 **C. Foreclosure Against Real Property**

This Judgment provides for foreclosure against the real property located on the north side of SW Alaska Street between 40th Avenue SW and 39th Avenue SW, in Seattle, King County, Washington (the "Property"). The legal description for the Property is set forth on pages 6-7 of this Judgment.

1 **Order and CR 54(b) Certification**

2 The Court enters this Judgment based upon the Court's Findings and  
3 Conclusions of this even date.

4 By Order of July 14, 2010, the Court ordered the bifurcation all foreclosure  
5 claims in this case (which were tried commencing October 18, 2010) from all other  
6 claims (which are set for trial commencing June 6, 2011). The Court hereby Orders  
7 that all of those bifurcated claims are transferred to a new Cause Number to be  
8 assigned by the Court Clerk. The Court further Orders that those bifurcated claims  
9 are assigned to this Court, and are to proceed to trial as currently scheduled. All  
10 pleadings filed to date under this Cause No. 09-2-16775-3 SEA are deemed part of  
11 the pleadings and papers in that bifurcated action. With this bifurcation of those  
12 claims to a different action, this Order and Judgment disposes of all claims as to all  
13 parties in this action, Cause No. 09-2-16775-3 SEA. *SL*

14 The Court hereby incorporates its Findings re CR 54(b) Certification of this  
15 even date. The Court hereby determines, based upon those Findings, that there is  
16 no just reason for delay in entry of this Order and Judgment as a Judgment. The  
17 Court hereby directs entry of this Order and Judgment as a Judgment.

18 Pursuant to RCW 60.04.171, -.181 and RCW 61.12.060 and -.090, counsel  
19 for Plaintiff is directed to issue to the Court Clerk a Praecipe for Order of Sale of the  
20 Property. The Court Clerk is directed, upon receipt of that Praecipe, to issue an  
21 Order of Sale to the Sheriff.

22 At the foreclosure sale conducted by the Sheriff, plaintiff Aero Construction  
23 Company may bid in the amount of its Judgment as of the date of sale. In the event  
24

1 Aero does so, judgment creditors Ledcor Construction, Inc. and Kleinfelder West,  
2 Inc. may jointly make a higher bid by matching the bid of Aero and increasing that  
3 bid by bidding in the additional amount of their combined Judgments as of the date  
4 of sale. In the event they do so, 3922 SW Alaska LLC may make a higher bid by  
5 matching the total combined bid of Ledcor and Kleinfelder and increasing that bid by  
6 bidding in the additional amount of 3922 SW Alaska LLC's Judgment as of the date  
7 of sale.

8 Pursuant to RCW 60.04.181(4), the Court directs that the proceeds of the  
9 foreclosure sale be deposited into the registry of the Court. The Court will issue an  
10 order specifying the distribution payment amounts and payees, pursuant to priorities  
11 previously established by the Court, once the foreclosure proceeds are deposited  
12 with the Court.

### 13 Judgment

14 The Court enters Judgment in favor of plaintiff Aero Construction Company, a  
15 division of Pacific Commercial Equipment, Inc.; Ledcor Construction Co.; Kleinfelder  
16 West, Inc.; 3922 SW Alaska, LLC; and Waste Management Disposal Services of  
17 Oregon, Inc., which Judgment is against Fauntleroy Place, LLC, in the following  
18 amounts:

19 **1. Aero Construction Company, a division of Pacific Commercial**  
20 **Equipment, Inc.**

21 Principal: \$810,661.82.

22 Prejudgment interest: \$279,445.12 from December 1, 2008 to  
October 31, 2010, with additional interest accruing at the rate of  
\$399.78 per day thereafter.

23 Attorney fees and other litigation expenses: To be determined by post-  
24 judgment petition and Order.

1 Post-judgment interest: At the rate of 18 percent per annum.

2 **2. Ledcor Construction, Inc.**

3 Principal: \$2,998,016.49.

4 Prejudgment interest: \$1,033,453.25 from December 1, 2008 to  
5 October 31, 2010, with additional interest accruing at the rate of  
6 \$1,478.47 per day thereafter.

7 Attorney fees and other litigation expenses: To be determined by post-  
8 judgment petition and Order.

9 Post-judgment interest: At the rate of 18 percent per annum.

10 **3. Kleinfelder West, Inc.**

11 Principal: \$237,013.54.

12 Prejudgment interest: \$95,096.90 as of October 1, 2010, and  
13 \$116.88 per day thereafter.

14 Attorney fees and other litigation expenses: To be determined by post-  
15 judgment petition and Order.

16 Post-judgment interest: At the rate of 18 percent per annum.

17 **4. 3922 SW Alaska LLC**

18 Principal: \$18,984,594.33.

19 Prejudgment interest: At 9% per annum on the Principal from  
20 June 25, 2008 per Ex. 93, ¶2.

21 Post-judgment interest: At the rate of 18 percent per annum.

22 **5. Waste Management Disposal Services of Oregon, Inc.**

23 Principal, costs and interest: \$256,687.98.

24 The Court enters Judgment foreclosing on the liens of Aero, Ledcor, and  
Kleinfelder, and on the Seattle Capital Deed of Trust recorded June 25, 2008  
assigned to 3922 SW Alaska LLC, and on the attachment of Waste Management, in  
the above-recited judgment amounts for each of those judgment creditors, against  
the real property located on the north side of SW Alaska Street between 40th  
Avenue SW and 39th Avenue SW, in Seattle, King County, Washington (the  
"Property"). The legal description for the Property is:

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Parcel #0952007175 (also known as Parcel A):  
Lots 17 through 24, inclusive, Block 55, BOSTON CO.'S PLAT  
OF WEST SEATTLE, according to the plat thereof recorded in  
Volume 3 of Plats, Page(s) 19, records of King County,  
Washington;

Except that portion of said Lot 24 condemned in King County  
Superior Court Cause Number 70682, as provided for by  
Ordinance Number 21302 of the City of Seattle.

Parcel #0952007265 (also known as Parcel B):  
Lots 10 through 24, inclusive, Block 56, BOSTON CO.'S PLAT  
OF WEST SEATTLE, according to the plat thereof recorded in  
Volume 3 of Plats, Page(s) 19, records of King County,  
Washington;

Except those portions of said Lots 23 and 24 condemned in  
King County Superior Court Cause Number 70682 and 93059,  
as provided for by Ordinance Numbers 21302 and 29063,  
respectively, of the City of Seattle.

Parcel C:  
All that portion of the alley between blocks 55 and 56, BOSTON  
CO.'S PLAT OF WEST SEATTLE, according to the plat thereof  
recorded in Volume 3 of Plats, Page 19, lying Northerly of the  
Northerly right-of-way line of S.W. Alaska Street and Southerly  
of the Easterly production of the Northerly line of Lot 17, Block  
55, in said Plat of BOSTON CO.'S PLAT OF WEST SEATTLE,  
in King County, Washington.

DATED this 15<sup>th</sup> day of November, 2010.

  
HONORABLE SUSAN CRAIGHEAD

Presented by:

ASHBAUGH BEAL, LLP

By   
John S. Riper, WSBA No. 11161  
Attorneys for Plaintiff Aero Construction Co.