

Resolution of the Mason Matter Achieved

At its last meeting, the Blue Ribbon Board of Directors approved a Settlement Agreement with the Masons in the matter relating to their commercial use of the air strip. The agreement contains the following three main objectives of the membership: The agreement is attached here and will be posted on the website in the archive section. Use this link to it:

<https://blueribbonfarmsassociation.com/archives.shtml>

- 1. Stops all commercial activities by the Masons using the airstrip;**
- 2. Requires the Masons to comply with the CC&Rs by not having an outward appearance of a business;**
- 3. Requires the Masons to comply with the CC&Rs by not having more than 4 cars at a time come to the residence for training so that traffic is not excessive.**

Specifically, the Masons agreed to pay the POA \$5,000, which is minor compared to our costs estimated to be just under \$70K. The agreement contains clauses that release each party from claims, demands, costs, expensed, liabilities, damages or actions if the parties comply with the agreement. The agreement contains an enforcement clause that states if the Masons fail to comply with the agreement, they have 30 days to cure the breach. Otherwise, the POA could bring a new action against the Masons and if the POA prevails the Masons would have to reimburse the POA for the cost of the first legal action minus the \$5,000 payment made in the agreement. The first legal action judgement was in the amount of \$39,748.79.

By settling the agreement, the POA avoids further spending for a new judgement and defense against a possible appeal with an uncertain outcome. Had we continued with filing for a new summary judgement on the issues that were overturned by the Appellate Court, we would have incurred costs once again. Speaking to the chances of prevailing to get our attorney's fees paid, our attorney Judy Endejan stated that *"The judge will probably be skittish about awarding us all the fees. The judge would cut it back a bit, but in terms of getting the ultimate judgement, I would give us 60/40%."*

Ms. Endejan further stated that the worst case scenario is: *"If we lost the judgement, we may have to pay the Masons the money collected from them and pay the Masons' attorney's fees. If we prevailed, there is the possibility that the judge would not award us the original costs from the first judgment or maybe not even the costs of the second judgment; we might get a smaller judgement or none."*

In weighing settlement vs. continuing with the Summary Judgment, Ms. Endejan told the Board that continuing this matter through the courts involves a risk analysis. There is a risk that BRF would not recover everything or that it would take even more time because the Masons would inevitably appeal. There is no guarantee about the outcome at the Court of Appeals. Ms. Endejan said she had little confidence in Clallam's Superior Court, given some recent decisions she has read. She reminded the Board that the Masons have a new attorney who is more competent than their previous ones.

Finally, even if we were to prevail and get any award of money, the Masons have changed their holdings so that we would have to file a lien against the property for future payment; a garnishment could no longer be used to obtain payment.

Below is recap on the process that the POA undertook to get to the Settlement Agreement:

2-13-2022 Endejan Law filed on behalf of the POA documents with Clallam County Superior Court to stop the Masons for the following:

1. Stops all commercial activities by the Masons using the airstrip;
2. Requires the Masons to comply with the CC&Rs by not having an outward appearance of a business;
3. Requires the Masons to comply with the CC&Rs by not having excessive traffic to their residential business.
4. Reimbursement for Attorney's fees and costs for the POA.

11-18-2022 Clallam County Superior Court issued a Motion for Summary Judgement for permanent injunction against the Masons and awarded the POA attorney's fees and cost the order contained the following:

1. The Masons permanently prohibited from using the BRF airstrip for the purpose of operating flights for the MWWA or any other commercial business.
2. The Masons are permanently prohibited from conducting their business, MWWA, or any other business activity that involves the offering of wing-walking training, outside the confines of their residential structure, as they have done in the past, through use of a hangar and other property outside of their residence for the purpose of conducting wing-walking lessons.
3. The Masons are permanently prohibited from inviting students to their property for wing-walking lessons and experiences.

4. The court ordered an award of reasonable attorney's fees and costs in favor of the POA in the amount of \$39,748.7

1-17-2023 Masons file appeal with the Superior Court of Washington to overturn the Clallam County judgement

4-30-2024 Washington State Court of Appeal issued Published Opinion where the Mason prevailed on 3 of the 4 items, thereby the appeal court overruled 2 of the injunctions issued by the Clallam County Summary Judgement and also the award of attorney's fees. It must be noted that the Appellate Court works on its own schedule and the Board had no control over the timeframe in which the Court issued their opinion.

The only issue not overruled was the Masons being permanently prohibited from conducting their business, MWWA, or any other business activity that involves the offering of wing-walking training, outside the confines of their residential structure, as they have done in the past, through use of a hangar and other property outside of their residence for the purpose of conducting wing-walking lessons.

May 2024 through February 2025 Many discussions were held with the POA attorney, who also discussed the matter with Masons' attorney many times. Both parties reviewed various proposals for a settlement agreement, with proposals going back and forth over time. The possibility/desirability of taking depositions was also discussed several times. The pros and cons of filing a new summary judgment were discussed several times as well prior to accepting the settlement agreement conditions.

2-7-2025 The BOD decided to accept a Settlement Agreement rather than continue with the process of filing another summary judgement for injunctions, after negotiating with the Masons to resolve and meet the original objectives of the issue. The likelihood of a judgement in our favor by the Clallam Court was uncertain, however if we did prevail the possibility of an appeal by the Mason to the Washington State Court of Appeal was a real possibility.

SETTLEMENT AGREEMENT

This Agreement ("**Agreement**") is made and entered into by and between the Blue Ribbons Farms Property Owners' Association ("BRF" or "Plaintiff"), by and through its Board of Directors, ("BOD") and Michael and Marilyn Mason, 61 Greywolf Air Ct., Sequim, WA 98323 and the marital community composed thereof ("Mason") (BRF and Mason are collectively referred to herein as the "**Parties**"), effective as of the last signature date below (the "**Effective Date**").

RECITALS

WHEREAS, on May 13, 2022, BRF instituted an action against the Masons in the Superior Court for the State of Washington for the County of Callam, Case No. 22-2-00270-05 ("Litigation"). The complaint in part, sought a declaratory judgment from the Court that the Masons violated the Declaration, Art. III, Section 2(d) and Art. V, Section 6 by operating the Mason Wing Walking Academy ("MWWA"), and sought injunctive relief, among other claims for relief in the complaint. ("Claims").

WHEREAS the Masons dispute the Claims.

WHEREAS The Parties desire to avoid the risk, uncertainty, inconvenience, and expense of further litigation and have therefore agreed to fully and fairly settle any and all claims asserted by Plaintiff in the Litigation.

NOW, THEREFORE, in consideration of the mutual promises, warranties and covenants contained in this Agreement, the receipt and sufficiency of which is hereby acknowledged, and the above recitals, which are incorporated in the operative terms of this Agreement by reference, the Parties agree as follows:

TERMS AND CONDITIONS

1. **RECITALS.** The Parties agree that the above recitals are true and correct and are hereby incorporated into this Agreement.

2. **SUCCESSORS AND ASSIGNS.** This Agreement and its terms are binding on both Parties and their legal successors, assigns, and related companies, and all others acting by, through or with them or under their authority or direction or in privity with them. This Agreement shall inure to the benefit of the successors and assigns of the Parties.

3. **MASON'S REPRESENTATIONS, AGREEMENTS AND WARRANTIES.** Mason represents, warrants and agrees:

3.1 BRF owns an airstrip ("Airstrip"), which is common space located on the common property within the Development, called Parcel 39, to be used by BRF owners for purposes of takeoff and landing of aircraft. As of the Effective Date Mason will not use the Airstrip for a commercial purpose, which applies to any undertaking

(“Undertaking”) that provides compensation or revenue to Mason or any entity that is owned or controlled by Mason, whether monetary or in-kind. Any Undertaking covers use of the Airstrip for aviation purposes including, but not limited to, wing-walking flights provided by Mason or any Mason friend, family or agent to any wing-walking student of MWWA or to any other. Any Undertaking also includes aviation activity using the Airstrip for which Mason receives compensation or revenue, whether monetary or in-kind such as, but not limited to, pilot training, aerial tourism or shuttling students to another airfield.

3.1 Masons will comply with the Declaration, Art. V, Section 6. and Clallam County Code Sections. 33.47.010 and .020 (in their current form) regarding restrictions on home business enterprise but may provide training in the Mason residence and attached hangar so long as such training cannot be easily observable by other BRF residents, and parking for vehicles used by students to attend such training is limited to no more than four separate vehicles per day as configured on the attached Exhibit A. BRF recognizes that this will create a visible presence of students but the Masons will make best efforts to minimize the impact to residents and will not place any visible sign identifying their home business enterprise from the outside..

3.2 The Masons agree to abide by the Declaration, as a member of the BRF and will comply with the rules of the Federal Aviation Administration.

3.3 Mason agrees to pay \$5,000 to BRF.

3.4 Michael and Marilyn Mason warrant that they have full authority to enter into this Agreement, personally and on behalf of MWWA.

4 BRF'S REPRESENTATIONS, AGREEMENTS AND WARRANTIES. Subject to Mason's execution of this Agreement, BRF represents, warrants and agrees that:

4.1 BRF is duly authorized to enter into this Agreement by and through its BOD under the Declaration, Art. VI, Section. 3 (d).

4.2 BRF will file a Stipulation of Dismissal with prejudice of the Litigation within 14 days of the Effective Date with the Clallam County Superior Court.

4.3 Within fourteen (14) days of the Effective Date BRF will return all tax or personal documents to the Masons or destroy the same and must not disseminate any tax or personal information to any person or entity.

5 RELEASES/INDEMNIFICATION.

5.1 Subject to Mason's compliance with this Agreement, BRF, expressly releases Mason from any and all claims, demands, costs, expenses, liabilities, damages, actions, and causes of action, known or unknown, which relate to the Litigation, except for costs that Mason must pay under Section. 3.5 or Section. 11 of the Agreement.

5.2 Subject to its compliance with this Agreement, Mason, on behalf of themselves and MWWA expressly releases BRF from any and all claims, demands, costs, expenses, liabilities, damages, actions, and causes of action, known or unknown, against BRF which relate to the Litigation.

5.3 BRF's release does not apply to third party claims ("Third Party Claims") known or unknown, that may be brought against the BRF or the BRF BOD arising from accident, injury or death resulting from Mason's commercial use of the Airstrip, as set forth in Section 3.4, whether they arose before or after the Effective Date. BRF reserves all rights against Mason with respect to any such claims. The parties agree that this paragraph shall survive the termination of this Agreement.

6 MUTUAL COOPERATION. The Parties shall execute all further documents and take any further steps or actions as may be necessary or desirable to give full effect to the terms of this Agreement and to protect the rights of the Parties under it.

7 MODIFICATION OF AGREEMENT. No variation of or amendment to this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the Parties. Any handwritten changes made to this Agreement (with the exception of the Effective Date when the Effective Date is handwritten onto the Agreement) must be initialed by all Parties in order to be binding on the Parties.

8 VOLUNTARY AGREEMENT. The Parties hereto acknowledge that they are entering into this Agreement freely and voluntarily, that they have ascertained and weighed all the facts and circumstances likely to influence their judgment herein, that they have given due consideration to the provisions contained herein, and that they thoroughly understand and consent to all provisions hereof. Each party has reviewed this Agreement and, accordingly, the rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in any interpretation of this Agreement.

9 NO WAIVER. No delay or omission to exercise any right, power, or remedy accruing to any Party, upon any breach or default under this Agreement, shall impair any such right, power, or remedy of such Party or be construed to be a waiver of any such breach or default, or an acquiescence therein, in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. All of a Party's remedies, including without limitation recovery of attorneys' fees and costs, either under this Agreement, or by law or otherwise afforded to such Party, shall be cumulative and not exclusive of any other rights and remedies that may be available to the Parties.

10 NOTICES. All communications required or permitted to be made under this Agreement shall be in writing and shall be sent via email, with a physical copy hand delivered or sent by Postal Service certified or registered mail, postage prepaid and return receipt requested, to the address or addresses set forth below, or to such other address or addresses as either Party may notify the other pursuant to this Section. Any such communication shall be deemed to be properly given (i) if hand delivered personally, upon written acknowledgment of receipt after delivery to the address specified; or (ii) if posted, the earlier of the actual date of delivery, as set forth in the

return receipt, or three (3) business days from the date posted pursuant to the foregoing. The addresses for the parties are as follows:

For BRF

Blue Ribbon Farms Property **with a copy to:**
Owners Association
P.O. Box 3141
Sequim, WA 98382

Judith Endejan
Endejan Law,
5109 23rd Ave. West
Everett, WA. 98203
jendejan@gmail.com
(206)799-4843

For Mason

Michael Mason
61 Greywolf Air Ct.,
Sequim, WA 98382
roundmotor@gmail.com

with a copy to:

David Horton
Kitsap Law Group
3212 NW Byron St. Suite 101
Silverdale, WA 98383
dhorton@kitsaplawgroup.com
360 692 6415

11. LIABILITY AND DAMAGES FOR BREACH OF THE AGREEMENT. Each Party hereby acknowledges that failure to comply with, or interference with the performance of, any of the terms of the Agreement shall constitute a material breach of the Agreement. In the event of a breach, the non-breaching Party shall provide notice of the breach and allow the breaching party the opportunity to cure within thirty (30) days of this notice. Failure to cure the breach will result in equitable remedies in Section 13 and other possible damages, should new enforcement litigation commence. Should the BOD bring a new action to enforce the Declaration against Mason for the same breaches as are at issue in this case (Art. III, Section 2(d) and Article V, Section 6) Mason agrees to pay, without dispute, the amount of expenses (attorney's fees and costs) remaining after payment is made under Section 3.4, which the BOD incurred for the Litigation, in addition to new expense for a second enforcement lawsuit, as required by Art. VI, Section. 3(e) and Section 14.

12. JURISDICTION. The Clallam Coury Superior Court shall retain jurisdiction over the interpretation, effectuation, implementation and enforcement of this Agreement and shall be the proper venue for any action regarding the same.

13. EQUITABLE REMEDIES. Each party acknowledges and agrees that the other party would be irreparably harmed in the event that any of the terms or provisions of this Agreement are not performed in accordance with their specific terms or otherwise are breached. Therefore, notwithstanding anything to the contrary set forth in this Agreement, the Parties agree that in the event of breach the non-breaching Party shall be entitled to seek injunctive relief to prevent any breaches of any of the terms or provisions of this Agreement, and to enforce specifically the

performance of the breaching Party under this Agreement. The breaching Party agrees to waive the defense in any such suit that the other Party has an adequate remedy at law and agrees to waive any requirement to post any bond in connection with obtaining such relief. The equitable remedies described in this paragraph shall be in addition to, and not in lieu of, any other remedies at law or in equity that the parties to this Agreement may elect to pursue.

14. RESOLUTION OF DISPUTES; COSTS. The Parties agree that, in the event of a dispute arising out of or related to this Agreement, the prevailing party shall be entitled to recover from the losing party its reasonable attorney's fees, costs and expenses related to any action for breach of this Agreement.

15. MISCELLANEOUS. This Agreement contains the entire agreement between the Parties and constitutes the complete, final, and exclusive embodiment of their agreement with respect to the subject matter hereof, and supersedes all prior proposals, communications, agreements and understandings concerning the subject matter of this Agreement. This Agreement shall inure to the benefit of the successors and assigns of the Parties. It is entered into without reliance on any promise or representation, written or oral, other than those expressly contained herein, and it supersedes any other such promises, warranties, or representations. This Agreement may not be modified or amended except in a writing signed by the Parties. This Agreement and its terms shall bind the Parties, their legal successors, assigns, licensees and related companies, and all others acting by, through, with, or under their authority or direction or in privity with them. No waiver of any right under this Agreement shall be valid unless specifically set forth in writing. If any provision of this Agreement is determined to be invalid or unenforceable, in whole or in part, this determination will not affect any other provision of this Agreement and the provision in question shall be modified by the court so as to be rendered enforceable in a manner which is consistent with the intent of the Parties insofar as possible. This Agreement may be executed in counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument. Electronic signatures shall be as effective as original signatures.

IN WITNESS WHEREOF, the Parties have duly executed the Agreement as follows:

MICHAEL MASON:


Michael Mason (Jan 31, 2025 23:26 PST)

Date: 01/31/25

MARILYN MASON:


Marilyn Mason (Jan 31, 2025 14:04 PST)

Date: 01/31/25

BRF

By: 

Name: Mark Long

Title: Chairman of BRFP OA

Date: 2/1/25









2025.1.31 Settlement Agreement final

Final Audit Report

2025-02-01

Created:	2025-01-31
By:	Tracey Hamilton-Oril (tracey@kitsaplawgroup.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAU52lpZUHI4hR14MVhpaUgnG5UhMLkwav

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-  Document created by Tracey Hamilton-Oril (tracey@kitsaplawgroup.com)
2025-01-31 - 7:05:53 PM GMT
-  Document emailed to Marilyn Mason (marilyn9978@gmail.com) for signature
2025-01-31 - 7:05:57 PM GMT
-  Document emailed to Michael Mason (roundmotor@gmail.com) for signature
2025-01-31 - 7:05:58 PM GMT
-  Email viewed by Marilyn Mason (marilyn9978@gmail.com)
2025-01-31 - 9:57:29 PM GMT
-  Document e-signed by Marilyn Mason (marilyn9978@gmail.com)
Signature Date: 2025-01-31 - 10:04:58 PM GMT - Time Source: server
-  Email viewed by Michael Mason (roundmotor@gmail.com)
2025-02-01 - 6:24:37 AM GMT
-  Document e-signed by Michael Mason (roundmotor@gmail.com)
Signature Date: 2025-02-01 - 6:26:49 AM GMT - Time Source: server
-  Agreement completed.
2025-02-01 - 6:26:49 AM GMT



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