No. 100730-2

SUPREME COURT
OF THE STATE OF WASHINGTON

No. 82002-8-I

COURT OF APPEALS, DIVISION I,
OF THE STATE OF WASHINGTON

In re the Marriage of:

PAMELA LYNN DODDRIDGE,

Petitioner,

and

WILLIAM SCOTT DODDRIDGE,

Respondent.

PETITION FOR REVIEW

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A. Identity of Petitioner.

The petitioner is Pamela Doddridge, appellant in the Court of Appeals.

B. Court of Appeals Decision.

Petitioner seeks review of the Court of Appeals' December 6, 2021, decision (Appendix A) affirming the trial court's decision dismissing her petition seeking an equitable distribution of property acquired during the parties' 16-year committed intimate relationship under CR 12(b)(6) as modified by its "substitute opinion" issued on February 7, 2022 eliminating the grounds it relied upon in affirming the trial court's decision. (Appendix B) The Court of Appeals denied petitioner's timely motion for reconsideration or publication on February 7, 2022. (Appendix C)

C. Issue Presented for Review.

Whether the fact that the parties are still "legally married" precludes application as a matter of law of the

committed intimate relationship (CIR) doctrine to prevent unjust enrichment of the economically-advantaged cohabitant and effect a just and equitable distribution of community-like property that was acquired during the parties' 16-year cohabitation, which commenced after a judgment of legal separation was entered?

D. Statement of the Case.

As petitioner's equitable claims were dismissed under CR 12(b)(6), this statement of the case reflects the requirement that the courts "must accept all factual allegations and all reasonable inferences therefore from as true" in favor of petitioner. *McCarthy v. Dep't of Soc. & Health Servs.*, 110 Wn.2d 812, 822, 759 P.2d 351 (1988).

1. Pamela and William legally separated in California in 2002 after 12 years of marriage.

Petitioner Pamela Doddridge and respondent William Doddridge were married on November 3, 1989. (CP 24) Their marital relationship was terminated by a

judgment of legal separation in California, where the parties both then lived, on April 22, 2002. (CP 15) The judgment of legal separation[1] incorporated the parties' property settlement agreement, and provided that "it is the parties' specific intention that this judgment of legal separation constitute a full, final and complete division, distribution and disposition of the community assets and obligations of the parties." (CP 31)

In the judgment of legal separation, Pamela was awarded maintenance for 73 months (half the length of the marriage), with the express goal of providing Pamela a

[1] As in Washington, a judgment or decree of legal separation in California "is designed to resolve the financial issues between the parties, including division of community assets and liabilities and determination of support obligations." *Estate of Lahey*, 76 Cal. App. 4th 1056, 1059, 91 Cal. Rptr.2d 30 (1999). A judgment of legal separation "continues to permit the parties to a marriage to separate their financial affairs without severing their marital bond." *Irvin v. Contra Costa Cnty. Employees' Ret. Assn.*, 13 Cal. App. 5th 162, 168, 220 Cal. Rptr.3d 510, 517 (2017); *Marriage of Moody*, 137 Wn.2d 979, 987, 976 P.2d 1240 (1999).

"reasonable period of time" to become "self-supporting." (CP 24-25) Consistent with California law, the parties were each awarded half the community assets, and their separate property was confirmed to them, as their "sole and separate property." (CP 25-29)

It was William's idea that the parties obtain a judgment of legal separation, rather than a divorce. (CP 61) For all practical purposes, the judgment of legal separation had the effect of dividing the parties' property and establishing support obligations just as if they had been divorced. RCW 26.09.080, .090; Cal. Fam. Code §2550, §4330.

2. After their legal separation, Pamela and William reconciled, lived together, and built up William's business for 16 years, much of that time in Washington.

After entry of the judgment of legal separation, Pamela moved out of the family home, which had been awarded to William (CP 61), and began working to

complete her accounting degree, which would have allowed her to become "self-supporting" as contemplated by the judgment of legal separation. (CP 24-25) But a year after the judgment was entered, the parties reconciled. William moved into the house Pamela had purchased after their legal separation, and thereafter the parties resumed the life they had been living prior to entry of the judgment of legal separation. (CP 62)

Although Pamela had completed her accounting degree by 2004, shortly after the parties reconciled, William did not want Pamela to have a job. He liked that Pamela "was home to cook his dinner," and having a job would have "stifled" Pamela's ability to travel with him. (CP 62) The parties traveled regularly for William's jewelry business; Pamela planned the parties' transportation for site visits to stores, as well as to locations where William anticipated opening new stores. (CP 62)

As William's business grew, the parties began spending more and more time together in Washington. After both parties obtained their pilot licenses in 2007, William acquired three aircraft, and purchased a hangar at the Anacortes airport in 2010. (CP 63) In 2012, William purchased a home in Anacortes. (CP 80) Although it was deeded to him as a "legally separated man as his sole and separate estate" (CP 80) Pamela oversaw a remodel of the Anacortes home, where they lived together with their five children. (CP 61, 63) The parties' daughter was married on the Anacortes property in 2017. (CP 64)

By 2015, Pamela had changed her official residence to Washington. William followed suit in 2017. (CP 63) Pamela managed a blueberry farm William purchased in 2018, deeded in the name of a Washington LLC. (CP 64) Having reconciled, neither party had the incentive to seek to "convert" their legal separation into a decree of

dissolution in either Washington or California. Cal. Fam. Code §2347; RCW 26.09.150(2)(a).[2]

In these proceedings, William claims "I put the real or personal property that I wanted to own as my separate property in my name or the name of one of the business entities I own, and I put the property that I wanted Pamela to own as her separate property in her name[3]." (CP 68) William also makes much of the fact that he paid maintenance (which he could, of course, deduct from his "separate" income) under the judgment of legal separation—until the obligation, premised on Pamela

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[2] As in Washington, once a California judgment of legal separation is entered, either party may request a subsequent dissolution of the marriage. When converting a judgment of legal separation to a decree of dissolution, the courts' authority in both states is limited to dissolving the marriage. Cal. Fam. Code §2347; RCW 26.09.150(2)(a). (*See* §E.2, *supra*)

[3] William put the valuable family home in Anacortes, which Pamela remodeled, in his name. (CP 68, 80) He put a car, a tractor, and two boats in Pamela's name. (CP 64)

beginning "self-supporting," terminated in May 2010. (CP 24-25)

William also argues in these proceedings that he had "honored [his] obligations and managed finances according to the Judgment, and Pamela should have to do the same." (CP 69) But given the procedural posture of this case—having been dismissed under CR 12(b)(6)—and Pamela's allegations in her petition, another indisputable consequence of the parties' post-separation relationship was the enhancement of William's "separate" estate through the parties' joint efforts, while Pamela lost the ability to become "self-supporting" and "manage" her own "separate" estate because the parties had reconciled and *William* decided what assets she should "own."

Although the parties cohabitated primarily in Washington, they stayed in the house Pamela had purchased after their legal separation when they were in California. (CP 63) The parties separated for a final time in

May 2019, after Pamela learned that William was having an affair with one of his employees while he was staying in the California house Pamela had purchased after the parties' legal separation. (CP 64-65) William continued to stay in Pamela's California house until it was sold in 2020; Pamela remained in the Anacortes house. (CP 68)

3. Pamela filed a petition in Skagit County seeking an equitable distribution of property acquired during the parties' committed intimate relationship.

On January 30, 2020, Pamela filed a petition for equitable relief, based on the parties' 16-year committed intimate relationship, in Skagit County Superior Court. (CP 1) The petition acknowledged the April 2002 judgment of legal separation entered in California (CP 1-2), and Pamela has expressly disavowed any rights arising before its entry, stating "the judgment of legal separation settled the property issues existing between the parties from the time they married until the time they were legally separated, and

Petitioner is not seeking to relitigate those issues." (CP 43) Pamela instead alleged that the parties had since reunited and that they had been in a committed intimate relationship since 2003. She asked the court "to fairly and equitably divide all of the assets/debts acquired by the parties during committed intimate relationship" or "award such other relief as is just and equitable." (CP 2)

On April 11, 2020, William moved to dismiss Pamela's petition for equitable relief under CR 12 on the grounds that Washington lacked subject matter jurisdiction over the action, that the 2002 California judgment precluded Pamela's claims for an equitable division of assets acquired during the parties' alleged committed intimate relationship, and that the fact the parties were still legally married prohibited a determination that the parties were in a committed intimate relationship. (CP 4) William did not dispute that, were it not for the judgment of legal separation, the parties

would be considered to be in a committed intimate relationship. Instead William claimed it would be "unfair" to allow Pamela to assert an equitable interest in properties acquired during their post-separation cohabitation. (*See* CP 68-69, 95)

4. The Court of Appeals affirmed the trial court's dismissal of Pamela's action under CR 12(b)(6) based solely on "the parties' uncontroverted marital status."

Skagit County Superior Court Judge Laura Riquelme ("the trial court") initially denied Williams' motion to dismiss on June 10, 2020. (CP 114-15) The trial court reasoned that the CIR action was "distinct" from the California action and that because Pamela's current action was limited to seeking an equitable division of property acquired during the parties' post-judgment relationship, after the parties' legal separation, the California judgment did not preclude Washington from exercising jurisdiction over post-separation assets. (RP 20)

William moved for reconsideration on June 19, 2020. (CP 116) On September 24, 2020, without hearing further argument, the trial court granted William's motion and dismissed Pamela's action with prejudice under CR 12(b)(6) for failure to state a claim on which relief can be granted, on the grounds that "the uncontroverted fact of the parties' lawful marriage bars Petitioner from pursuing this claim of a committed intimate partnership in Washington." (CP 378)

In explaining why it was dismissing the action, the trial court acknowledged that the "equities" had guided its initial decision, because if Pamela "could have proven that the parties had a committed intimate relationship through which they accumulated property, it would have been inequitable to bar her from pursuing legal remedies." (CP 377) In now dismissing the action, the trial court stated that Pamela was "not without legal recourse," because "[t]here is no indication that the separation in California

would prevent her from seeking a divorce and division of any property the parties accumulated together following the legal separation but while still lawfully married. While property acquired after separation is considered separate property in both California and Washington, California courts also have equitable powers." (CP 378)

Pamela moved for reconsideration of the trial court's order on reconsideration dismissing her action with prejudice, pointing out that there no evidence or argument that she would have "legal recourse" in California. The trial court denied Pamela's motion for reconsideration, on the grounds that whether California would afford Pamela equitable relief was irrelevant to its dismissal of the action with prejudice, because "[a]s long as Washington law requires that parties not be legally married to each other to succeed on a committed intimate relationship claim, this case may not proceed." (CP 381)

Division One affirmed. (App. B 1) The Court held that "the CIR doctrine does not apply to married couples. Instead, its purpose is to protect the interests of unmarried parties who acquire property during a marital-like relationship." (App. B 4) "Because Pamela and William were still married between 2003 and 2020, the CIR doctrine does not apply to the division of their assets." (App. B 4-5) Division One reasoned that "Pamela is not without remedy. She can seek relief from the decree of legal separation and the separate property provision of which she now complains under CR 60(b)(11). . . . If relief is justified, she can then petition the proper jurisdiction to dissolve her marriage and make a just and equitable disposition of marital assets and liabilities." (App. B 6)

E. Why This Court Should Grant Review.

This Court created the committed intimate relationship (CIR) doctrine to provide an equitable remedy for individuals like Pamela who do not have a statutory

mechanism for obtaining a just and equitable distribution of assets that were acquired by cohabitants during their relationship, so that one party is not unjustly enriched when the relationship ends. *Connell v. Francisco*, 127 Wn.2d 339, 349, 898 P.2d 831 (1995). Petitioner asks the Court to accept review of Division One's decision affirming the dismissal of her equitable claims under CR 12(b)(6) because the Court of Appeals' mechanistic view of the parties' relationship, and their rights, conflicts with cases of this Court and the Court of Appeals and with the "equitable underpinnings" of the CIR doctrine.

1. The Court of Appeals' decision conflicts with this Court's decision in *Marriage of Moody*. RAP 13.4(b)(1).

In affirming the trial court's motion to dismiss for equitable relief under CR 12(b)(6), Division One reasoned that Pamela "is not without remedy" because "[s]he can seek relief from the decree of legal separation under CR 60(b)(11)." (App. B 6) The Court of Appeals' decision

conflicts with this Court's decision in *Marriage of Moody*, 137 Wn.2d 979, 976 P.2d 1240 (1999), which held that a decree of legal separation cannot be vacated and reopened based on the parties' reconciliation after the decree was entered.

In holding that Pamela can seek relief under CR 60(b)(11) "if she can show any reasons 'justifying relief from the operation of the judgment'" (App. B 6), the opinion also wrongly presumed that Pamela has some quarrel with the terms of the judgment of legal separation. (*See* App. B 6, n.5) Pamela has always made clear that her action was brought to address her equitable interest in quasi-community property that arose *after* the judgment of legal separation was entered (*see* App. Br. 23-24; Reply Br. 11, 19-23; CP 43), property interests not addressed in the judgment of legal separation—or in Division One's opinion.

2. The Court of Appeals' decision conflicts with this Court's decision in *Parentage of L.B.* RAP 13.4(b)(1).

Pamela seeks relief under the CIR doctrine because she has no statutory remedy to address her equitable interest in assets acquired by the parties after their judgment of legal separation was entered, while they were living in a committed intimate relationship. In holding that the CIR doctrine can never apply if the parties are married, Division One's decision conflicts with this Court's decisions holding that courts retain power to invoke their "equity powers and common law responsibility" to provide a remedy when "legislative enactments that may have spoken to the area of law, but did so incompletely." *Parentage of L.B.*, 155 Wn.2d 679, 689, ¶15, 122 P.3d 161 (2005), *cert. denied*, 547 U.S. 1143 (2006); *see also Custody of B.M.H.*, 179 Wn.2d 224, 242-43, ¶34, 315 P.3d 470 (2013).

Division One's substituted opinion makes clear that no statute will provide Pamela with the "specific relief" she seeks. Division One's initial opinion reasoned that Pamela "can petition the proper jurisdiction to dissolve her marriage and move to modify maintenance or reopen the distribution of property" (App. A 6, citing RCW 26.09.020, .070., 170; Cal. Fam. Code §2556), claiming that its holding was premised on the proposition that "a court will not grant equitable relief when a statute provides specific relief." (App. A 6, citing *Marriage of Barber,* 106 Wn. App. 390, 393, 23 P.3d 1106 (2001)).

As petitioner pointed out in her motion for reconsideration, Division One's initial decision overlooked both the fact that William's maintenance obligation had terminated 12 years ago (CP 24), and the law that only "modification of future spousal maintenance" is authorized by RCW 26.09.170(1). *Moody,* 137 Wn.2d at 990; *Brown v. Brown*, 8 Wn. App. 528, 530, 507 P.2d 157 (1973);

Mason v. Mason, 40 Wn. App. 450, 457, 698 P.2d 1104, *rev. denied*, 104 Wn.2d 1017 (1985).

Division One also overlooked the fact that even if Pamela were to "petition the proper jurisdiction to dissolve her marriage" (App. A 6), the law would prohibit Pamela from seeking a just and equitable division of property acquired after the judgment of legal separation was entered when converting the judgment of legal separation to a decree of dissolution. RCW 26.09.150(2)(a) limits the courts' authority solely to dissolving the marital bonds left intact by the judgment of legal separation. The same is true under Cal. Fam. Code §2347. While Cal. Fam. Code §2556 allows a court to award "*community* estate assets or *community estate* liabilities to the parties that have not been previously adjudicated by a judgment in the proceeding" (emphasis added), Pamela does not claim that any community assets were omitted in the judgment of legal separation.

On reconsideration, Division One completely excised this portion of the opinion reasoning that Pamela had statutory rights foreclosing her CIR claim. (*Compare* App. A 6 *to* App. B 6) The substituted opinion did nothing, however, to correct its denial of Pamela's equitable rights; it only highlighted the erroneous legal rationale for its decision. By excising this entire portion of its opinion after Pamela pointed out in her motion for reconsideration that none of the statutory provisions that the Court cited in the initial opinion provide a "remedy," Division One confirmed that Pamela has no statutory remedy, gutting its reason for holding that the CIR doctrine was unavailable to her.

As this Court noted in *L.B.,* it is an "unsurprising fact that statutes often fail to contemplate all potential scenarios which may arise in the ever changing and evolving notion of familial relations. Yet, simply because a statute fails to speak to a specific situation should not, and does not in our common law system, operate to preclude

the availability of potential redress." 155 Wn.2d at 706-07, ¶37. Division One's refusal to recognize our courts' "equity powers and common law responsibility" to apply the CIR doctrine to "address *gaps* in *existing* statutory enactments" and "fill interstices that legislative enactments do not cover" thus conflicts with this Court's decision in *L.B.,* 155 Wn.2d at 689, ¶14 (emphasis in original).

Equitable relief was particularly called for here, as William's strategy for denying Pamela any equitable claim in his post-separation acquisitions depends upon the unavailability of a statutory remedy. William claims that Pamela has no legal recourse in California, even if she were to return there to convert the judgment of legal separation to judgment of dissolution, because any property acquired by him after the parties first separated was his "sole and separate property." (CP 6-7, 94-95, 210-11; *see also* Resp. Br. 7); *see* Cal. Fam. Code §772 ("After entry of a judgment

of legal separation of the parties, the earnings or accumulations of each party are the separate property of the party acquiring the earnings or accumulations") (discussed at App. Br. 27-28); Cal. Fam. Code §2550 (prohibiting the award of the separate property of one spouse to be awarded to the other).

There is a statutory means to convert a judgment of legal separation to a decree of dissolution. RCW 26.09.150(2), Cal. Fam. Code §2347. But there is still a "gap," because no statute or court rule will allow for a just and equitable division of assets acquired by the parties while they were living in a committed intimate relationship after the judgment of legal separation was entered. In fact, this Court in *L.B.* relied on the CIR doctrine as an example of when our courts have "invoked their equity" powers to respond to the needs of "families in the face of changing realities" because "in spite of legislative enactments that may have spoken to the area of law, [they] did so

incompletely." 155 Wn.2d at 689, ¶15, n.6, *citing Connell,* 127 Wn.2d at 348-50. Division One should have recognized that these circumstances warrant equitable relief, as the trial court initially did. (CP 377)

3. The Court of Appeals' decision conflicts with this Court's decision in *Vasquez v. Hawthorne*. RAP 13.4(b)(1).

In holding that the CIR doctrine can never apply to "married couples" (App. B 6) Division One's decision also conflicts with this Court's decision in *Vasquez v. Hawthorne*, 145 Wn.2d 103, 107-08, 33 P.3d 735 (2001), in which this Court held that "equitable claims must be analyzed under the specific facts presented in each case;" the focus is on the "equities involved between the parties" and not the "legality of the relationship." That *Vasquez* considered a relationship in which the parties were unable to marry lawfully and not where the parties were already lawfully married, does not change the principle that equitable claims are not dependent on the legality of the

parties' relationship, contrary to Division One's reasoning. (App. B 5-6)

"Mere novelty of incident or mere absence of precedent furnishes no sound reason for denying relief when the situation equitably demands it and no principle of law prohibits it." *Rummens v. Guaranty Trust Co.*, 199 Wash. 337, 347, 92 P.2d 228 (1939). *See also In re Long & Fregeau,* 158 Wn. App. 919, 926, ¶16, 244 P.3d 26 (2010) (that one of the cohabiting men had been married to a woman for 8 of the 9 years the parties lived together did not preclude a finding of a committed intimate relationship; "remaining married is a fact to consider, but it is not determinative").

Division One's reliance on the supposed requirement that the parties know "that a lawful marriage between them does not exist" (App. B 3-4) is particularly misplaced because this purported prerequisite of the CIR doctrine originated in *Creasman v. Boyle*, 31 Wn.2d 345, 196 P.2d

835 (1948), which was overruled in *Marriage of Lindsey,* 101 Wn.2d 299, 678 P.2d 328 (1984). Under *Creasman,* whether cohabitants were aware they were not "lawfully married" was relevant to the presumption—now discredited—that property belonged "to the one in whose name the legal title stands," 31 Wn.2d at 351—the precise proposition William relies on here. (CP 68: "I put the property that I wanted Pamela to own . . . in her name.")

Creasman reasoned that if a man and woman lived together knowing they are not lawfully married, any property acquired by one cannot be awarded to the other because "if there has been no lawful marriage between the parties concerned there can be, as to them, no community property." 31 Wn.2d at 352. On the other hand, when "either or both of them in good faith enter[ed] into a marriage with the other, or with each other, and such marriage proves to be void, a court of equity [would] protect the rights of the innocent party in the property

accumulated by the joint efforts of both." *Creasman,* 31 Wn.2d at 352. But this Court disavowed the dispositive relevance of the parties' marital status when it overruled *Creasman* almost 40 years ago.[4]

The CIR doctrine first announced in *Lindsey* was developed to allow our courts to exercise jurisdiction over property acquired during the relationship "so that one party is *not unjustly enriched* at the end of such a relationship." *Marriage of Pennington*, 142 Wn.2d 592, 602, 14 P.3d 764 (2000), quoting *Connell*, 127 Wn.2d at 349 (emphasis in original). The CIR doctrine provides a remedy to couples in the absence of any statutory rights to properties held in the name of the other. *See L.B.,* 155

[4] The *Creasman* presumption is doubly pernicious because the lack of a "lawful marriage" was used in that case to deny plaintiff an interest in real property he had paid for even though the property had been titled in the woman's name because plaintiff, a Black man, could not take title because of restrictive covenants. *See Creasman,* 31 Wn.2d at 352, and Appellant's Petition for Rehearing. (Appendix D 4-5)

Wn.2d at 689, ¶ 15, n.6, *citing Connell,* 127 Wn.2d at 348-50. The existence of a "lawful marriage" is relevant to the CIR doctrine only because if a "statute provides specific relief" the court need not resort to "equitable relief." *Barber,* 106 Wn. App. at 393.

"Equity does not permit a wrong without a remedy." *Cogdell v. 1999 O'Ravez Family, LLC*, 153 Wn. App. 384, 390, ¶14, 220 P.3d 1259 (2009). By refusing to recognize Washington's "equity powers and common law responsibility" because the parties remained "legally married," Division One caused the exact unjust result that the CIR doctrine is intended to prevent. *See Connell,* 127 Wn.2d at 349; *Muridan v. Redl*, 3 Wn. App.2d 44, 56, ¶23, 413 P.3d 1072, *rev. denied*, 191 Wn.2d 1002 (2018).

In particular, William's argument that he "invested his money and titled property consistent with his correct understanding that the judgment of legal separation allowed him to maintain and protect his separate property"

(Resp. Br. 6) is no different than the complaint of every man who, in the decades during which our courts developed the CIR doctrine, unsuccessfully argued that had he wanted his romantic partner to have an interest in property acquired during their relationship, he "would have married her." And if William convinced Pamela to agree to a legal separation, as opposed to a divorce, because he thought it would insulate assets acquired during any subsequent cohabitation from her equitable claims—the gravamen of his argument that allowing this action to go forward would be "unfair"—that is all the more reason to apply the CIR doctrine here.

This is true regardless of William's claims that he supported his family, paid "expenses," made gifts, or purchased "various cars and boats" (that "he wanted her to own") in Pamela's name. (Resp. Br. 6) Although the amounts William claims to have spent during their 16-year post-separation relationship (CP 67-78) might be relevant

to *how much* relief Pamela may be entitled to, it could not justify dismissal of her claim altogether under CR 12(b)(6). Whether the CIR doctrine applies to a particular situation must be determined *before* a court decides whether or how to distribute property acquired during the relationship to ensure that one cohabitant is not unjustly enriched at the expense of the other. *Muridan*, 3 Wn. App.2d at 56, ¶23.

Division One's conclusion (contrary to that of the trial court) that it would not be "unjust" for Pamela to be bound by the property division in the judgment of legal separation (App. B 6 n.5) was not a valid basis for affirming dismissal of her petition before there was even a determination of whether the parties were indeed in a committed intimate relationship.

4. The Court of Appeals' decision conflicts with the decision in *Lindemann v. Lindemann*. RAP 13.4(b)(2).

That Pamela has received benefits "under the separation agreement—distribution of marital assets, a

parenting plan, child support, and spousal maintenance—despite the parties' continued marriage" (App. 6, n.5) is also not a reason to preclude Pamela from pursuing equitable relief to protect rights that arose *after* the judgment of legal separation. In holding otherwise, the Court of Appeals decision conflicts with its decision in *Lindemann v. Lindemann*, 92 Wn. App. 64, 960 P.2d 966 (1998), *rev. denied*, 137 Wn.2d 1016 (1999).

In *Lindemann,* three years after the parties divorced they reconciled and lived together, without remarrying, for another ten years. Because the dispute in *Lindemann* was over the nature of the parties' relationship after the dissolution decree was entered and the property acquired during their post-divorce relationship, the female cohabitant was not barred from seeking an equitable division of the increased value of her former husband's business interests during their committed intimate relationship. In bringing an action under the CIR doctrine,

the female cohabitant was not seeking to vacate the parties' dissolution decree. Instead, she was allowed to establish her equitable interests acquired during the parties' committed intimate relationship after that decree was entered.

Division One's decision here consigning Pamela to the property division and "benefits" in the judgment of legal separation, notwithstanding the nature and length of the parties' 16-year post-separation relationship and the assets acquired and enhanced during it, conflicts with *Lindemann*. The division of property in the Doddridges' judgment of legal separation was no less binding than the division of property in the Lindemanns' divorce. RCW 26.09.150(2)(a). But for the fact that the parties here were legally separated, rather than divorced, their situation is no different from that of the parties in *Lindemann*. Yet in *Lindemann*, in contrast to this case, the female cohabitant had the right to seek an equitable distribution of property,

and was not bound by the property division and "benefits" in the decree.

Like the female cohabitant in *Lindemann,* Pamela's situation is precisely that which the CIR doctrine was intended to protect. William is not entitled to be unjustly enriched at Pamela's expense solely because the decree of legal separation left their marital bonds "intact." In bringing her petition for equitable relief, Pamela is not claiming she was entitled to more under the judgment of legal separation. Instead, she seeks to establish and protect those equitable rights that arose after the judgment of legal separation was entered by virtue of the committed intimate relationship she and William formed after their legal separation.

F. Conclusion.

This Court should accept review and reinstate petitioner's claim for equitable relief under the CIR doctrine.

I certify that this petition is in 14-point Georgia font and contains 4,951 words, in compliance with the Rules of Appellate Procedure. RAP 18.17 (b).

Dated this 9th day of March, 2022.

BREWE LAYMAN, P.S.

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DECLARATION OF SERVICE

The undersigned declares under penalty of perjury, under the laws of the State of Washington, that the following is true and correct:

That on March 9, 2022, I arranged for service of the foregoing Petition for Review, to the court and to the parties to this action as follows:

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DATED at Seattle, Washington this 9th day of March, 2022.

/s/ Andrienne E. Pilapil
Andrienne E. Pilapil

FILED
12/6/2021
Court of Appeals
Division I
State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

In the Matter of the Marriage of PAMELA LYNN DODDRIDGE, Appellant, and WILLIAM SCOTT DODDRIDGE Respondent.	)	No. 82002-8-I DIVISION ONE UNPUBLISHED OPINION

BOWMAN, J. — In 2002, Pamela and William Doddridge legally separated after 13 years of marriage. The couple reunited in 2003 but separated again in 2020. Now Pamela[1] appeals the trial court's CR 12(b)(6) dismissal of her petition for equitable division of property acquired after 2003 under the committed intimate relationship (CIR) doctrine. Because Pamela and William were married when they acquired their property, we affirm the trial court's order dismissing Pamela's petition for failing to state a claim on which the court could grant relief.

FACTS

Pamela and William married in 1989. They legally separated in April 2002. An Orange County, California, court entered an agreed judgment and decree of legal separation under case number 02D000984. The separation agreement attached to the judgment included provisions for child custody, child support, spousal maintenance, and the division of assets. But Pamela and

[1] For clarity, we refer to Pamela Doddridge and William Doddridge by their first names. We intend no disrespect.

William never pursued an order dissolving their marriage. Instead, they reunited about a year after legally separating. Even so, they divided their assets consistent with the order of separation and William fulfilled his child support and spousal maintenance obligations. The couple lived together for another 17 years before separating again in 2020.

In January 2020, Pamela petitioned the Skagit County Superior Court for an equitable distribution of the property she and William acquired between 2003 and 2020 under the CIR doctrine. William moved to dismiss the petition. He argued that Pamela failed to state a claim on which relief could be granted under CR 12(b)(6) because the parties remained married between 2003 and 2020.

The trial court first denied William's motion to dismiss but then dismissed Pamela's petition under CR 12(b)(6) on reconsideration. It found the "uncontroverted fact of the parties' lawful marriage bars [Pamela] from pursuing this claim of a committed intimate partnership in Washington." The court denied Pamela's motion for reconsideration. Pamela appeals.

ANALYSIS

Pamela argues the trial court erred by dismissing her CIR petition solely because she and William remained married between 2003 and 2020. We review CR 12(b)(6) dismissals de novo. FutureSelect Portfolio Mgmt., Inc. v. Tremont Grp. Holdings, Inc., 180 Wn.2d 954, 962, 331 P.3d 29 (2014).

Under CR 12(b)(6), a respondent may move to dismiss an action if the complaint fails to state a claim on which relief can be granted. A court may dismiss the action only if it is satisfied " 'beyond a reasonable doubt' " that " 'the

plaintiff cannot prove any set of facts' " which would entitle the plaintiff to relief. FutureSelect, 180 Wn.2d at 962[2] (quoting Kinney v. Cook, 159 Wn.2d 837, 842, 154 P.3d 206 (2007)); Deegan v. Windermere Real Estate/Ctr.-Isle, Inc., 197 Wn. App. 875, 884, 391 P.3d 582 (2017). We view all facts alleged in the complaint as true and may consider hypothetical facts supporting the plaintiff's claim. FutureSelect, 180 Wn.2d at 962.

A CIR[3] is a "stable, marital-like relationship where both parties cohabit with knowledge that a lawful marriage between them does not exist." Connell v. Francisco, 127 Wn.2d 339, 346, 898 P.2d 831 (1995). The CIR doctrine stems from equitable principles and protects the interests of unmarried parties who acquire property during their relationship by preventing the unjust enrichment of one at the expense of the other when the relationship ends. In re Marriage of Pennington, 142 Wn.2d 592, 602, 14 P.3d 764 (2000).

Courts apply a three-prong analysis for disposing of property when a CIR ends. Pennington, 142 Wn.2d at 602.

> First, the trial court must determine whether a [CIR] exists. Second, if such a relationship exists, the trial court evaluates the interest each party has in the property acquired during the relationship. Third, the trial court then makes a just and equitable distribution of such property.

Pennington, 142 Wn.2d at 602.

[2] Internal quotation marks omitted.

[3] A CIR was formerly called a "meretricious relationship," but "[o]ur Supreme Court has noted 'meretricious' carries negative and derogatory connotations and has chosen to substitute 'committed intimate relationship' for meretricious relationship." In re Meretricious Relationship of Long & Fregeau, 158 Wn. App. 919, 922, 244 P.3d 26 (2010).

In determining whether a CIR exists, courts consider several nonexclusive factors, including (1) "continuous cohabitation," (2) "duration of the relationship," (3) "purpose of the relationship," (4) "pooling of resources and services for joint projects," and (5) "the intent of the parties." Connell, 127 Wn.2d at 346. "Courts should not apply these factors in a hypertechnical fashion, but must base the determination on the circumstances of each case." Muridan v. Redl, 3 Wn. App. 2d 44, 55, 413 P.3d 1072 (2018). And no one factor is more important than another factor. Pennington, 142 Wn.2d at 605. If a court determines that a CIR exists, it may distribute property acquired during the relationship that would amount to community property were the parties legally married. Muridan, 3 Wn. App. 2d at 56.

Pamela contends that "[t]he parties' 'lawful marriage' does not preclude [her] from seeking equitable relief under the [CIR] doctrine." But the CIR doctrine does not apply to married couples. Instead, its purpose is to protect the interests of unmarried parties who acquire property during a marital-like relationship. In re Kelly & Moesslang, 170 Wn. App. 722, 732, 287 P.3d 12 (2012) (courts use the CIR doctrine "to resolve the property distribution issues that arise when unmarried people separate after living in a marital-like relationship and acquiring what would have been community property had they been married"); see also In re Committed Intimate Relationship of Amburgey & Volk, 8 Wn. App. 2d 779, 787, 440 P.3d 1069 (2019). Because Pamela and William were still married between 2003 and 2020, the CIR doctrine does not apply to the division of their assets.

Citing Vasquez v. Hawthorne, 145 Wn.2d 103, 33 P.3d 735 (2001), and In re Meretricious Relationship of Long & Fregeau, 158 Wn. App. 919, 244 P.3d 26 (2010), Pamela argues marital status is just "one factor the court considers in determining claims under the [CIR] doctrine." But neither Vasquez nor Long address the issue here—whether the CIR doctrine applies when the parties to a CIR petition are married.

In Vasquez, an estate case, the trial court granted summary judgment for the plaintiff, finding that he and the male decedent were in a CIR. Vasquez, 145 Wn.2d at 105. Division Two of our court reversed, holding that a CIR could not exist between same-sex cohabitants who at that time could not legally marry. Vasquez, 145 Wn.2d at 105.[4] Our Supreme Court disagreed, concluding that "[w]hen equitable claims are brought, the focus remains on the equities involved between the parties. Equitable claims are not dependent on the 'legality' of the relationship between the parties, nor are they limited by the gender or sexual orientation of the parties." Vasquez, 145 Wn.2d at 107. Vasquez does not support Pamela's argument that the CIR doctrine applies even when the parties seeking distribution of assets are married to each other. Instead, it establishes that the inability to marry lawfully does not foreclose application of the doctrine.

Nor does Long support Pamela's argument. In Long, the trial court ruled that two men were in a CIR even though for eight of the nine years the two cohabited, one of the men was married to another person. Long, 158 Wn. App at 923-24. Division Three of this court affirmed the trial court. Long, 158 Wn. App.

[4] Citing Vasquez v. Hawthorne, 99 Wn. App. 363, 994 P.2d 240 (2000), vacated, Vasquez, 145 Wn.2d at 103.

at 928. It recognized that "remaining married is a fact to consider" in determining if a CIR exists. Long, 158 Wn. App. at 926. But Division Three's reference to "remaining married" concerned a marriage outside the CIR, not a marriage between the parties seeking distribution of assets. Pamela cites no authority that the CIR doctrine applies to a married couple.

Even so, Pamela argues that the trial court's ruling cannot stand because it prevents her from "resolv[ing] her interest in property acquired by William after their legal separation." According to Pamela, the trial court's ruling leaves her "without a remedy"—"exactly the unjust result equitable remedies are intended to prevent."

Pamela is not without remedy. She can seek relief from the decree of legal separation under CR 60(b)(11) if she can show any reason "justifying relief from the operation of the judgment." Or she can petition the proper jurisdiction to dissolve her marriage and move to modify maintenance or reopen the distribution of property. See RCW 26.09.020, .070, .170; CAL. FAM. CODE 2556. Generally, a court will not grant equitable relief when a statute provides specific relief. In re Marriage of Barber, 106 Wn. App. 390, 393, 23 P.3d 1106 (2001).[5]

Because the CIR doctrine does not apply to married couples, the trial court did not err by granting William's CR 12(b)(6) motion to dismiss Pamela's

[5] As much as Pamela argues her available remedies are unjust, she disregards the benefits she received under the separation agreement—distribution of marital assets, a parenting plan, child support, and spousal maintenance—despite the parties' continued marriage. And she ignores that she agreed under the separation contract that "[a]ny and all assets or obligations . . . obtained or incurred" by either party after December 28, 2001 would be "separate property." While she now complains about that provision, she told the California trial court that she was entering the separation agreement "fully and completely informed as to . . . [her] rights and liabilities" and that she was doing so "voluntarily" and "free from fraud, undue influence, coercion or duress of any kind."

CIR petition for failure to state a claim on which the court could grant relief. We affirm.

Brunner, J.

WE CONCUR:

Dwyer, J.

Andrus, A.C.J.

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

In the Matter of the Marriage of PAMELA LYNN DODDRIDGE, Appellant, and WILLIAM SCOTT DODDRIDGE, Respondent.	)	No. 82002-8-I DIVISION ONE UNPUBLISHED OPINION

BOWMAN, J. — In 2002, Pamela and William Doddridge legally separated after 13 years of marriage. The couple reunited in 2003 but separated again in 2020. Now Pamela[1] appeals the trial court's CR 12(b)(6) dismissal of her petition for equitable division of property acquired after 2003 under the committed intimate relationship (CIR) doctrine. Because Pamela and William were married when they acquired their property, we affirm the trial court's order dismissing Pamela's petition for failing to state a claim on which the court could grant relief.

FACTS

Pamela and William married in 1989. They legally separated in April 2002. An Orange County, California, court entered an agreed judgment and decree of legal separation under case number 02D000984. The separation agreement attached to the judgment included provisions for child custody, child

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support, spousal maintenance, and the division of assets. It also provided that "[a]ny and all assets or obligations . . . obtained or incurred" by either party after December 28, 2001 would be "separate property." But Pamela and William never pursued an order dissolving their marriage. Instead, they reunited about a year after legally separating. Even so, they divided their assets consistent with the order of separation, and William fulfilled his child support and spousal maintenance obligations. The couple lived together for another 17 years before separating again in 2020.

In January 2020, Pamela petitioned the Skagit County Superior Court for an equitable distribution of the property she and William acquired between 2003 and 2020 under the CIR doctrine. William moved to dismiss the petition. He argued that Pamela failed to state a claim on which relief could be granted under CR 12(b)(6) because the parties remained married between 2003 and 2020.

The trial court first denied William's motion to dismiss but then dismissed Pamela's petition under CR 12(b)(6) on reconsideration. It found the "uncontroverted fact of the parties' lawful marriage bars [Pamela] from pursuing this claim of a committed intimate partnership in Washington." The court denied Pamela's motion for reconsideration. Pamela appeals.

ANALYSIS

Pamela argues the trial court erred by dismissing her CIR petition solely because she and William remained married between 2003 and 2020. We review CR 12(b)(6) dismissals de novo. FutureSelect Portfolio Mgmt., Inc. v. Tremont Grp. Holdings, Inc., 180 Wn.2d 954, 962, 331 P.3d 29 (2014).

Under CR 12(b)(6), a respondent may move to dismiss an action if the complaint fails to state a claim on which relief can be granted. A court may dismiss the action only if it is satisfied " 'beyond a reasonable doubt' " that " 'the plaintiff cannot prove any set of facts' " which would entitle the plaintiff to relief. FutureSelect, 180 Wn.2d at 962[2] (quoting Kinney v. Cook, 159 Wn.2d 837, 842, 154 P.3d 206 (2007)); Deegan v. Windermere Real Estate/Ctr.-Isle, Inc., 197 Wn. App. 875, 884, 391 P.3d 582 (2017). We view all facts alleged in the complaint as true and may consider hypothetical facts supporting the plaintiff's claim. FutureSelect, 180 Wn.2d at 962.

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Pamela contends that "[t]he parties' 'lawful marriage' does not preclude [her] from seeking equitable relief under the [CIR] doctrine." But the CIR doctrine does not apply to married couples. Instead, its purpose is to protect the interests of unmarried parties who acquire property during a marital-like relationship. In re Kelly & Moesslang, 170 Wn. App. 722, 732, 287 P.3d 12 (2012) (courts use the CIR doctrine "to resolve the property distribution issues that arise when unmarried people separate after living in a marital-like relationship and acquiring what would have been community property had they been married"); see also In re Committed Intimate Relationship of Amburgey & Volk, 8 Wn. App. 2d 779, 787, 440 P.3d 1069 (2019). Because Pamela and William were still married

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Even so, Pamela argues that the trial court's ruling cannot stand because it prevents her from "resolv[ing] her interest in property acquired by William after their legal separation." According to Pamela, the trial court's ruling leaves her "without a remedy"—"exactly the unjust result equitable remedies are intended to prevent." Pamela is not without remedy. She can seek relief from the decree of legal separation and the separate property provision of which she now complains under CR 60(b)(11) if she can show any reason "justifying relief from the operation of the judgment." If relief is justified, she can then petition the proper jurisdiction to dissolve her marriage and make a just and equitable disposition of marital assets and liabilities.[5]

Because the CIR doctrine does not apply to married couples, the trial court did not err by granting William's CR 12(b)(6) motion to dismiss Pamela's

[5] As much as Pamela argues her available remedy is unjust, she disregards that she agreed under the separation contract that assets and obligations obtained or incurred after separation would be separate. And she told the California trial court that she was entering the separation agreement "fully and completely informed as to . . . [her] rights and liabilities," and that she was doing so "voluntarily" and "free from fraud, undue influence, coercion or duress of any kind." She also ignores the benefits she received under the separation agreement—distribution of marital assets, a parenting plan, child support, and spousal maintenance—despite the parties' continued marriage.

CIR petition for failure to state a claim on which the court could grant relief. We affirm.

Brunner, J.

WE CONCUR:

Smith, J.

Andrus, A.C.J.

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

In the Matter of the Marriage of PAMELA LYNN DODDRIDGE,	)	No. 82002-8-I
Appellant,	)	ORDER DENYING MOTION FOR RECONSIDERATION OR PUBLICATION AND WITHDRAWING AND SUBSTITUTING OPINION
and	)	
WILLIAM SCOTT DODDRIDGE	)	
Respondent.	)	

Appellant Pamela Doddridge filed a motion to reconsider or publish the opinion filed on December 6, 2021, in the above case. Respondent William Doddridge did not file a response to the motion. The panel has determined that the motion for reconsideration or publication should be denied. The panel has also determined that the opinion filed on December 6, 2021 should be withdrawn to remove the maintenance modification language on page 6 and a substitute opinion filed. Now, therefore, it is hereby

ORDERED that appellant's motion for reconsideration or publication is denied. It is hereby further

ORDERED that the opinion filed on December 6, 2021 shall be withdrawn and a substitute opinion shall be filed.

Brunner, J.

Smith, J.

Andrus, A.C.J.

IN THE

SUPREME COURT

OF THE

STATE OF WASHINGTON

HARVEY L. CREASMAN,
Appellant,
vs.
JOHN M. BOYLE, Administrator of the Estate of Caroline Creasman, also known as Caroline Paul, Deceased,
Respondent and Cross-Appellant,
and EMMA C. MIDDLETON and CLARENCE PAUL,
Additional Respondents and Cross-Appellants.

No. 30446

Appellant's Petition for Rehearing

The decision of the court, sitting *en banc*, in the above entitled action, was filed August 20th, 1948. The majority opinion, written by Judge Steinert, was concurred in by Judges Millard, Simpson, Schwellenbach and Hill. The dissenting opinion, written by

Judge Mallery, was concurred in by Judges Beals and Robinson, and Judge Beals wrote a separate dissenting opinion. Judge Jeffers did not participate, although he heard the arguments at the time the case was argued before one department of the court.

This petition for rehearing is presented in an earnest and sincere effort on the part of the attorney for the appellant in order to attempt to point out to the court, and especially those judges concurring in the majority opinion, that the decision contains an erroneous statement as to the facts in the case and that the decision announces a principle of law which is a complete departure from the law of trusts, and which is erroneous.

It is desired to first point out to the court the error which the court has made as to the facts of the case. After pointing out this error of fact, the illogical result of the decision will then be commented upon.

The majority opinion contained the following language, which is found on page 326 of Vol. 131 Wash. Dec.:

> "It is easy to understand why, in the ordinary case, where one person furnishes the consideration and the title to the property is taken in another merely for convenience or for some collateral, legitimate purpose, a resulting trust should be held to arise in favor of the person advancing the consideration. In such situation, there is no reason why the person holding the bare legal title should be held to be entitled to the beneficial interest as well. On the contrary, there is, in such case, every reason for invoking and applying the equitable doctrine that the consideration draws to itself the equitable right of property, or, otherwise expressed, that the person from whom the consideration actually moves is the true and beneficial owner of the property."

The following statement is found on page 327 of the majority decision:

> "Under the facts of this case, there is, in our opinion, no room or reason for an equitable presumption of an intention on the part of the appellant to make himself the beneficial owner of the property and to constitute Caroline A. Paul a trustee merely holding the legal title. On the contrary, we think that, under these circumstances, *and in the absence of any evidence to the contrary,* it should be presumed *as a matter of law* that the parties intended to dispose of

the property exactly as they did dispose of it." (*Italics ours.*)

It will be noted from the above quotations from the majority decision that the court found as a fact that there was no reason or intention on the part of the appellant to make himself the beneficial owner of the property, title to which was in the name of Caroline A. Paul, and further found that in the absence of any evidence to the contrary the court would indulge in a presumption that the parties intended to dispose of the property exactly as they did dispose of it.

It is respectfully submitted that the testimony submitted at the trial of the action did contain evidence of a contrary intention on the part of the parties, and did contain evidence that the parties intended that the appellant should be the beneficial owner of the property, the title to which was in the name of Caroline A. Paul. This evidence was legally admissible and not objected to and was completely uncontradicted and therefore must be accepted as the fact of the case.

Madeline Cook, a personal friend of the decedent, testified as follows, and as found on pages 66 and 67 of the Statement of Facts:

> Q. Did she ever tell you anything about why the deed on the place was taken in her name?
>
> A. Yes, she did, she said Mr. Creasman was a colored man and she was a white woman and she said they went first to a real estate office and they said to them "Why don't you get out of here? You are not wanted."
>
> THE COURT: Who told you that?
>
> THE WITNESS: Mrs. Creasman.
>
> THE COURT: Who said that?
>
> THE WITNESS: Mr. Haas, when she went in to look at places. They said to them "You are not wanted," and they went to Mr. Tasker and he was good enough to show them the place they are now in and he put his old car in on a down payment and had to get $10.00 to finish it up.
>
> THE COURT: Did he ask why it was put in her name?
>
> THE WITNESS: Being colored—there was so much discrimination—that's why they were doing it. Besides, she said he will not do business no matter how much she wanted him to. He

will not do business so she takes care of the business end of it.

Q. Did she say whether Mr. Creasman authorized her to do business for him?

A. He trusted her—especially for signing checks. I couldn't understand but she said she had been doing it all the time.

We again quote from the testimony of Madeline Cook, as found on pages 73 and 74 of the Statement of Facts:

THE COURT: Mrs. Cook, you said that she told you that the home was put in her name because she was a white woman?

THE WITNESS: That is what she told me.

THE COURT: And that the real estate office would rather do business with white people; that they were against a colored man?

THE WITNESS: Yes.

THE COURT: Mr. Creasman didn't know much about business practice?

THE WITNESS: He wouldn't handle the business, he absolutely refused to.

THE COURT: Did she tell you that?

THE WITNESS: Yes.

THE COURT: Did she tell you why the bank account was put in her name?

THE WITNESS: She only had this cash checking account at the bank.

THE COURT: That was in her name; did she tell you why that was in her name?

THE WITNESS: She did the business she said.

THE COURT: She did the business; did she tell you why she did the business?

THE WITNESS: He wouldn't do the business; he wouldn't do anything.

It will readily be seen, from an examination of the above testimony, which was uncontradicted, that the purpose in taking title to the real property in the name of Caroline A. Paul was to facilitate its purchase because of the fact that the appellant, being a colored man, was apprehensive that the purchase could not have been effected in his name. From an examination of this testimony it will also be seen that it is a fact that the business transactions, including the custody of the war bonds, was left to the management and control of Caroline A. Paul solely because

of the reason that the appellant was not accustomed to making business transactions. This arrangement was obviously one merely for convenience of the parties because of the reluctance of the appellant to handle business transactions.

It should now be noted that if the evidence of the case, as pointed out in the above testimony, which was uncontradicted, should be applied to the statement of law as quoted above from page 326 of the decision, that the result of the decision is then erroneous. The fact of the case is clearly to the effect that title to the real property was taken in the name of Caroline A. Paul merely for a convenience and a legitimate purpose and also the war bonds and bank account were left in her possession for business convenience. The majority decision, as above quoted, states that:

> "Where one person furnishes the consideration and the title to the property is taken in another merely for convenience or for some collateral, legitimate purpose, a resulting trust should be held to arise in favor of the person furnishing the consideration."

It is respectfully submitted that the court overlooked the fact of the case wherein the evidence established beyond question that the arrangement as to title to real property, War Bonds and bank accounts was merely one of convenience and to accomplish a definite legitimate purpose. Logically applied, the facts which the court has overlooked, to the statement of the law as above quoted on page 326 of the decision, the judges who concurred in the majority opinion should all reverse themselves and now hold that as a fact, under the statement of the law announced by them, that a resulting trust was created and that the appellant is entitled to all of the real property and the postal savings account. The majority decision on page 327 states that in the absence of any evidence to the contrary it should be presumed as a matter of law that the parties intended the property to remain in the one in whose name title stood. It is respectfully submitted that there was evidence to the contrary of such presumption. There was evidence of the purpose that parties had in mind in taking title to the real property in the name of Caro-

line A. Paul and in allowing her to manage the war bonds and bank accounts under her name. The court has overlooked this evidence in making its decision. Applying this evidence therefore, the presumption which the court has announced it would indulge in, must therefore be considered to have been rebutted. The presumption having been rebutted, clearly the law of trusts should apply and appellant should be decreed to be the owner of the real property and postal savings, as well as the furniture.

It is considered that the statement of law announced on page 327 of the decision wherein the court indulges in the presumption that the parties intended to dispose of the property exactly as title stood, is a completely new doctrine which has never been announced by the law of trusts by any court, and is irreconcilable with the established and announced decision of the courts of this state, as well as other states concerning the law of trusts. Serious consideration should be given by them with regard to the announcement of this rule of the law. It is respectfully submitted that this announcement of

such a presumption should be deleted from the decision in any event, and regardless of the ultimate decision in the case. In view of the importance of this decision as to the law of trusts, as well as its importance to the parties concerned, and further in view of the illogical position in which the court has placed itself because of overlooking a vitally important fact in the case, it is respectfully submitted that the appellant should be granted a rehearing and that upon said rehearing the court should modify its decision so as to reflect the true facts of the case as applied thereto and award to appellant the real property and postal savings, as well as the furniture.

Respectfully submitted,

RALPH PURVIS,
Attorney for Appellant.

SMITH GOODFRIEND, PS

March 09, 2022 - 2:38 PM

Transmittal Information

Filed with Court:	Court of Appeals Division I
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Appellate Court Case Title:	Pamela Lynn Doddridge, Appellant v. William Scott Doddridge, Respondent
Superior Court Case Number:	20-3-00048-1

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