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No. 73537-3-1

COURT OF APPEALS, DIVISION ONE

STATE OF WASHINGTON

ESTATE OF SADIE M RIVAS

EDWARD NICHOLAS RIVAS

APPELLEANT

VS

LEONARD E RIVAS AND JOSEPH RANDY RIVAS

RESPONDENTS

APPELLANT'S REPLY BRIEF

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I. INTRODUCTION

Contrary to respondent's counsel's many erroneous claims starting with myself filing multiple extensions, purposely dragging out this case, frivolously and wanting disrespect of the court process and convoluting the facts of the record. Let me begin by stating I personally have filed only one extension to the court which was due to the fact my attorney withdrew and I was not aware of the brief deadline.

Unlike counsel's accusations of me harassing the co-pr's and acting in a dubious manner to maliciously maneuver the legal process it should be reminded that of the nine years this case has been in the legal system that on June 15, 2012 the trial court ordered an accounting of the estate then mediation took place on August 20, 2012 and there was no response from the co-pr's until November 2014. Instead of doing what the court ordered in June of 2012 it took that long for them to file a petition to approve additional accounting.

The co-pr's have consistently acted in bad faith of the execution of the will including but not limited to the spending of estate funds to have me evicted from the house I was residing in

that is one of the properties listed in the will of which I made first request of purchase when the will was initially read to all the heirs, this is not new information as it is part of the record. I make this point however to show that it is just one of many instances, along with the opening brief, that the co-pr's have treated me with animus and distain throughout this entire process. It was their duty to act in good faith and represent the will in a fair manner to all the heirs and not to isolate one of the heirs for their own personal discord as set forth in RCW 11.48.010.

Pr's counsel tends to purposely convolute the facts about the claim of this being a frivolous case, such as stating in the response and I quote "having both an ex parte commissioner and superior court judge find that his allegations were not cognizable and frivolous". As I put in my opening brief CP102 and PI21, I quoted commissioner Velategui's comments regarding an unemployment claim in this case were respondent's counsel has erroneously claimed both commissioner Velategui and judge Benton agreed this entire case is frivolous and my quote is verbatim from the transcript of the court.

"that is not a cognizable claim under any stretch of anybody's imagination, counsel. And – and – and I would be

concerned that a claim that I was so busy attending to litigation that I became unemployed would – would be viewed as a frivolous claim, which would be subject not only to him but a lawyer purporting to argue that" later in the transcript he also states: "I can see counsel doing her petition for a frivolous claim" along with his final notes of: "I'm sending this case to trial, I'm not touching it. I cannot straighten out this mess"

Presumably common sense would dictate that if commissioner Velategui found this case to be frivolous he would have dismissed it at that time. However, instead he recognized all the disconcerting issues in this matter and ruled it to be held over for trial.

As a layman trying to argue pro se I understand that the words and facts are the tools of this trade. Approved, reserved, and denied each has their own specific meaning. When I motioned for the court to remove the co-pr's commissioner Watness did not deny my motion, instead he reserved it. I understood his ruling that day as what the impact of his judgement would be. If they were replaced with a new pr's they would have no liability for their actions. However, instead the court revoked and denied their non-intervention powers and took over for all remaining actions to be approved by the court. The gravity of the situation was not lost on commissioner Watness to the extent that he wanted to oversee the

final outcome of this case but he was not able due to retirement. In fact that motion is still reserved by the court for the purpose to have them answer for their actions.

In final,it should be noted that I have a vested interest in the outcome of this case. It is not lost upon me the difficulty of understanding the ramparts of this process, and in no way do I mean any disrespect towards the court for my lack of knowledge but keep in mind that I am not only pro se but I was also her son too. Although, I am indigent and represent myself pro se I feel warranted as a citizen to execute my right to have them held accountable for their wrongful actions that they have taken against me. If not doing so, I would have done myself a personal disservice. Had judge Benton taken the time to read the court proceedings and not signed off on a laundry list of counsel's requests she would have never awarded $5,361.14 to the co-pr's or signed off on the court order.

II. ARGUMENT

The co-pr's breached their fiduciary duty and judge Benton wrongfully ruled the findings of fact and conclusions of law. RCW

11.48.010, Estate of Jones 152 Wn 2d 1, Trask v Butler 123 Wn 2d 835, and Estate of Wilson v Livingston 8 Wn App 519.

The statue requires the personal representatives to settle the estate rapidly and quickly without undue delay. The Jones case emphasizes that the presence of conflict between brothers can disqualify one such brother from serving as the pr. The Estate of Wilson case reiterates the statutory command to settle the estate rapidly and quickly without doing harm to the assets and further states that the pr's must use the utmost good faith, judgement, and diligence in performing those duties.

There is ample evidence in the record of conflict amongst brothers. The pr's statements about not caring if I live under a bridge and that I would never get the house along with the very difficult time that I had in getting the pr's to even consider selling the house to me when I expressed interest early in the process but had to litigate to force them to sell the property to me. All of this supports my claims that were dismissed by judge Benton. These acts are also evidence of bad faith and unfair treatment which is also part of my claim that was dismissed by judge Benton. There is no question that the law, as stated above, considers "utmost" good

faith, diligence, and fair treatment and lack of personal conflict harmful to the estate as essential duties and qualities of the pr's.

III. CONCLUSION

For the reason stated herein the appellant argues the court to remind back to the lower court for trial de novo, dismiss all of judge Benton's decisions based on interlocutory appeal and for a change of venue.

Respectfully submitted this 17th day of March 2016.

Edward Nicholas Rivas

Pro Se, Appellant

No. 73537-3-1

CERTIFICATE OF SERVICE

I certify that I mailed a copy of the foregoing document, Appellant's Reply, postage prepaid on March 17, 2016 to the following:

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Dated this 16th day of March, 2016 at Seattle, Washington.

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