

WASHINGTON STATE COURT OF APPEALS DIVISION THREE

CASE SUMMARIES FOR ORAL ARGUMENT

The following summaries are drawn from briefs and lower court judgments. The summaries have not been reviewed for accuracy by the judges and are intended to provide a general idea of facts and issues presented in the cases. The summaries should not be considered official court documents. Facts and issues presented in these summaries should be checked for accuracy against records and briefs, available from the Court, which provide more specific information.

Date of Hearing: Wednesday, May 1, 2019
Location: Spokane, 500 North Cedar

9:00 a.m.

1) **No.: 35995-6-III**

Case Name: SVN Cornerstone, LLC v. N 807, Incorporated, et al

County: Spokane

Case Summary: Henry Seipp worked for SVN Cornerstone LLC (Cornerstone) until April 2015, when he left to work as a broker for Berkshire Hathaway HomeServices First Look Real Estate (Berkshire). Before Seipp left Cornerstone, it had planned on selling the Timber Court Apartments for the owner, EZ Properties (EZ). Upon Seipp's association with Berkshire, it entered into an exclusive listing agreement with EZ and sold the apartments. The final sale agreement named Seipp as listing broker and Berkshire as the listing firm. Berkshire rejected Cornerstone's demand for a commission from the sale. Cornerstone then filed suit against Berkshire and Seipp, alleging Seipp breached an independent contractor agreement with Cornerstone, and claiming unjust enrichment, tortious interference with business relations, violation of the Uniform Trade Secrets Act, conversion, and breach of the duty of loyalty. In response, the defendants moved to compel arbitration and to dismiss Cornerstone's lawsuit. The trial court denied Cornerstone's partial motion for summary judgment against Seipp on the breach of contract claim and refused to compel arbitration. In a 2017 appeal, this court affirmed the superior court's decision not to dismiss the complaint, but reversed the court's denial of the motion to compel arbitration. The parties then reached a settlement agreement to dismiss Cornerstone's lawsuit. Subsequently, proceeding on behalf of Berkshire, Seipp

filed an arbitration complaint against Cornerstone with the Commercial Brokers Association, alleging malicious prosecution, tortious interference with business relations, perverting the court, and failure to arbitrate. In response, Cornerstone filed a complaint in superior court alleging breach of the settlement agreement. Cornerstone requested injunctive relief, and moved for summary judgment on grounds that Seipp's claims were barred by res judicata and were compulsory counterclaims that should have been raised in the first lawsuit. The court entered orders partially granting Cornerstone's summary judgment motion, denying Cornerstone's request for injunctive relief, and granting Seipp's and Berkshire's motion to dismiss Cornerstone's lawsuit. Cornerstone appeals the trial court's orders.

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2) **No.: 34798-2-III**
Case Name: Personal Restraint Petition of Vy Thang
County: Spokane

Case Summary: In 2003, Vy Thang was convicted of aggravated first degree murder—a crime he committed at age 17. He was sentenced to life without possibility of parole. Subsequently, in *Miller v. Alabama*, 567 U.S. 460, 132 S. Ct. 2455, 183 L. Ed. 2d 407 (2012), the United States Supreme Court held it is unconstitutional to impose mandatory life without parole sentences for juvenile homicide offenders. In response to *Miller*, the Washington Legislature enacted RCW 10.95.030(3), known as the *Miller*-fix statute. It requires that all juveniles serving a life sentence without parole be resentenced, and for the court to consider mitigating factors inherent to youth at the new sentencing hearing. The statute permits courts to sentence offenders who were 16 and 17 years old when they committed aggravated first degree murder to a minimum sentence of 25 years or more with a required maximum of life, while offenders who were 15 years old or younger are subject to a lesser minimum sentence of exactly 25 years and a maximum sentence of life. Thang was resentenced under the *Miller*-fix statute. The court imposed a 35-year minimum sentence and life maximum. Thang filed a timely personal restraint petition challenging his new sentence and the constitutionality of the *Miller*-fix statute's age-based classifications.

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3) No.: 35825-9-III (Anchor Case)

Consolidated: 36012-1-III

Case Name: Edward Coyne, et al v. Grigg Family, LLC and the City of West Richland

County: Benton

Case Summary: Grigg Family, LLC, and the City of West Richland purchased lots in the Canal Heights neighborhood of West Richland. Grigg purchased two lots with the intention of building a hardware store. The City purchased one lot to use as a storm drain, a public city park, and a community garden. Shortly after the purchases, the lots were rezoned from low density residential to commercial-general. Several other Canal Heights neighborhood lot owners (collectively “Coyne”) filed a declaratory action against Grigg and the City, claiming the purchased lots were subject to recorded restrictive covenants that designate the lots residential and no commercial use is permissible. The court granted Coyne’s motion for summary judgment and denied Grigg’s and the City’s cross motion for summary judgment. Grigg and the City appeal.

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11:00 a.m.

4) No.: 35845-3-III

Case Name: In re the Matter of the Estate of: Maria Primiani

County: Spokane

Case Summary: Maria Primiani executed her last will and testament dividing her real property equally between her two children, Frank Primiani and Anna Iliakis. The will contained a no-contest clause that anyone who challenged the will would receive only one dollar. Maria died in 2014 and her will was admitted to probate. Frank filed a petition under the Trust and Estate Dispute Resolution Act (TEDRA), chapter 11.96A RCW, in the probate cause number. Frank’s petition reserved the right to argue undue influence by Anna in the execution of Maria’s will. Frank informed the court he was contesting the will through the TEDRA petition. Frank’s attorney unlawfully obtained medical records of Maria. The Estate made motions for a permanent protective order of the medical records, to dismiss Frank’s petition for failure to serve the personal representative, and to enforce will’s no-contest clause. The court granted the Estate’s motions. Frank appealed. This court affirmed, but remanded for the trial court to determine whether Frank contested the will in good faith and on probable cause. On remand, the trial court allowed Frank to make an offer of proof that he contested the will in good faith. The court entered findings that Frank contested the will in bad faith and

without probable cause. The court denied Frank's motion for reconsideration. He appeals.

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