

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: Tuesday, June 11, 2019
Location: Spokane, 500 North Cedar

10:30 a.m.

- 1) **No.: 35401-6-III**
Case Name: Bryan W. McLelland, DDS, et ux, et al v. Mark C. Paxton, DDS, et ux
County: Spokane
Case Summary: Dr. Bryan McLelland and Dr. Mark Paxton each owned an undivided one-half interest in an oral surgery practice with three office locations when Dr. McLelland sought to terminate their partnership agreement in August 2014. In January 2015, Dr. McLelland filed suit against Dr. Paxton alleging breach of contract and other various causes of action. Dr. Paxton asserted several counterclaims. Meanwhile, the oral surgery practice was contractually dissolved on February 28, 2015, and was judicially dissolved on March 20, 2015. While the business was winding up and the parties negotiated division of the assets, they continued to practice at, and utilize, its three office locations and equipment, employees, patient files, and entity name, website and phone number. The court resolved the bulk of the parties' claims on summary judgment prior to trial, mainly in favor of Dr. McLelland. The court denied Dr. Paxton's motion for partial summary judgment on his claims the practice was not a "going concern" after contractual dissolution, and that goodwill could not exist as a matter of law because the partnership was dissolved. At trial, the court found based on competing expert testimony that the entity's goodwill was valued at \$1,822,388. Since Dr. McLelland received only

one of the three practice locations, the court awarded him a \$414,036 equalization judgment to ensure he received a 50 percent share of the goodwill. The court also awarded Dr. McLelland prejudgment interest on the equalization payment, as well as attorney fees as prevailing party. Dr. Paxton passed away during pendency of the litigation. His estate appeals.

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2) **No.: 36219-1-III**

Case Name: Perrenoud Roofing, Inc. v. Dept. of Labor & Industries

County: Spokane

Case Summary: Perrenoud Roofing appealed a citation issued by the Department of Labor and Industries to the Board of Industrial Insurance Appeals. The Board affirmed the citation. Perrenoud Roofing filed a notice of appeal to the superior court and served notice on the Department. Perrenoud Roofing did not serve the Board until roughly two months later. Shortly after being served with the notice of appeal, the Board brought a motion to dismiss Perrenoud Roofing's appeal for failure to comply with statutory service requirements. The superior court agreed and dismissed the appeal on the basis it lacked jurisdiction. Perrenoud Roofing appeals.

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