

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
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BY ERIN L. LENNON  
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Case No. 102582-3

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**IN THE SUPREME COURT  
OF THE STATE OF WASHINGTON**

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**In the Matter of the Estate of: ALBERT SOOKE,  
deceased.**

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**REPLY TO AMENDED ANSWER OF RESPONDENT**

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**I. REPLY ARGUMENT TO RESPONDENT'S ISSUES  
FOR REVIEW**

**A.** The mental capacity of Albert Sooke is not at issue.

The trial court did not err in its legal capacity determination. Div I Court of Appeals also properly found that RCW 11.125.070 requires the court to use BC law to determine the “meaning and effect” of the power of attorney at issue, requiring it to apply BC law’s “mental infirmity” standard. This should not be disturbed.

**B. The deed at issue should not be declared void ab initio.**

The BC Land Title Act does not apply to foreign real property transfers. The real property at issue in this case is considered a foreign property because it is located in Washington state and was owned by Albert Sooke, who was a Washington resident at the time of his death.

The chapter of the BC Land Title Act cited by respondent, Part 6—Powers of Attorney, interprets the validity

of a power of attorney for the specific purpose of conveying land within its own jurisdiction: specifically, the “registration of” an “instrument ... executed by an attorney under a power of attorney.” *BC Land Title Act* [RSBC 1996] Chapter 250,

Section 51. The Act defines “instrument” as

- (a) a Crown grant or other transfer of Crown land, and
- (b) a document or plan relating to the transfer, charging or otherwise dealing with or affecting land, or evidencing title to it, and includes, without limitation (i) a grant of probate or administration or other trust instrument, and (ii) an Act[.]

*BC Land Title Act* [RSBC 1996] Chapter 250, Section 1.

Registration, in the context of the BC Land Title Act, refers to “register[ing] under this Act,” via a registrar appointed under the Act. *Id.*

The BC Land Title Act grants no jurisdiction and holds no validity outside British Columbia’s seven land title districts.

*BC Land Title Act* [RSBC 1996] Chapter 250, Section 4. Its chapter regarding powers of attorney covers their use and validity in title instruments under BC jurisdiction. The BC Land

Title Act is rightly silent on the validity of instruments relating to title in Washington state, which is not within its jurisdiction.

Petitioner argues that Polly Sooke had authority under a valid power of attorney and that Albert Sooke ratified the transfer. The transfer of real property in Washington state is determined by RCW 11.125.270 which states in pertinent part:

**“RCW 11.125.270 Agent authority—Real property. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to real property authorizes the agent to:....  
(2) Sell; exchange; convey with or without reservations, covenants, representations, or warranties; quitclaim;.....”**

The deed itself is valid as executed in Washington state, and whether it is voidable depends on whether it was ratified under the terms of the power of attorney, the definition of ratification, and the totality of the circumstances. The definition of ratification was correctly decided by the trial court as the common

ordinary meaning based on a totality of the circumstances and the power of attorney itself. Petitioner argues the Appeals Court erred in its definition of ratification decision because it was based on incorrect law of commercial contracts. The common ordinary meaning based on the totality of the circumstances should apply in this case as was properly determined by the trial court. In addition, the power of attorney in question expressly states in its last paragraph that the principle ratifies the acts of his attorney in fact. It did not expressly state real property, but it does ratify the acts of the attorney. CP 293. The totality of the circumstances including the respondent's relationship and events surrounding Albert's injuries, and statements by family and friends were not properly considered.

## **II. CONCLUSION**

For the reasons presented its Petition, and the forgoing reasons, Petitioner respectfully requests this Court retain the

case for review and resolve conflicts of law, address significant constitutional question of law, and clarify an issue of substantial public importance because it involves the rights of citizens of this state to authorize the transfer of their own real property to a person of their choosing under authority of a valid power of attorney.

This document contains 721 words, excluding the parts of the document exempted from the word count by RAP 18.17.

Dated this 18<sup>th</sup> day of January, 2024.

Respectfully submitted,

A handwritten signature in blue ink that reads "Lisa M. Saar". The signature is written in a cursive style.

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LISA M. SAAR, WSBA #46494  
Attorney for Petitioner



## **DECLARATION OF SERVICE**

On said day below, I electronically served a true and accurate copy of the **Reply to Amended Answer of Respondent** of Court of Appeals, Division I Cause No. 84261-7-1 to the following:

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### **Original E-filed with:**

I declare under penalty of perjury under the laws of the State of Washington and the United States that the foregoing is true and correct.

DATED: January 18, 2024, at Seattle, Washington.



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LISA M. SAAR, WSBA #46494  
Attorney for Petitioner

**LAW OFFICE OF LISA SAAR PLLC**

**January 18, 2024 - 4:57 PM**

**Transmittal Information**

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**Appellate Court Case Title:** In the Matter of the Estate of: Albert Sooke  
**Superior Court Case Number:** 18-4-00085-1

**The following documents have been uploaded:**

- 1025823\_Answer\_Reply\_20240118165051SC442637\_8405.pdf  
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