

FILED
SUPREME COURT
STATE OF WASHINGTON
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SUPREME COURT
OF THE STATE OF WASHINGTON

In re the Marriage of:

ROBERT W. COONEY,

Respondent,

and

HILLARY A. BROOKS,

Petitioner.

No. 102677-3

PETITIONER'S
SECOND
STATEMENT
OF ADDITIONAL
AUTHORITIES
UNDER RAP 10.8

Hillary Brooks cites *926 Ardmere Ave LLC v. County of Los Angeles*, 396 P.3d 1036 (Cal. 2017), as an additional authority bearing on her petition's first issue (whether a beneficiary interest in a trust is property or an economic circumstance under the dissolution statutes) and second and third issues (the scope of spouses' duties of disclosure to each other and to the dissolution court). PFR 2, 7-27. This California decision reveals the dangers of construing narrowly a beneficiary interest in a trust and allowing spouses in dissolution proceedings to unilaterally represent what character an asset has. RAP 13.4(b)(4).

Petitioner's Second Statement of
Additional Authorities - 1

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926 Ardmore shows that the original trust settlors here had caused the trust to become irrevocable. Under *926 Ardmore*, California's so-called documentary transfer tax applies whenever ownership in real property changes. 396 P.3d at 1047. And a change in ownership of trust-held real property occurs when a revocable trust becomes irrevocable. See Cal. Rev. & Tax Code § 61(h). But when there is merely a substitution of a new trustee, as Cooney seems to assert is what happened here, no change in ownership occurs. See Cal. Code Regs., tit. 18, § 462.240(b). It follows that a mere substitution of a new trustee doesn't trigger California's documentary transfer tax, because this tax liability arises only when ownership changes. But here, Cooney's Affidavit of Change of Trustee—which he hid from Brooks and from the dissolution court—stated that Cooney filed it “in connection with a transfer subject to the imposition of Documentary Transfer Tax.” CP 456. Thus, *926 Ardmore* tells us that the trust must have become irrevocable and vested, as the notice of resignation had suggested (CP 717), or else this tax

liability would not have arisen.

In short, the taxation rules discussed in *926 Ardmore* expose Cooney's gamesmanship and deception. This Court should accept review to decide whether a spouse with a beneficiary interest in a trust can conceal trust documents that would otherwise reveal the trust as having become irrevocable.

This document contains 330 words, excluding the parts of the document exempted from the word count by RAP 18.17.

DATED this 29th day of February 2024.

Respectfully submitted,

/s/ Gary W. Manca

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DECLARATION OF SERVICE

On said day below I electronically served via email a true and accurate copy of the *Second Statement of Additional Authorities* in Supreme Court Cause No. 102677-3 to the following:

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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: February 29, 2024, at Seattle, Washington.

/s/ Brad Roberts
Brad Roberts, Legal Assistant
Talmadge/Fitzpatrick

TALMADGE/FITZPATRICK

February 29, 2024 - 1:28 PM

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First Statement of Additional Authorities Second Statement of Additional Authorities

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