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Court of Appeal No. 78121-9-I

SUPREME COURT OF THE STATE OF WASHINGTON

In the Matter of the Estate of:

SASSAN SANAI, MD

Deceased.

PETITION FOR REVIEW

Cyrus Sanai, Petitioner
433 North Camden Drive #600
Beverly Hills, CA 90210
Telephone (310) 717-9840
Email: cyrus@sanaislaw.com

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I. IDENTITY OF PETITIONER

Cyrus Sanai asks this court to accept review of the Court of Appeals decision terminating review designated in Part B of this petition.

II. COURT OF APPEALS DECISION

The decision of the Court of Appeal for which review is sought is the decision of April 29, 2019 in Docket No. 78121-9-I, *In the Matter of the Estate of Sassan Sanai, M.D.* A copy of the decision is in the Appendix at pages A-1 through A-9. A copy of the order denying petitioner's motion for reconsideration on July 13, 2019 is in the Appendix at page A-10. Relevant statutes and constitutional provisions are attached as Appendix B.

III. ISSUES

A. ISSUE #1

Under Washington State's will contest statutes, RCW 11.24.010, RCW 11.28.237, and RCW 11.36.010(6) (the "Will Contest Statutes"), must service of an appointed agent be hand-to-hand delivery as held by the Court of Appeal, or is personal service subject to evaluation under the substantial compliance rule announced by this Court in *Martin v. Triol*, 121 Wn.2d 135, 143, 847 P. 2d 471 (1993), *Wichert v. Cardwell,* 117 Wn.2d 148, 812 P.2d 858 (1991) and Court of Appeals decisions such as *Thayer v. Edmonds,* 8 Wn. App. 36, 39, 503 P.2d 1110 (1972)?

B. ISSUE #2

Was the Court of Appeal correct in interpreting the Will Contest Statues to lack any requirement for a personal representative to (a) provide notice of the identity of any agent for service of process, (b) provide notice of the address for service of the agent for service of process, (c) provide notice of the address for agent of service of process of the personal representative, or (d) if a non-resident, to maintain any agent for service of process?

C. ISSUE #3

As interpreted by the Court of Appeal, do the Will Contest Statutes violate the Fourteenth Amendment right to due process as articulated in *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 70 S.Ct. 652, 94 L.Ed. 865 (1950), *Mennonite Board of Missions v. Adams*, 462 U.S. 791, 103 S.Ct. 2706, 77 L.Ed.2d 180 (1983), and *Tulsa Professional Collection Services, Inc. v. Pope*, 485 U.S. 478, 108 S.Ct. 1340, 99 L.Ed.2d 565 (1988) because a personal representative:

1. does not have to maintain or disclose a valid address for personal service of process to the Court or interested parties;
2. who is a non-resident does not have to notify interested parties of the identity of any agent for service of process under RCW 11.36.010(6);
3. who is a non-resident does not have to disclose a valid address of any agent for service of process under RCW 11.36.010(6) to the Court or to interested parties;
4. who is a non-resident does not have to maintain an agent for service of process within the State of Washington or provide notice of the discharge of such agent, resignation of such agent, or a change of address of such agent;
5. does not have to provide notice of the relevant deadlines?

IV. STATEMENT OF PROCEDURAL HISTORY

This is a will contest proceeding. Astrid Sanai, a daughter of decedent Sassan Sanai, filed a purported will that named her as the Personal Representative. CP 121-39. Because Astrid is a non-resident, in order to be a personal representative, she had to comply with RCW 11.36.010(6) which states in full as follows:

> 6) A nonresident may be appointed to act as personal representative if the nonresident appoints an agent who is a resident of the county where such estate is being probated or who is an attorney of record of the estate, upon whom service of all papers may be made; such appointment to be made in writing and filed by the clerk with other papers of such estate; and, unless bond has been waived as provided by RCW

> 11.28.185, such nonresident personal representative must file a bond to be approved by the court.

RCW 11.36.010(6).

An authorization for Sarah McCarthy, in her capacity as attorney for the estate, to act as agent for service of process was filed with the Superior Court but never served on the interested parties. CP 123-5; CP 126; CP 52-56.

The Personal Representative, Astrid Sanai, served a notice to Petitioner, a son of the decedent, that was file stamped via her attorneys, the Anderson Hunter Law Firm. A picture of the notice is attached as Exhibit 1 to the Declaration of Cyrus Sanai filed on January 3, 2018. CP 56. This notice identified the "Anderson Hunter Law Firm" as the "Attorneys for Personal Representative." Based on this notice, which provided the Anderson Hunter law firm as the only address for service of documents, the Personal Representative was served a copy of the summons and petition by two means and two capacities. First, Astrid and her attorneys were served notice by mail in her capacity as an heir as required under RCW 11.24.020 in her capacity as " all persons interested in the matter, as defined in RCW 11.96A.030(5)." RCW 11.24.020 states that "notice shall be given as provided in RCW 11.96A.100." Such notice was given and is undisputed. She was served by mail of "all papers" on August 30, 2017. Service of notice by mail was admitted by McCarthy; the envelope in question shows a postmark the day after deposit in the mail. *See* McCarthy Decl. ¶4; CP 83-100.

On November 21, 2017 at 1:10 p.m. a copy of the petition and summons on the agent of the Personal Representative was delivered to 2707 Colby Avenue #1001, Everett, WA 98201. The person delivering the document asked for Sarah McCarthy, and the person accepting the delivery stated that she would take the document for McCarthy. CP 50-51 ¶¶1-2.

Based on the notice furnished by the Personal Representative, the law firm of Anderson Hunter was served with a timely filed will contest petition by personal service on the receptionist, who accepted the package.

According to the Personal Representative, the package was then left in McCarthy's in-box, and McCarthy physically received the petition package on the 90th day after filing of the petition. CP 83-100.

The Personal Representative filed a motion to dismiss, alleging that no service under RCW 4.28.080 was validly made within the deadline. CP 101-104. In the opposition Petitioner argued as follows:

> In the only notice provided to Petitioner, the appointed attorney for the Personal Representative was explicitly identified as "ANDERSON HUNTER LAW FIRM….Attorneys for Personal Representative." No notice of any kind of any other agent for service was provided. Accordingly, the notice provide by Ms. McCarthy identified the agent for service of process of the personal representative as the Anderson Hunter Law Firm, not her specifically. See Exh. 1 to declaration of Cyrus Sanai.

Opposition at CP 60.

In addition to arguing that the agent actually notified to Petitioner was validly served, he also argued that Sarah McCarthy was personally served because she admitted actual physical receipt of the document via Anderson Hunter staff, citing *Scanlan v. Townsend,* 181 Wn.2d 838, 336 P.3d 1155 (2014).

The trial court granted the motion to dismiss on January 17, 2018. CP 28-32. Its holding was that "Petitioner has not effected valid service pursuant to RCW 4.28.08." *Id.* The trial court's order characterized Petitioner's theory that the failure to notify Petitioner of the actual name of the sole individual agent estopped any complaint as to failure to serve Sarah McCarthy the individual as "recently formed." It also addressed the argument on the merits, finding that it was the responsibility of Petitioner to investigate the court file to determine the identity of the agent for service of process.

The Superior Court did not address the holding of *Scanlan, supra*. Instead, it held, without citation, that "box service" (whatever that is) does not constitute personal service pursuant to RCW 4.28.080. CP 28-32.

Petitioner filed a motion for a new trial or reconsideration. In addition to explaining to the trial court its error, it pointed out that McCarthy would be handed the

petition by a process server, and that such service would be within 90 days of notice that McCarthy the individual was designated as the agent for service of process. CP 16-27. The trial court denied the motion on February 2, 2018. CP 12. Additional attempt to serve McCarthy personally were not successful until February 15, 2018. CP 11.

A timely notice of appeal was filed. After the personal representative's attorneys filed an opposition brief, they resigned due to Astrid's failure to pay and provided an address for mail service to her.

The Court of Appeals, addressing several issues of first impression, interpreted the Will Contest Statutes as follows:

First, the Court of Appeal rejected the argument that in providing notice, a personal representative must provide an address for service of process for herself, or that notice of the identity and address of the agent for service of process must be provided as a matter of due process:

> Cyrus contends that the personal representative cannot challenge the sufficiency of service because she failed to serve him with notice of McCarthy's appointment as her agent. And because of the alleged inadequate notice of the agent's identity, he also claims that the time for filing the will contest petition was tolled until December 7, 2017, the date Astrid filed the motion to dismiss. We reject both arguments. **The statute requires the personal representative to file the document appointing an agent. Astrid filed the document appointing McCarthy, and the document included McCarthy's business address to facilitate service.**

Appendix at A-7 (bold emphasis added).

Second, the Court of Appeal held that "RCW 11.24.010 requires personal service, whether or not the personal representative appoints a resident agent under RCW 11.36.010(6)." Appendix at A-6. It further held, without citation to any authority, that personal service does not mean actual receipt, but instead requires "hand-to-hand" service. Appendix at A-8.

Third, the Court rejected Petitioner's assertion of *Thayer v. Edmonds,* 8 Wn. App. 36, 39, 503 P.2d 1110 (1972), that as to personal service, substantial compliance is sufficient. Appendix at A-4.

Fourth, the Court rejected Petitioner's argument that notice was not sufficient under the principles articulated by this Court in *Hesthagen v. Harby,* 78 Wn.2d 934, 941, 481 P.2d 438 (1971):

> Cyrus contends that the personal representative cannot challenge the sufficiency of service because she failed to serve him with notice of McCarthy's appointment as her agent. And because of the alleged inadequate notice of the agent's identity, he also claims that the time for filing the will contest petition was tolled until December 7, 2017, the date Astrid filed the motion to dismiss. We reject both arguments. The statute requires the personal representative to file the document appointing an agent. Astrid filed the document appointing McCarthy, and the document included McCarthy's business address to facilitate service.
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> Hesthagen v. Harby and RCW 11.28.237 do not advance Cyrus's claim of inadequate notice. These authorities establish that a personal representative must provide notice of probate to the deceased's heirs. **Notice by mail satisfies RCW 11.28.237(1), and the record shows that the personal representative complied with the statute.** The notice of probate was not somehow misleading because McCarthy signed it on behalf of the law firm.

Appendix at A-7 (bold emphasis added).fhe

Petitioner filed a timely motion for reconsideration, pointing out that the interpretation of "strict compliance" conflicted with published appellate law:

> As this Court's detailed analysis shows, there is a gap in the statutory language concerning how agents for personal representatives must be served. This Court concludes that there is "no logical reason why the jurisdictional requirements for will contest proceedings would differ depending on the identity and residency status of the personal representative," and so concluded the personal service requirement of RCW 11.36.010 must be met. It further concludes that actual delivery to the person to be served does not qualify, but that the service must be "hand-to-hand", though there is nothing in Washington's case law that so states.
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> The Court also rejected the Washington State authority that "personal service statutes require substantial compliance." *Thayer v. Edmonds,* 8 Wn. App. 36, 39, 503 P.2d 1110 (1972). The Washington State Supreme Court uniformly states in its rulings that "[o]ne interpretive distinction this court makes in construing service of process statutes and rules is between strict compliance and substantial compliance…personal service statutes require only substantial compliance." *Martin v. Triol,* 121 Wn.2d 135, 143, 847 P. 2d 471 (1993).

Motion for Reconsideration at 1-2.

Petitioner also elaborated his argument that the Court of Appeal's interpretation of the statute violated due process, particularly in light of a new fact:

> The Court's expressed view is that "written notice of his or her appointment and the pendency of said probate proceedings" does not include notice of the identity of the agent or the address for service of the personal representative. This violates fundamental due process, namely the right to notice, as articulated in….*Hesthagen, supra,* at 940-1(bold emphasis added).
>
> The notice which this Court found acceptable was NOT "notice reasonably calculated, under all the circumstances, to….afford them an opportunity to present their objections", because the notice was not "of such nature as reasonably to convey the required information" of the address for service of process on Astrid or the exact name of the agent and address for service of process on the agent. Accordingly, under the standard for notice identified and quoted in *Hesthagen,* Astrid failed to provide adequate notice, so the running of the four-month period was tolled until she did, which was December 7, 2017. The agent was then served within four months of December 7, 2017.
>
> According to the Court, a personal representative could refuse to disclose his or her service address in his filings and provide a post-office box for the Court to contact him or her. **Likewise, according to this Court, a non-resident personal representative could keep his or her address a secret, appoint a resident agent for service of process with a filing that is not served on anyone, and then after the testamentary authority is granted by a superior court, remove the agent for service of process. The latter is EXACTLY what Astrid did. *See* Exhibit hereto. McCarthy, the agent for service of process, substituted out as attorney, but no new agent for service of process who was either a "resident of the county" or "attorney for the estate" was substituted.** Under this Court's view of the law, "written notice of his or her appointment and the pendency of said probate proceedings" excludes both notice and maintenance of a valid address for service of process. This standard of notice is unconstitutional under *Hesthagen, supra*, and the United States Supreme Court decision upon which *Hesthagen* is founded, *Mullane v. Central Hanover Bank & Trust Co.,* 339 U.S. 306, 94 L.Ed. 865, 70 S.Ct. 652 (1950).
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> …..
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> Because the **provision** of notice is a jurisdictional prerequisite, it makes no difference whether any recipient otherwise had or obtained actual notice of the existence of the proceedings. In addition, the address for personal service of Astrid, if Appellant had elected to serve her in New York, was completely absent from the record. The agent for service of the personal representative could be, and was, changed without any replacement being named, again without notice. Exh. A hereto.

Motion for Reconsideration at 18-20 (bold emphasis added).

The Court of Appeal denied the motion for reconsideration on June 13, 2019.

V. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED

A. SUMMARY

The Court of Appeals ruled that contrary to the published case law concerning personal service in other contexts, *see, e.g. Thayer, supra,* which provides that only substantial compliance is required, personal service under the Will Contest Statutes must be hand-to-hand service. This is a straightforward conflict in the law, heightened by the fact that this Court has also held that personal services is always evaluated on a substantial compliance basis. *See, e.g., Martin v. Triol,* 121 Wn.2d 135, 143, 847 P. 2d 471 (1993). Review of this issue therefore merited under RAP 13.4(b)(1) and RAP 13.4(b)(2); the decision in question is in conflict with the published case law of the this Court and the Courts of Appeal.

The Court of Appeal interpreted the Will Contest Statutes to have the following characteristics:

First, a personal representative, whether resident or non-resident. does not have to maintain or disclose a valid address for personal service of process to the Court or interested parties;

Second, a personal representative who is a non-resident of Washington does not have to (a) notify interested parties of the identity of any agent for service of process under RCW 11.36.010(6); (b) disclose a valid address of any agent for service of process under RCW 11.36.010(6) to the Court or to interested parties; or (c) maintain an agent for service of process within the State of Washington or provide notice of the resignation or discharge of such agent or a change of address of such agent, and does not have to substitute a new agent for service of service.

If the Court of Appeal's interpretation of the Will Constest Statutes are correct, then the Will Contest Statutes violate the Fourteenth Amendment guarantee against

deprivation of property without due process, namely the right to notice and the right to be heard, and the First Amendment right to petition as incorporated. . . The Will Contest Statutes also violate the similar Washington State constitutional provisions: *see* WA Const. art. I, §3; WA Const. art. I, §4. They are unconstitutional as applied to Petitioner, but also facially, because failing to provide an address at which personal service can be assured to be made upon personal representative and any appointed agent for service of process violates the due process rights of notice and an opportunity to be heard, and the right to petition. The reason is simple. A personal representative in Washington can hire an attorney then simply hide for the four month after which a will challenge is filed, making a will challenge completely impossible. Likewise, a non-resident personal representative can appoint an agent for service of process, then when the personal representative is approved, the agent can resign the next day, making personal service within Washington State impossible. As drafted, and as interpreted by the Court of Appeal, a personal representative can comply with the law while making a will challenge impossible, violating the Fourteenth Amendment rights to notice and be heard, and the First Amendment right to actually get a valid petition heard by the Superior Court.

Because the Will Context Statutes (a) require personal service, but (b) do not require notice of an address at which personal service can be made or other necessary information, they violate the United States and Washington State Constitutions, both facially and as applied to Petitioner. Review is therefore merited under RAP 13.4(b)(3) as a significant questions of law under the Constitutions of the State of Washington or of the United States are involved.

B. THE WILL STATUTES AS INTERPRETED BY THE COURT OF APPEAL

The personal representative is by her admission in her petition a non-resident. Accordingly, in order to be a personal representative, she had to comply with RCW 11.36.010(6) which states in full as follows:

> 6) A nonresident may be appointed to act as personal representative if the nonresident appoints an agent who is a resident of the county where such estate is being probated or who is an attorney of record of the estate, upon whom service of all papers may be made; such appointment to be made in writing and filed by the clerk with other papers of such estate; and, unless bond has been waived as provided by RCW 11.28.185, such nonresident personal representative must file a bond to be approved by the court.

RCW 11.36.010(6).

The plain language of the statute provide that the agent must be approved for "service of all papers". There is no reference to authorization or limitation to "personal service" in RCW 11.36.010(6), let alone any explanation of what constitutes personal service upon an agent. Even if personal service were implied, "personal service statutes require substantial compliance." *Thayer, supra* at 39.

The Personal Representative was required to service notice of her appointment as personal representative within 20 days of appointment:

> Within twenty days after appointment, the personal representative of the estate of a decedent shall cause written notice of his or her appointment and the pendency of said probate proceedings, to be served personally or by mail to each heir, legatee and devisee of the estate and each beneficiary or transferee of a nonprobate asset of the decedent whose names and addresses are known to him or her, and proof of such mailing or service shall be made by affidavit and filed in the cause. If a trust is a legatee or devisee of the estate or a beneficiary or transferee of a nonprobate asset of the decedent, then notice to the trustee is sufficient.

RCW 11.28.237(1).

The Court of Appeal summarized the operation of the filing requirements of the Will Contest Statutes as follows:

> One who wishes to contest a will must file a petition within 4 months of the date the court admits the will to probate.[10] To toll the 4-month period, the person contesting the will must timely file the petition and must ""personally serve"" the personal representative within 90 days of the filing.[11] "If, following filing, service is not so made, the action is deemed to not have been commenced for purposes of tolling the statute of limitations."[12] In such a case, the probate of the will is "binding and final."[13] Our court has held that RCW 11.24.010 is unambiguous and requires personal service of the summons and petition to start a will contest action.[14]
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> [10] RCW 11.24.010.
> [11] RCW 11.24.010.
> [12] RCW 11.24.010.
> [13] RCW 11.24.010.
> [14] Jepsen, 184 Wn.2d at 380 & n.4 (will contestant did not personally serve personal representative or substantially comply with the statute by emailing the petition to the personal representative's probate attorney).

Appendix A at 4.

The plain language of these statutes do not require a personal representative, whether resident or non-resident, to maintain or disclose a valid address for personal service of process to the Court or interested parties. All that is required is "written notice of his or her appointment and the pendency of said probate proceedings." If the personal representative utilizes an attorney (as she probably must) only the address of the attorney will be set forth in the pleadings.

The plain language of these statutes do not specify what information is required in the "written notice of his or her appointment and the pendency of said probate proceedings." There is thus no explicit requirement for a non-resident to (a) notify interested parties of the identity of any agent for service of process under RCW 11.36.010(6); (b) disclose a valid address of any agent for service of process under RCW 11.36.010(6) to the Court or to interested parties; or (c) provide notice of the resignation or discharge of such agent or a change of address of such agent. Indeed, once the Court

has approved her appointment, nothing in the Will Contest Statutes requires the personal representative to maintain an agent for service of process or to substitute a new agent if the original agent resigns, dies, or is fired.

C. PUBLISHED DECISIONAL LAW OF THIS COURT AND THE COURTS OF APPEALS CONFLICT WITH THE UNDERLYING CASE AS TO WHETHER THE STANDARD FOR EVALUATING SERVICE IS STRICT OR SUBSTANTIAL.

Published case law of the Courts of Appeals and this Court all hold that compliance with personal service statutes must be substantial, and not strict. "One interpretive distinction this court makes in construing service of process statutes and rules is between strict compliance and substantial compliance…personal service statutes require only substantial compliance." *Martin v. Triol, supra, at* 143.

> The distinction, then, is that constructive and substituted service statutes require strict compliance, while personal service statutes require substantial compliance. *See Golden Gate Hop Ranch, Inc. v. Velsicol Chem. Corp.,* 66 Wn.2d 469, 403 P.2d 351 (1965).

Thayer, supra , at 39-40, *see also Golden Gate Hop Ranch, supra* ("substantial and not strict compliance is sufficient.").

As for service on an agent, the same rule of substantial compliance applies:

> Washington courts have permitted substantial compliance where a defendant has clearly authorized service upon another, or where service was indirect. *See, e.g., Lee v. Barnes,* 58 Wash.2d 265, 267, 362 P.2d 237 (1961) (recognizing service as sufficient where a person was appointed by the defendant to accept service, even though statute did not appear to allow service on that individual); *Thayer v. Edmonds,* 8 Wash.App. 36, 41-42, 503 P.2d 1110 (1972), rev. denied, 82 Wash.2d 1001 (1973) (service sufficient where the defendant indicated that the notice could be left at the door).

O'Neil v. Farmers Co., 124 Wash.App. 516, 526, 125 P.3d 134, 138 (2005).

In this case the Court of Appeal refused to recognize these published cases. It ruled, instead, that "[a] will contest petitioner must satisfy RCW 11.24.010's requirements to start a will contest action, and Washington courts strictly **enforce** the requirements…..Cyrus also claims that he substantially complied….**The doctrine of**

substantial compliance is fundamentally inconsistent with this strict enforcement and cannot apply." Appendix A-4, A-6 (bold emphasis added), *citing In re Estate of Jepsen,*184 Wn.2d 376, 379-81, 358 P.3d 403 (2015); *In re Estate of Toth,*138 Wn.2d 650, 656, 981 P.2d 439 (1999).

Either *Jepsen* and *Toth* are in conflict with *Martin, Golden Gate Hop Ranch, O'Neil* and *Thayer*, or the Court of Appeal misinterpreted *Jepsen* and *Toth.*

There are three different concepts at play here: (1) strict enforcement of the statute; (2) strict construction of the statute; and (3) strict or substantial compliance with the statute. Each of these is a different analytical framework, with a different meaning. The personal representative argued strict construction; the Court of Appeal avoided use of that phrase, so it will be put aside initially. What must be addressed whether "strict enforcement" is somehow inconsistent with "substantial compliance."

Strict enforcement in this case addresses whether deadlines and other requirements in the will contest statutes are jurisdictional or subject to equitable considerations; while strict or substantial compliance is a method for analyzing how a specific act did or did not meet abstract requirements. Washington courts strictly enforce the deadline for beginning a will contest: "**This court has strictly enforced the statutory period for filing will contest petitions.** *See State ex rel. Wood v. Superior Court for Chelan County,* 76 Wn. 27, 135 P. 494 (1913) (dismissing will contest filed one day after the statutory period for filing a will contest)." *Toth, supra,* at 656 (bold emphasis added).

This rule of strict enforcement in *Toth* is not a rule of strict construction, and it is not a rule of strict or substantial compliance. It is a jurisdictional rule of strict enforcement of a deadline. However, this rule was not accurately stated in *Toth.* There is an exception to the deadline of four months from admission to probate for initiating a will action. This Court has also strictly enforced the notice requirement under RCW 11.28.237. Thus failure by the personal representative to provide adequate notice is a

jurisdictional defect. "We have stated above that, because of the failure of notice, there was a jurisdictional defect…." *Hesthagen, supra,* at 941. Under *Hesthagen,* there is a prior, strictly enforced deadline for serving adequate notice by the personal representative.

Nor does *Toth* have any relevance to statutory interpretation of compliance with a service statute, which is separate and apart from the four-month deadline. *Toth* addressed whether the "four-month time period in which to contest a will under RCW 11.24.010 [is] not extended by three days under CR 6(e)." *Toth* was a question of whether the Civil Rules applied to extend the time on probate actions, and this Court held that it did not because the time period for extension under CR 6(e) must be one triggered by service, and the time period under RCW 11.24.010 is triggered by admission to probate.

Toth thus addressed strict enforcement of deadlines, and was decided by reference to the plain language of CR 6(e). The case it cites to, *State ex. rel. Wood v. Superior Court,* addressed the question of whether the deadline was jurisdictional. Neither of these cases addressed strict construction of the statute, or substantial compliance with service statutes.

In *Jepsen,* the validity of service was never in question—there was no valid service, period. What was under dispute is whether this defense had been waived by the personal representative. In a 5-4 decision this Court again held that the requirement of constitutionally valid notice was jurisdictional:

> The primary dispute in this case concerns whether the personal service requirement in the statute governing will contests, RCW 11.24.010, speaks to the superior court's subject matter jurisdiction over will contest proceedings or to personal jurisdiction over the personal representative of the decedent's estate. The distinction is pivotal because a defense that subject matter jurisdiction is improper can be raised at any time, but a defense that personal jurisdiction is improper may be waived. The superior court and the Court of Appeals held that the statute concerns personal jurisdiction and the estate waived the defense. I would affirm.

Jepsen, supra (Gonzalez, diss.)

Once again, the issue of "strict enforcement" is whether the deadline was jurisdictional or not. Strict enforcement, in the context of Washington's law, has been the enforcement of the deadline as a matter of subject matter jurisdiction; even then, it has given way to the counterbalancing strict enforcement of the requirement for giving constitutionally adequate notice by the personal representative.

The question of whether service was performed or not has nothing to do with the jurisdictional nature of the deadline being enforced. The standard for determining whether an individual or entity has been personally served should be the same no matter what the form of lawsuit. The standard for determining whether substantial compliance occurred as to service addresses whether a specific act met the requirements of a service statute, not whether the deadline is jurisdictional or not. One can have strict enforcement of a deadline and substantial compliance with service statute. There is no inconsistency.

Thus this Court found that a statute limiting mental health detentions to 72 hours until a hearing is required must be strictly enforced, but there was substantial compliance because the State put the matter up for calendar within that period, even though the matters was not heard within that period. *In Re Swanson,* 15 Wn.2d 21, 25-26, 793 P.2d 962 (1990). ("As argued by the parties, this case turns solely on whether the statute requires strict construction or substantial compliance. Our analysis, however, does not end there.") There is nothing in *Jepsen* that refers to strict or not strict compliance as to method of service, because THE WRONG PERSON WAS SERVED IN *JEPSEN*. The meaning of strict construction in the context of service statutes was directly addressed by this Court as follows:

> In this case, given the briefs, it is adequate to note that we assume that the common law required personal service of process and that only personal service would suffice. **We need not strictly construe the statute to conclude that the Legislature, if that were the common law, intended to change it by permitting substitute service. Having identified that change, we do not apply a strict construction in interpreting the statute. Rather, we so construe the statute as to give meaning to its**

> **spirit and purpose, guided by the principles of due process stated above.**

Wichert v. Cardwell, 117 Wn.2d 148, 812 P.2d 858 (1991)(footnotes omitted and bold emphasis added) (holding that statutory purposes was met when non-resident daughter received document.)

This Court wrote in *Wichert* that once the Legislature changed the rules of service from the common law, the rule must be **"guided by the principles of due process stated above"**:

> The purpose of statutes which prescribe the methods of service of process is to provide due process. "The fundamental requisite of due process of law is the opportunity to be heard." *Grannis v. Ordean*, 234 U.S. 385, 394, 58 L.Ed. 1363, 34 S.Ct. 779 (1914). That opportunity to be heard in turn depends upon notice that a suit is being commenced. However, "[p]ersonal service has not in all circumstances been regarded as indispensable to the process due to residents...." *Mullane v. Central Hanover Bank & Trust Co.,* 339 U.S. 306, 314, 94 L.Ed. 865, 70 S.Ct. 652 (1950). Compliance with due process is described thusly: "The means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it." *Mullane,* at 315.

Wichert, supra, at 152.

Under *Wichert,* compliance with personal service statutes are evaluated on substantial compliance to effectuate the goals of due process. This is completely inconsistent with the Court of Appeal's view that strict compliance with personal service is required in areas which state that strict enforcement of the limitations period is required. Its view that strict enforcement of a statute means that the service is not evaluated under the rule of substantial compliance creates two different rules for service of process. Morever, as recognized by this Court in *Wichert,* only a substantial compliance standard for service meets the purpose of due process.

The decision of the Court of Appeals in this case is "in conflict with a published decision of the Court of Appeals" and is "in conflict with a decision of the Supreme Court." Review under RAP 13.4(b)(2) and RAP 13.4(b)(1) is merited.

E. THE WILL CONTEST STATUTES AS WRITTEN AND AS INTERPRETED BY THE COURT OF APPEALS ARE FACIALLY AND AS APPLIED UNCONSTITUTIONAL.

This Court has repeatedly had to address the Will Contest Statutes. *See Jepsen, supra, Toth, supra, Hesthagen, supra.* In *Hesthagen* this Court had to face the problem that the deadlines for filing a will challenge are based on admission of the will to probate, and not service of notice. Accordingly the deadlines would under the plain language of the statute run if no valid notice were made. This Court therefore held that the notice period was tolled as a matter of due process because service of constitutionally sufficient notice is a jurisdictional requirement.

> In *Mullane v. Central Hanover Bank & Trust Co.,* 339 U.S. 306, 94 L.Ed. 865, 70 S.Ct. 652 (1950), the United States Supreme Court had before it the provisions of a New York statute concerning the administration of trust estates, which statute permitted notice of the settlement of accounts to be given to the beneficiaries of the trust by publication. In essence, the court held that such a notice was insufficient under the due process clause of the United States Constitution where the names and addresses of the beneficiaries were known to the trustee or could be ascertained by the exercise of reasonable diligence on the part of the trustee. The court went on to hold that under such circumstances written and mailed notice was required. In so holding, the court stated, at page 314:
>
> > An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is **notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections** (citing cases). The notice must be of such nature as reasonably to convey the required information ... and it must afford a reasonable time for those interested to make their appearance....
> >
> > …..
> >
> > We have stated above that, because of the failure of notice, there was a jurisdictional defect inherent in the decree of distribution. Such a decree is void and does not vest title in anyone. *John Hancock Mut. Life Ins. Co. v. Gooley,* 196 Wash. 357, 83 P.2d 221, 118 A.L.R. 1484 (1938); *King County v. Rea,* 21 Wn.2d 593, 152 P.2d 310 (1944); see Trautman, Vacation and Correction of Judgments in Washington, 35 Wash. L. Rev. 505, at 530

(1960); *In re Estate of Manley*, 226 N.Y.S.2d 21 (Sur. Ct. 1962); *In re Stewart,* 413 Pa. 190, 196 A.2d 330 (1964); *Vogel v. Katz,* 64 Ill. App.2d 126, 212 N.E.2d 295 (App. Ct. 1965).

Such probate and estate administrations are subject to attack which is without time limitation. In the case of *France v. Freeze,* 4 Wn.2d 120, 102 P.2d 687 (1940), this court said:

> It matters not what the general powers and jurisdiction of a court may be. If it act without authority in a particular case, its orders and judgments are mere nullities, protecting no one acting under them and constituting no hindrance to the prosecution of any right. A judgment which is absolutely void is entitled to no authority or respect and may be impeached in collateral proceedings by any one with whose rights or interests it conflicts. If the judgment is rendered by a court without jurisdiction, either of the persons or of the subject matter, such judgment may be subjected to collateral attack. The orders and decrees of a probate court would be the same.

See also *State ex rel. Patchett v. Superior Court,* 60 Wn.2d 784, 375 P.2d 747 (1962).

Hesthagen, supra, at 940-1, 944-5(bold emphasis added).

This Court's conclusion that the principles of *Mullane* apply to probate proceedings was validated by *Tulsa Professional Collection Services, Inc. v. Pope*, 485 U.S. 478, 108 S.Ct. 1340, 99 L.Ed.2d 565 (1988). In the latter case the United States Supreme Court explained that:

> *Mullane v. Central Hanover Bank & Trust Co., supra,* at 314, established that state action affecting property must generally be accompanied by notification of that action: "An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." In the years since Mullane the Court has adhered to these principles, balancing the "interest of the State" and "the individual interest sought to be protected by the Fourteenth Amendment." Ibid. The focus is on the reasonableness of the balance, and, as Mullane itself made clear, whether a particular method of notice is reasonable depends on the particular circumstances.
>
> ….

> [Here] there is significant state action. The probate court is intimately involved throughout, and without that involvement the time bar is never activated.…..
> *See also Memphis Light, Gas & Water Div. v. Craft,* 436 U. S. 1 (1978) (termination of utility service); *Schroeder v. City of New York,* 371 U. S. 208 (1962) (condemnation proceeding); ***City of New York v. New York, N. H. & H. R. Co., supra*** **(Bankruptcy Code's requirement of "reasonable notice" requires actual notice of deadline for filing claims)**.

Tulsa Professional Collection Services, supra, at 484, 487, 488-9 (bold emphasis added).

The United States Supreme Court's citation of *City of New York v. New York, N. H. & H. R. Co.,* 344 U. S. 293, 73 S. Ct. 299, 97 L. Ed. 2d 333 (1953) is particular critical because that decision explains that mere notice of the proceeding is not enough—the notice must set forth, among other things, relevant deadlines, and that actual notice of the existence of the proceedings is no substitute:

> Nor can the bar order against New York be sustained because of the city's knowledge that reorganization of the railroad was taking place in the court. The argument is that such knowledge puts a duty on creditors to inquire for themselves about possible court orders limiting the time for filing claims. But even creditors who have knowledge of a reorganization have a right to assume that the statutory "reasonable notice" will be given them before their claims are forever barred. When the judge ordered notice by mail to be given the appearing creditors, New York City acted reasonably in waiting to receive the same treatment.
>
> The statutory command for notice embodies a basic principle of justice—that a reasonable opportunity to be heard must precede judicial denial of a party's claimed rights. New York City has not been accorded that kind of notice.

City of New York v. New York, N. H. & H. R. Co., supra, at 297.

City of New York makes clear that merely providing notice of the pendency of litigation is not enough, a principle recognized by this Court:

> An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is **notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections** (citing cases). The notice must be of such nature as reasonably to convey the required information ... and it must afford a reasonable time for those interested to make their appearance....

Hesthagen, supra, at 940-1, quoting *Mullane, supra* at 314 (bold emphasis added).

In order to meet the constitutional requirements of notice, the "required information" to ensure "a reasonable opportunity to be heard" must be provided. In this case, that reasonable information included the relevant deadlines, the true address FOR PERSONAL SERVICE of the personal representative, and the true name and address FOR PERSONAL SERVICE of the agent for service of process. These were not provided, and in the opinion of the Court of Appeals, which relied in the plain language of the statute, such notice is not required by the statute. The statute is thus unconstitutional as applied to Petitioner. His rights under the Fourteenth Amendment, to reasonable notice of the information he needed to initiate will contest petition, and under the First Amendment, to be able to perfect his lawsuit by knowing whom to personally serve, were both violated. The parallel rights under Washington State's Constitution were also violated. The Will Contest Statutes are also facially unconstitutional, since notice strictly meeting the statutory requirements will never be constitutionally sufficient, and under *Hesthagen,* all probate dispositions where inadequate notice was provided and a person was barred from the courthouse are void and may be attacked at any time. Review is merited under RAP 13.4(b)(3) as this case presents significant constitutional issues which affect the jurisdictional validity of any probate proceeding in which a potential heir missed the deadline to file a will contest petition.

VI. CONCLUSION

The Court should grant review to address the conflict between the decision of the Court of Appeal and the published case law regarding whether the success of personal service is strict or substantial performance basis, and whether the Will Contest Statute is unconstitutional as drafted and as interpreted by the Court of Appeal in this case.

Respectfully submitted this 15th day of July, 2019.

Cyrus Sanai, Petitioner

APPENDIX A

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

In the Matter of the Estate of

SASSAN SANAI, M.D.

No. 78121-9-I

DIVISION ONE

UNPUBLISHED OPINION

FILED: April 29, 2019

LEACH, J. — Cyrus Sanai appeals the trial court's order dismissing his will contest petition due to insufficient service of process. RCW 11.24.010 requires personal service of the petition. The trial court correctly decided that leaving a copy of the summons and petition with a receptionist at the front desk of the probate attorney's law firm did not accomplish personal service of process on the personal representative of the estate. We affirm.

FACTS

Sassan Sanai executed a last will and testament on January 19, 2016. He died on April 6, 2017. On May 3, 2017, the court entered an order admitting the decedent's will to probate. The order also appointed one of his five adult children, Astrid Sanai, as personal representative.

Astrid lives in New York.[1] As required by RCW 11.36.010(6), Astrid appointed an attorney for the estate as her agent to accept service on her behalf. On May 3, 2017, the same date she started the probate proceeding, Astrid filed an "Appointment of and Acceptance by Resident Agent." It states,

> The undersigned Personal Representative hereby appoints Sarah O. McCarthy of THE ANDERSON HUNTER LAW FIRM P.S., as Resident Agent, whose address is 2707 Colby Ave., Suite 1001, PO Box 5397, Everett, WA 98206, in the above estate pursuant to RCW 11.36.010, as amended.

Also on May 3, the attorney signed and filed notice of the pendency of probate proceedings. A legal assistant at the attorney's law firm mailed the notice of probate to Sassan's four other surviving children.

Almost four months later, on August 31, 2017, Sassan's son, Cyrus Sanai, filed a petition to contest the validity of his father's will. Cyrus sent a copy of the petition by mail to McCarthy "as Agent for Service of Process for Astrid Sanai." Eighty-three days later, on November 21, 2017, Cyrus arranged for delivery of the summons and his petition to McCarthy's law firm's office. Daria Nuñez, who is presumably Sassan's daughter, brought the summons and petition to the front desk, announced that the documents were for McCarthy, handed them to the receptionist, and left the lobby. McCarthy was present in the office, but Nuñez did not ask to see McCarthy, speak to her, or serve her. The receptionist recorded the delivery on a log and placed the documents in McCarthy's in-box.

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[1] Several individuals involved in this appeal share the same last name. Where necessary to avoid confusion, we refer to those individuals by first name.

McCarthy retrieved the documents from her in-box about a week later when she returned from the Thanksgiving holiday.

On December 7, 2017, the personal representative filed a petition to dismiss the will contest petition based on the failure to serve process within 90 days of filing the petition as required by RCW 11.24.010. After a hearing, the trial court granted the motion. The court later denied Cyrus's motion for reconsideration. Then, on February 15, 2018, Cyrus personally served McCarthy with the summons and petition.[2] Cyrus appeals.

STANDARD OF REVIEW

We review a superior court's conclusion that service was insufficient de novo.[3] We also review questions of statutory interpretation de novo.[4] "In interpreting a statute, our fundamental objective is to ascertain and carry out the legislature's intent."[5] "Statutory interpretation begins with a statute's plain meaning."[6] We discern plain meaning from the ordinary meaning of the language at issue, the context of the statute that includes the provision, related provisions, and the statutory scheme as a whole.[7]

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[2] Cyrus claims that McCarthy "avoided service for weeks" and only accepted service after the court denied the motion for reconsideration. Nothing in the record substantiates the allegation that the attorney intentionally avoided service of process.

[3] Scanlan v. Townsend, 181 Wn.2d 838, 847, 336 P.3d 1155 (2014).

[4] In re Estate of Jepsen, 184 Wn.2d 376, 379, 358 P.3d 403 (2015).

[5] Manary v. Anderson, 176 Wn.2d 342, 350-51, 292 P.3d 96 (2013) (citing Dep't of Ecology v. Campbell & Gwinn, LLC, 146 Wn.2d 1, 9, 43 P.3d 4 (2002)).

[6] Manary, 176 Wn.2d at 352.

[7] State v. Engel, 166 Wn.2d 572, 578, 210 P.3d 1007 (2009).

ANALYSIS

The provisions of chapter 11.24 RCW govern will contest proceedings.[8] A will contest petitioner must satisfy RCW 11.24.010's requirements to start a will contest action, and Washington courts strictly enforce the requirements.[9]

One who wishes to contest a will must file a petition within 4 months of the date the court admits the will to probate.[10] To toll the 4-month period, the person contesting the will must timely file the petition and must "personally serve" the personal representative within 90 days of the filing.[11] "If, following filing, service is not so made, the action is deemed to not have been commenced for purposes of tolling the statute of limitations."[12] In such a case, the probate of the will is "binding and final."[13] Our court has held that RCW 11.24.010 is unambiguous and requires personal service of the summons and petition to start a will contest action.[14]

Cyrus argues that RCW 11.24.010 does not apply because Astrid, a nonresident personal representative, appointed an agent to accept service in accordance with RCW 11.36.010. Therefore, he contends that RCW 11.36.010, not RCW 11.24.010, controls.

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[8] Jepsen, 184 Wn.2d at 380.

[9] Jepsen, 184 Wn.2d at 379-81; In re Estate of Toth, 138 Wn.2d 650, 656, 981 P.2d 439 (1999).

[10] RCW 11.24.010.

[11] RCW 11.24.010.

[12] RCW 11.24.010.

[13] RCW 11.24.010.

[14] Jepsen, 184 Wn.2d at 380 & n.4 (will contestant did not personally serve personal representative or substantially comply with the statute by e-mailing the petition to the personal representative's probate attorney).

RCW 11.36.010 prescribes the "qualifications of personal representatives." With respect to the appointment of a personal representative who is not a resident of Washington, the provision states, in relevant part, "A nonresident may be appointed to act as personal representative if the nonresident appoints an agent who is a resident of the county where such estate is being probated or who is an attorney of record of the estate, upon whom service of all papers may be made."[15]

Because RCW 11.36.010(6) does not specify the manner of "service of all papers," Cyrus asserts that personal service is not required. The statutory scheme does not support this interpretation. RCW 11.36.010 concerns the qualifications and conditions under which individuals and certain entities may serve as personal representatives in probate matters. RCW 11.24.010, on the other hand, provides the exact requirements to start a lawsuit to contest a will. Cyrus ignores the context of the provisions. And he offers no logical reason why the jurisdictional requirements for will contest proceedings would differ depending on the identity and residency status of the personal representative.[16] Reading the statutes in context, and as a whole, we conclude that RCW 11.24.010 requires personal service, whether or not the personal representative appoints a resident agent under RCW 11.36.010(6).[17]

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[15] RCW 11.36.010(6).

[16] See Scanlan, 181 Wn.2d at 847 (proper service of the summons and complaint is essential to invoke personal jurisdiction over the defendant).

[17] Cyrus also claims that service on an attorney is governed by the provisions of CR 5, but those provisions apply only to pleadings "subsequent to the original complaint."

Alternatively, Cyrus contends that he accomplished valid personal service. In particular, he challenges the court's conclusion that there was no "effective valid service pursuant to RCW 4.28.08[0]." Cyrus asserts that the service of process statute, RCW 4.28.080, is not relevant to service of will contest petitions under RCW 11.24.010. But since RCW 11.24.010 does not define "personally serve," the court properly looked to the general definition of personal service in RCW 4.28.080 and to case law interpreting that provision. RCW 4.28.080(16) authorizes service on an individual by personal service, which the statute defines as delivery of a copy of the summons to the person.[18]

Although Cyrus suggests otherwise, RCW 4.28.080 does not prohibit the appointment of an agent, such as McCarthy, for the purpose of accepting service of process.[19] And the law is well settled that serving a person's employee is not effective personal service under RCW 4.28.080 unless the employee has express authority to accept service on the individual's behalf.[20] There was no evidence in this case that McCarthy authorized anyone to accept service on her behalf.

Cyrus also claims that he substantially complied with RCW 11.24.010 by mailing the petition to McCarthy and delivering the summons and complaint to

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[18] RCW 4.28.080(16) also authorizes substitute service—leaving a copy of the summons at "the house of his or her usual abode with some person of suitable age and discretion then resident therein." Substitute service is not at issue in this case.

[19] See French v. Gabriel, 57 Wn. App. 217, 225-26, 788 P.2d 569 (1990).

[20] See French, 57 Wn. App. at 226 (leaving summons and complaint with attorney's secretary was insufficient).

the receptionist at her office. But, as explained, our courts strictly enforce the statutory requirements to start a will contest action.[21] The doctrine of substantial compliance is fundamentally inconsistent with this strict enforcement and cannot apply.

Citing concepts of waiver and estoppel, Cyrus contends that the personal representative cannot challenge the sufficiency of service because she failed to serve him with notice of McCarthy's appointment as her agent. And because of the alleged inadequate notice of the agent's identity, he also claims that the time for filing the will contest petition was tolled until December 7, 2017, the date Astrid filed the motion to dismiss. We reject both arguments. The statute requires the personal representative to file the document appointing an agent.[22] Astrid filed the document appointing McCarthy, and the document included McCarthy's business address to facilitate service.

Hesthagen v. Harby[23] and RCW 11.28.237 do not advance Cyrus's claim of inadequate notice. These authorities establish that a personal representative must provide notice of probate to the deceased's heirs. Notice by mail satisfies RCW 11.28.237(1), and the record shows that the personal representative complied with the statute. The notice of probate was not somehow misleading because McCarthy signed it on behalf of the law firm. It is clear that Cyrus was, in fact, aware of McCarthy's identity and address because he mailed his petition

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[21] See Jepsen, 184 Wn.2d at 379-81; Toth, 138 Wn.2d at 656.
[22] RCW 11.36.010(6).
[23] 78 Wn.2d 934, 942, 481 P.2d 438 (1971).

to her and caused the delivery of the summons and petition to her business address. There are no facts here to support waiver, estoppel, or tolling, even assuming those doctrines could apply.

Finally, Cyrus argues service was valid because the record establishes "delivery and actual receipt." He relies primarily on Scanlan v. Townsend.[24] But Scanlan does not call into question the trial court's conclusion that "the documents ultimately winding up in the hands of the person to be served" fails to cure improper service. Scanlan involved hand-to-hand, but secondhand, service.[25] The defendant's father was "competent to serve" his daughter and "delivered a copy of the summons and complaint personally" to her when she visited him in person.[26] Here, by contrast, the receptionist simply left the documents in McCarthy's in-box and several days later, McCarthy found them.

Neither the delivery of summons and petition to the receptionist at the attorney's office nor the mailing of those documents to her accomplished personal service upon the personal representative's agent. Because Cyrus failed to accomplish valid service within 90 days of filing the will contest petition, the court properly dismissed his petition.

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[24] 181 Wn.2d 838, 847, 336 P.3d 1155 (2014). Cyrus also relies on Sunderland v. Allstate Indemnity Co., 100 Wn. App. 324, 995 P.2d 614 (2000) and Alvarez v. Banach, 153 Wn.2d 834, 840, 109 P.3d 402 (2005). These cases are inapposite and involve compliance with mandatory arbitration rules by filing proof that the opposing party received a copy of the request for trial de novo.

[25] Scanlan, 181 Wn.2d at 848-49.

[26] Scanlan, 181 Wn.2d at 848, 856.

The respondent requests fees on appeal, citing RAP 18.1 and RCW 11.96A.150(1). Exercising our discretion, we decline to impose fees.

We affirm.

Leach, J.

WE CONCUR:

Mann, ACJ

Dwyer, J.

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

In the Matter of the Estate of

SASSAN SANAI, M.D.

No. 78121-9-I

ORDER DENYING MOTION
FOR RECONSIDERATION
AND FOR ORAL ARGUMENT

The appellant, Cyrus Sanai, having filed a motion for reconsideration and for oral argument herein, and the hearing panel having determined that the motion should be denied; now, therefore, it is hereby

ORDERED that the motion for reconsideration and for oral argument be, and the same is, hereby denied.

FOR THE COURT:

Leach, J.

Judge

APPENDIX B

RELEVANT PROVISIONS OF LAW

UNITED STATES CONSTITUTION

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

US Const. amend. I §1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

US Const. amend. XIV, §1

WASHINGTON STATE CONSTITUTION

PERSONAL RIGHTS. No person shall be deprived of life, liberty, or property, without due process of law.

WA Const. art. I, §3

RIGHT OF PETITION AND ASSEMBLAGE. The right of petition and of the people peaceably to assemble for the common good shall never be abridged.

WA Const. art. I, §4

If any person interested in any will shall appear within four months immediately following the probate or rejection thereof, and by petition to the court having jurisdiction contest the validity of said will, or appear to have the will proven which has been rejected, he or she shall file a petition containing his or her objections and exceptions to said will, or to the rejection thereof. Issues respecting the competency of the deceased to make a last will and testament, or respecting the execution by a deceased of the last will and testament under restraint or undue influence or fraudulent representations, or for any other cause affecting the validity of the will or a part of it, shall be tried and determined by the court.

For the purpose of tolling the four-month limitations period, a contest is deemed commenced when a petition is filed with the court and not when served upon the personal representative. The petitioner shall personally serve the personal representative within ninety days after the date of filing the petition. If, following filing, service is not so made, the action is deemed to not have been commenced for purposes of tolling the statute of limitations.

If no person files and serves a petition within the time under this section, the probate or rejection of such will shall be binding and final.

RCW 11.24.010

Within twenty days after appointment, the personal representative of the estate of a decedent shall cause written notice of his or her appointment and the pendency of said probate proceedings, to be served personally or by mail to each heir, legatee and devisee of the estate and each beneficiary or transferee of a nonprobate asset of the decedent whose names and addresses are known to him or her, and proof of such mailing or service shall be made by affidavit and filed in the cause. If a trust is a legatee or devisee of the estate or a beneficiary or transferee of a nonprobate asset of the decedent, then notice to the trustee is sufficient.

RCW 11.28.237(1)

A nonresident may be appointed to act as personal representative if the nonresident appoints an agent who is a resident of the county where such estate is being probated or who is an attorney of record of the estate, upon whom service of all papers may be made; such appointment to be made in writing and filed by the clerk with other papers of such estate; and, unless bond has been waived as provided by RCW 11.28.185, such nonresident personal representative must file a bond to be approved by the court.

RCW 11.36.010(6).

SUPREME COURT OF THE STATE OF WASHINGTON

ESTATE OF	Ct. Appeal Case No. 78121-9-I
SASSAN SANAI, MD	CERTIFICATE OF SERVICE

CYRUS SANAI hereby declares as follows:

1. I am over 18 years of age and a resident of California.

2. On July 15, 2019 I served a Petition for Review by mailing copies thereof inserted in envelopes addressed to Astrid Sanai, 152 E. 84th Street, Apr. 5G, New York NY 10028

I declare, under penalty of perjury under the laws of the state of Washington, that the foregoing is true and correct.

Signed at Santa Monica, CA, on July 15, 2019.

CYRUS SANAI

Cyrus Sanai, Petitioner
433 North Camden Drive #600
Beverly Hills, CA 90210
Telephone (310) 717-9840

CYRUS SANAI - FILING PRO SE

July 15, 2019 - 8:34 PM

Filing Petition for Review

Transmittal Information

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