

63574-3

63574-3

IN THE COURT OF APPEALS OF STATE OF WASHINGTON
DIVISION-1

FILED
COURT OF APPEALS DIV. #1
STATE OF WASHINGTON
2009 SEP 29 AM 10:13

SUE SHERMAN	)	NO.08-2-00439-5
)	
APPELLANT	)	NO.63574-3
)	
-V-	)	APPELLANT RESPONSE,S TO
	)	RESPONDENT,S BRIEF
)	
	)	TITLE PAGE:
)	
DENNIS DIEDRICH)	
)	
RESPONDENT)	

COMES NOW SUE SHERMAN, APPELLANT TO THE COURT, AND SUBMIT,S
THE FOLLOWING RESPONSE,S TO RESPONDENT,S BRIEF.

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APPELLANT RESPONSE TO
RESPONDENT,,S BRIEF,PAGE-2 OF 2.

STATEMENT OF CASES SUBMITTED BY
RESPONDENT

THE CASES SUBMITTED BY THE RESPONDENT DO NOT FIT THE CONDITION OF THIS CASE.

IN THIS CASE A JUDGMENT ORDER WAS IN PLACE AS TO HOW THE DIVISION OF THE PROPERTY WAS TO TAKE PLACES. RESPONDENT DID NOT FOLLOW ANY OF THE GUIDED LINES SET FORTH BY THE TRIAL COURT THAT SET THE JUDGMENT ORDER, DATED MAY 18, 1998.

IT WAS NOT THAT HE COULD NOT, HE JUST DID NOT FEEL LIKE IT SO HE DID. THE FACTS ARE THAT AS TO THE JUDGMENT ORDER REGARDING THE PROPERTY IN QUESTION RESPONDENT DID NOT FOLLOW THROUGH WITH ANY OF THAT ORDER.

THERE IS MORE TO THIS CASE THAN TWO PERSON,S OWNING A PIECES OF PROPERTY TOGETHER AND IT MUST NOT BE OVER LOOKED. AND COMPLIANCE TO SAID JUDGMENT ORDER WAS FILED WITH IN THE STATUTE OF LIMITATIONS FOR DOING SO.

CASES FRIEND -V- FRIEND AND MC GILL -V- HILL THAT THE RESPONDENT,S ATTORNEY SUBMITS TO THIS COURT,DO NOT COMPLY TO THIS CASE. THE CONDITIONS ARE NOT THE SAME OTHER THAN THE FACT THAT A PIECES OF PROPERTY IS INVOLVED

STATUTES AND RULES

APPELLANT BELIEVES THE FOLLOWING STATUTES APPLY TO THIS CASE

1.RCW 7.21.010(1)(b)

2.CR 38(a)(b)

3.WPI 10.07

4.STATUTE OF LIMITATION

5.RCW 7.52.440

6. RULE 6.1

AS TO RESPONDENT,S INTRODUCTION
APPELLANT RESPONSE

THIS APPEAL COMES TO THE COURT OF APPEALS DO TO THE FACT THAT THE TRIAL COURT HAS CHOSEN TO OVER LOOK THE RESPONDENT,S CONTEMPT FOR THE COURT AND THE NEGLIGENCE HE HAS SUBJECTED THE APPELLANT TO. ALSO THE MATTER IN WHICH THE TRIAL COURT HAS CHOSEN TO PARTITION THE PROPERTY IN QUESTION PUNISHING THE APPELLANT FOR THE RESPONDENT FAILURE TO ACT REGARDING A JUDGMENT ORDER ISSUED BY THE ORDER CAUSING APPELLANT GREAT PAIN, LOSS, AND MENTAL ANGUISH.AND GREAT FINICAL LOSS

APPELLANT RESPONSE,S TO RESPONDENT,S ISSUES PERTAINING TO
ASSIGNMENT OF ERROR

RESPONDENT,S THROUGH HIS ATTORNEY IS SUGGESTING TO THE COURT THAT THE LEGAL ISSUE APPELLANT SUBMIT,S TO THE COURT ARE NOT FACT, AND IF THE COURT OF APPEALS BELIEVES THIS THAN WASHINGTON STATE LAW NEEDS TO BE REWRITTEN. BECAUSE IN REGARDS TO THE LEGAL ISSUES AND FACTS AMD MATERIAL FACTS APPELLANT HAS MORE THAN SHOWN A REASONABLE BASE FOR DENYING RESPONDENT,S REQUEST FOR SUMMARY JUDGMENT.

APPELLANT RESPONSE,S TO RESPODENT,S COMMENTS
IN HIS PROCEDURAL HISTORY

IT APPEARS THAT THE RESPONDENT,S ATTORNEY IS ABJECTING TO THE APPELANT SUBMITTING EXHIBITS TO THE COURT AS WHAT RESPONDENT CALLS AND AFTER EFFECT OF THE PARTIAL SUMMARY JUDGMENT.

APPELLANT DOES NOT BELIEVE IT IS AN AFTER EFFECT,MORE OVER IT IS WHAT APPELLANT IN PART IS APPEALING TO THIS COURT AND PART OF THE SUMMARY JUDGMENT GRANDED TO THE RESPONDENT BY THE TRIAL COURT WHICH THE APPELLANT IS APPEALING TO THE COURT OF APPEALS

HAD THE SUMMARY JUDGMENT NOT BEEN GRANDED THESE THING COULD NOT HAVE OCCURED. AND ARE A DIRECT RESULT OF THE SUMMARY JUDGMENT BEING GRANDED AND FOLLOWED THROUGH WITH. THESE ISSUE STEM FROM THE SUMMARY JUDGMENT. AS TO RESPONDENT SUBMITTING RULE RAP 10.3(a)(8) APPELLANT DOES NOT BELIEVE THIS PERTAINS.

APPELLANT RESPONSE,S TO
RESPONDENT,S BRIEF,PAGE-5 OF 5.

APPELLANT RESPONSE,S TO RESPONDENT,S ARGUMENT

THE ISSUES BEFORE THE COURT IS NOT JUST THE GRANDING OF THE SUMMARY JUDGMENT. IT IS ALSO WHAT HAS STEM FROM THE SUMMARY JUDGMENT,SUCH AS

1.ORDERING THE PROPERTY IN QUESTION SOLD.

2.ORDERING A REFEREE TO SELL THE PROPERTY AND SELECTING A REFEREE WHO IS A PERSON FRIEND OF RESPONDENT ATTORNEY FOR 15 TO 20 YEARS AND ALSO A FRIEND OF THE RESPONDENT HIMSELF AS STATED BY DAVID DAY RESPONENT,S ATTORNEY.

3. OVER LOOKING RESPONDENT,S CONTEMPT FOR THE COURT, IN WHICH THERE IS NO EVIDENCE WHAT SO EVER THAT THE RESPONDENT EVEN TRIED TO COMPLY. AND NO EVIDENCE IN SUPPORT OF THE FACT THAT IT STILL COULD NOT BE COMPLIED TO. BUT APPELLANT BELIEVES NOW IT WOULD BE MORE COSTLY, WHICH APPELLANT BELIEVES SHOULD FALL ON THE RESPONDENT FOR HIS FAILURE TO COMPLY.

4. NEGLIGENCE WHICH HAS CAUSED THE APPELLANT GREAT LOSS, PAIN AND MENTAL ANGUISH AND GREAT FINICAL LOSS.

5.THE DENYING OF APPELLANT,S RIGHT TO A JURY TRIAL AS TO RULE 38(a)(b).AND NOW IT SEEM THAT RESPONDENT,S ATTORNEY IS STATING THAT APPELLANT SHOULD NOT GET HER DAY IN COURT AT ALL. NOT COUNTING THE FACT THAT IT IS ALREADY PAID FOR.

6. PLACING AND UNFAIR BOND ON THE APPELLANT FOR A (STAY) PENDING A DECISION BY THIS COURT

AND SO ON AN SO FORTH

AS TO RESPONDENT,S COMMENT THAT APPELLANT HAS NOT SUBMITTED ANYTHING TO SUPPORT HER CONTENTION THAT THE RULING ON MARCH 16, 2009 WAS IN ERROR. APPELLANT BELIEVES THIS IS FAR FROM THE TRUE. RESPONDENT SUBMIT,S RULE 9.6 .

APPELLENT SUBMIT,S RULE 6.1

APPELLANT RESPONSE,S TO RESPONDENT,S (A. THE CONTEMPT CLAIM)

THE STATEMENT MADE BY RESPONDENT THAT NO EVIDENCE WAS SUBMITTED TO THE TRIAL COURT IS UNTRUE. APPELLENT SUBMITTED WASHINGTON REVISED CODE RCW 7.21.101.(1)(b) DEFINITION WHICH STATES:

(1.) CONTEMPT OF COURT MEANS INTENTIONAL.

APPELLANT RESPONSE,S TO
RESPONDENT,S BRIEF,PAGE-6 OF 6.

(b) DISOBEDIENCE OF ANY LAWFUL JUDGMENT, DECREE, ORDER, OR PROCESS OF THE COURT.

THE RESPONDENT IN THIS CASE IS CLEARLY GUILTY OF ALL THY ABOVE. SEE EXHIBIT-WASHINGTON REVISED CODE RCW 7.21.010(1.) (b).

APPELLANT RESPONSE, S TO RESPONENT, S B. NEGGLIGENCE CLAIM

THE RESPONDENT, S STATEMENT TO THIS IS UNTRUE ALSO, APPELLANT SUPPLIED THE COURT WITH MORE THAN ENOUGH EVIDENCE TO PROVE HER CLAIM. THE TRIAL COURT DID NOT EVEN LOOK AT THE EVIDENCE, APPELLANT BELIEVES THAT THE TRIAL COURT PUT THE CONTEMPT AND NEGLIGENCE TOGETHER AND IN THAT FOUND IF THEY DID NOT FIND CONTEMPT THAN THERE WAS NO NEGLIGENCE. RESPONDENT IS A GENERAL CONTACTOR WHO DEALS WITH LAND PROBLEMS EVER DAY, SO THE FACT THAT HE DEALAYED IN FOLLOWING THROUGH WITH THE JUDGMENT ORDER MEANS HE KNEW THIS COULD HAPPEN, PUTTING APPELLANT IN THIS POSITION AND HAVING THE PROPERTY SOLD OUT FROM UNDER HER, WHICH IS HIS TOLD GOAL. NOT COUNTING THE FACT THAT HE WAS COURT ORDERED TO SUBDIVIDED THE PROPERTY AND THEN USED THE MONIES FOR THAT SUBDIVIDED TO BUY HIMSELF ANOTHER RENTAL PROPERTY. WHICH HE HAS NEVER DENIED.

AND THE FACT THAT HE RESPONDENT DID NOT COMPLY WITH ANY OF THE JUDGMENT ORDER OF THE TRAIL COURT REGARDING THIS 40 ACRES.

DO TO THE FACT THAT RESPONDENT FAILED TO ACTION AND HIS FAILURE TO EXERCISE SLIGHT CARE AND THE ABSENCE OF CARE HAS CAUSED APPELLANT GREAT LOSS AND HARM. CLEARLY THE RESPONDENT IS GUILTY OF NEGLIGENCE, AND BEING THAT HE IS A GENERAL CONTACTOR WITH EXPERIENCE IN THIS FEELED MAKES IT EVEN MORE NEGLIGENCE THAN SOMEONE WHO WAS NOT. WPI 10.07 SUPPORTS APPELLANT, S CLAIM.

APPELLANT RESPONSE, S TO RESPONENT, S C. PARTITION

THE ZONING CODE WHICH THE RESPONENT, S ATTORNEY SUBMIT, S TO THE TRIAL COURT WAS THE CURRENT CODE AND NOT THE CODE AT THE TIME OF THE JUDGMENT ORDER DATED MAY 18, 1998

AT SUMMARY JUDGMENT RESPONENT, S ATTORNEY SUBMITTED TO THE COURT THAT JUDGE GEORGE BOWDEN DID NOT KNOW WHAT HE WAS ORDERING AND THAT IT AT THE TIME OF THE ORDER IT COULD NOT BE COMPLY TO.

APPELLANT RESPONSE, S TO
RESPONDENT, S REPLY PAGE-7 OF 7.

WHICH IS UNTRUE AND APPELLANT HAS PROVIDED THIS COURT WITH PROOF OF THAT. FURTHER MORE APPELLANT BELIEVE THE PROPERTY IN QUESTION CAN STILL BE SUBDIVIDED, BUT BELIEVES THE COST NOW WOULD BE MUCH GREATER AND SHOULD BE PUT ON THE RESPONDENT FOR HIS FAILURE TO ACT.

RESPONDENT ATTORNEY SUBMIT,S TO NOT ONLY THIS COURT BUT ALSO THE TRIAL COURT THAT THE JUDGMENT ORDER PUT ON RESPONDENT TO COMPLY TO SHOULD BE OVER LOOK, BUT STATES IN HIS BRIEF ON PAGE 6. THAT:

IT APPEARS THAT BETWEEN THE TIME WHEN THE PROPERTY WAS ORDERED SUBDIVIDED AND THE COMMENCEMENT OF THIS ACTION IN SKAGIT COUNTY FOR PARTITION (MARCH 2008) TEN YEARS ELAPSED. THE ZONING DENSITY FOR SUBDIVISION HAD CHANGED.

RESPONDENT IN THIS STATEMENT IS STATING WHAT APPELLANT HAS BEEN SAYING ALL A LONG. WHICH IS, RESPONDENT COULD OF COMPLYED HE JUST DID NOT. HE JUST DID,NT FEEL LIKE IT. HE STATED NOT ONLY TO THE APPELLANT BUT ALSO APPELLANT AND RESPONDENT,S ATTORNEY AT THAT TIME STEVE BLANCHARD THAT HE WAS GETTING IT DONE. AND NOW RESPONDENT AND HIS ATTORNEY COMES TO THIS COURT AND STATE THAT APPELANT SHOULD BE PUNISHED BY THE SALE OF HER PROPERTY THAT WAS PAID FOR IN FULL FOR HIS FAILURE TO THE COURT.

ALSO IT HAS NOT TEN YEARS ELAPSED AS STATED BY RESPONDENT ATTORNEY.

APPELLANT SUBMIT,S THAT RESPONDENT,S STATEMENT AS TO THE PREVIOUS ORDER COULD NOT BE COMPLY OR ENFORCED IS UNTRUE.

APPELLANT BELIEVES IT CAN BE ENFORCED, BUT AS SHE HAS PREVIOUSLY STATED SHE BELIEVES THE COST WOULD BE MUCH GREAT AND SHOULD FALL ON THE RESPONDENT FOR HIS FAILURE TO COMPLY. AND HIS USING OF MONIES FOR THAT SUBDIVISION TO BUY HIMSELF RENTAL PROPERTY.

AS TO THE CASE LAW SUBMITTED BY THE RESPONDENT OTHER THAN THE FACT THAT TWO PERSON OWN A PIECES OF PROPERTY TOGETHER I APPELANT SEE NO SIMILARITY.

IN THIS CASE A JUDGEMENT ORDER IS IN PLACE. ON ONE OF THE PARTIES. AND IN THE CASE SUBMITTED BY RESPONENT THERE IS NO ORDER,AND AS TO THE JUDGMENT ORDER THERE WAS A NUMBER OF ISSUES THAT WERE TO BE COMPLY TO WHICH RESPONDENT DID NONE OF THEM.

ALSO IN THIS CASE THE SUBDIVISION COULD OF BEEN COMPLY TO BUT FOR THE FAILURE OF RESPONDENT TO COMPLY WHICH IS ALSO STATED BY RESONDENT ATTORNEY.

APPELLANT RESPONSE,S TO
RESPONDENT,S BRIEF,PAGE-8 OF 8.

RESPONDENT HAS NOT SUBMITTED ANYTHING TO THE COURT THAT PROVE,S
THE SUBDIVISION CANNOT BE DONE, RESPONDENT SUBMITTED NOTHING
FROM THE COUNTY STATING THIS PROPERTY CAN NOT BE DIVIDED, OTHER
THAN THE ZONING CODED.

THE APPELLANT BELIEVES THE TRIAL COURT DID NOT CONSIDER THIS
FACT IN IT DECISION. ALSO THE FACT THAT RESPONDENT CAN NOT SHOW
THIS COURT AND DID NOT SHOW TRIAL COURT THAT HE WENT TO THE
COUNTY AND MADE ANY ATTEMPT TO SUBDIVIDED THE PROPERTY IN
QUESTION. AND THERE IS NOTHING IN THE RECORD FROM THE COUNTY
THAT STATES THE SUBDIVISION IS PROHIBITED .

APPELLANT THEREFORE BELIEVES FRIEND -V- FRIEND DOES NOT FIT
THIS CASE FOR THE REASON STATED ABOVE.

APPELLANT DOES NOT JUST FEEL SHE WAS DENIED HER RIGHT TO A
JURY TRIAL SHE KNOW SHE WAS. APPELLANT BELIEVES THAT SKAGIT
COUNTY COURTS HAVE THE "GOOD OLD BOY" THING GOING ON UP THERE
BETWEEN THE JUDGE,S AND ATTORNEY,S. AND THE WASHINGTON STATE
BAR HAS SUJECTED THE SAME THING.

WHICH IS WHY APPELLANT REQUESTED A JURY TRIAL AND MIND YOU
PAID FOR A JURY TRIAL,WAY BEFORE RESPONDENT REQUESTED SUMMARY
JUDGMENT. AS APPELLANT HAS PREVIOUSLY STATED IN THIS REPLY.

AS JUDGE BOWDEN STATED IN OPEN COURT AND WHO MADE THE JUDGMENT
ORDER SAID HAD THIS COMES BEFORE HIM,HE WOULD OF TAKEN THE
RESPONDENT HALF OF THE PROPERTY IN QUESTION AND ORDER IT
GIVEN TO THE APPELLANT FOR HIS FAILURE TO COMPLY. BUT AS TO
A TRIAL BY JURY APPELLANT BELIEVES THIS IS HER RIGHT. CR 38.

THE COURT TOOK HER MONIES FOR THAT TRIAL BY JURY AND THAT WHAT
APPELLANT SHOULD RECEIVE.

APPELLANT,S CONCLUSION

AS THE APPELLANT HAS PREVIOUSLY STATED, WHY SHOULD APPELLANT
BE PUNISHED FOR THE FAILURE, DISRESPECT AND LACK OF RESPECT
OF THE RESPONDENT IN THIS CASE TO COMPLY WITH A JUDGMENT ORDER
SET FORTH BY THE COURT.

APPELLANT RESPONSE,S TO
RESPONENT,S REPLY,PAGE-9 OF 9.

IT WAS NOT THAT THE JUDGMENT ORDER COULD NOT BE COMPLY TO IF HANDLE IN A TIMELY FASHION. BUT RESPONDENT HAD NO INTENTIONS OF COMPLYING TO IT WHEN IT WAS ORDER. THE FACTS ARE THAT RESPONDENT DID NOT COMPLY TO ANY OF THE JUDGMENT ORDER AS TO THE PROPERTY IN QUESTION

AND NOW RESPONDENT,S ATTORNEY COMES TO THE COURT MAKING EXCUSES FOR HIS FAILURES, BUT THERE IS NO EXCUSE, JUST THE FACT THAT HE DID NOT WANT TO. THAN THERE IS THE FACT THAT AT SUMMARY JUDGMENT HIS ATTORNEY CAME TO THE COURT STATING THAT THE PROPERTY IN QUESTION WAS WORTH SO LITTLE IT WAS NOT WORTH THE COURTS TIME AND THAT THERE WAS NO REAL MONEY VALUE THERE.

AFTER SUMMARY JUDGMENT RESPONENT,S ATTORNEY TAKES A NEW POSITION STATING THIS PROPERTY IS WORTH \$79,500.00 THE COUNTY HAS VALUE IT AT \$5,200.00 AND APPELLANT DOES NOT BELIEVE THAT THEY COULD BE THAT FAR OFF.

THEN RESPONDENT HAS A REFEREE APPOINTED THAT IS A PERSONAL FRIEND OF RESPONDENT,S ATTORNEY AND RESPONDENT, AND WANTS APPELLANT TO SOMEHOW BELIEVE THAT THIS IS FAIR TO HER

THIS IS A INSULT TO APPELLANT,S INTELLIGENCE,

AND AS TO THE CASE LAW RESPONDENT PRESENTED TO THE COURT, APPELLANT DOES NOT BELIEVE THE CIRCUMSTANCES ARE THE SAME IN FRIEND-V-FRIEND.

RESPONDENT IS STATING TO THIS COURT, OVER LOOK MY FAILURE AND THE FACT THAT I TOOK MONIES ISSUED BY THE COURT FOR THE SUBDIVISION OF SAID PROPERTY AND PURCHASED A RENTAL PROPERTY FOR MY SELF AND DID NOT COMPLY WITH THE JUDGMENT ORDER AND NOW I WANT THE COURT TO PUNISH THE APPELLANT BY SELLING THE PROPERTY SO I CAN GAIN AGAIN.

THE SUMMARY JUDGMENT IN THIS CASE THAT WAS GRANDED TO THE RESPONDENT AND HIS ATTORNEY SHOULD BE OVER TURNED. THIS CASE SHOULD GO BACK TO THE TRIAL COURT FOR A JURY TRIAL.

IT SHOULD NOT HAVE BEEN HANDLE BY SUMMARY JUDGMENT, THERE ARE MANY ISSUES OF NOT ONLY LAW BUT MATERIAL FACT IN THIS CASE THAT WERE OVER LOOK AND SHOULD HAVE NOT BEEN.

CLEARLY RESPONDENT WAS NEGLIGENCE AND DO TO THAT NEGLIGENCES APPELLANT HAS BEEN SUBJECTED TO GREAT LOSS. AND AS TO HIS CONTEMPT NOT ONLY FOR THE COURT BUT FOR APPELLANT IT SHOULD BE CLEAR AND AS TO LAW RCW 7.21.010(1)(b) THE CONTEMPT SHOULD STAND.

APPELLANT RESPONSE,S TO
RESPONDENT,S REPLY,PAGE-10 OF 10.

IF THIS CASE STANDS IN IT,S CURRENT STATE THE COURT WILL
BE CREATEING NEW LAW IN WHICH TO NOT COMPLY WITH A JUDGMENT
ORDER AND CONTEMPT AND NEGLIGENCE.

PLEASE,DO THE RIGHT THING IN THIS CASE, DO NOT LET JUSTICE
BE BLINDED, THANK YOU.

DATED THIS ___ 27 ___ DAY OF SEPTEMBER 2009

A handwritten signature in black ink, appearing to read "Sue Sherman", written over a horizontal line.

SUE SHERMAN-APPELLANT
614 106TH PL S.W.
EVERETT,WASH 98204
425-438-0166

APPELLANT RESPONSE,S TO
RESPONDENT,S REPLY,PAGE-11 OF 11.

EXHIBIT.S

- 1.WASHINGTON REVISED CODE RCW 7.21.010 CONTEMPT DEFINITIONS.
- 2.GROSS NEGLIGENCE DEFINITION WPI 10.07
- 3.WASHINGTON COURTS RULE 6.1
- 4.WASHINGTON COURT RULE CR 38(a)(b)
- 5.RCW 7.52.440 UNEQUAL PARTITION

Justia > Law > Washington Law > Washington Code > Title 7 — Special proceedings and actions > Chapter 7.21 RCW: Contempt of court > Washington Revised Code RCW 7.21.010: Definitions.

Washington Revised Code RCW 7.21.010: Definitions.

Search

Washington Code

All US State Codes

The definitions in this section apply throughout this chapter:

(1) "Contempt of court" means intentional:

(a) Disorderly, contemptuous, or insolent behavior toward the judge while holding the court, tending to impair its authority, or to interrupt the due course of a trial or other judicial proceedings;

(b) Disobedience of any lawful judgment, decree, order, or process of the court;

(c) Refusal as a witness to appear, be sworn, or, without lawful authority, to answer a question; or

(d) Refusal, without lawful authority, to produce a record, document, or other object.

(2) "Punitive sanction" means a sanction imposed to punish a past contempt of court for the purpose of upholding the authority of the court.

(3) "Remedial sanction" means a sanction imposed for the purpose of coercing performance when the contempt consists of the omission or refusal to perform an act that is yet in the person's power to perform.

[1989 c 373 § 1.]

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WPI 10.07

GROSS NEGLIGENCE—DEFINITION

Gross negligence is the failure to exercise slight care. It is negligence that is substantially greater than ordinary negligence. Failure to exercise slight care does not mean the total absence of care but care substantially less than ordinary care.

NOTE ON USE

Use with WPI 10.01, Negligence—Adult—Definition, and WPI 10.02, Ordinary Care—Adult—Definition.

COMMENT

The term "gross negligence," although found in many statutes, has not been statutorily defined. See, e.g., RCW 4.24.264, 4.24.268, and 7.70.090. The instruction is based upon the meaning of gross negligence as it was developed under the former host-guest statute, RCW 46.08.080, which was repealed in 1974. See Nist v. Tudor, 67 Wn.2d 322, 407 P.2d 798 (1965) and Note, 41 Wash.L.Rev. 591 (1966).

In Youngblood v. Schireman, 53 Wn.App. 95, 765 P.2d 1312 (1988), the court discussed gross negligence under RCW 4.24.300, the "good Samaritan" statute. The opinion states that gross negligence is negligence which is substantially and appreciably greater than ordinary negligence.

In Boyce v. West, 71 Wn.App. 657, 665, 862 P.2d 592 (1993), the court, without citing to WPI 10.07, stated, "to raise an issue of gross negligence, there must be substantial evidence of serious negligence."

[Current as of May 2002.]

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2d 637 (1997)
88 P.2d 1244
tions.



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RULE 6.1

APPEAL AS A MATTER OF RIGHT

The appellate court "accepts review" of a trial court decision upon the timely filing in the trial court of a notice of appeal from a decision which is reviewable as a matter of right.

References

Rule 2.2, Decisions of the Superior Court Which May Be Appealed.

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RULE CR 38
JURY TRIAL OF RIGHT

- (-) Defined. A trial is the judicial examination of the issues between the parties, whether they are issues of law or of fact.
- (a) Right of Jury Trial Preserved. The right of trial by jury as declared by article 1, section 21 of the constitution or as given by a statute shall be preserved to the parties inviolate.
- (b) Demand for Jury. At or prior to the time the case is called to be set for trial, any party may demand a trial by jury of any issue triable of right by a jury by serving upon the other parties a demand therefor in writing, by filing the demand with the clerk, and by paying the jury fee required by law. If before the case is called to be set for trial no party serves or files a demand that the case be tried by a jury of twelve, it shall be tried by a jury of six members with the concurrence of five being required to reach a verdict.
- (c) Specification of Issues. In his demand a party may specify the issues which he wishes so tried; otherwise he shall be deemed to have demanded trial by jury for all the issues so triable. If he has demanded trial by jury for only some of the issues, any other party within 10 days after service of the demand or such lesser time as the court may order, may serve a demand for trial by jury of any other or all of the issues of fact in the action.
- (d) Waiver of Jury. The failure of a party to serve a demand as required by this rule, to file it as required by this rule, and to pay the jury fee required by law in accordance with this rule, constitutes a waiver by him of trial by jury. A demand for trial by jury made as herein provided may not be withdrawn without the consent of the parties.

[Amended effective January 1, 1972; July 29, 1973; August 7, 1981.]

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RCW 7.52.440

Unequal partition — Compensation adjudged.

When it appears that partition cannot be made equal between the parties according to their respective rights, without prejudice to the rights and interests of some of them, the court may adjudge compensation to be made by one party to another on account of the inequality of partition; but such compensation shall not be required to be made to others by owners unknown, nor by infants, unless in case of an infant it appear that he has personal property sufficient for that purpose, and that his interest will be promoted thereby.

[Code 1881 § 595; 1877 p 124 § 600; 1869 p 141 § 549; RRS § 881.]

2009 SEP 29 AM 10:43

IN THE COURT OF APPEALS OF STATE OF WASHINGTON
DIVISION-1

SUE SHERMAN	)	NO.08-2-00439-5
)	
APPELLANT	)	NO.63574-3
)	
-V-	)	PROOF OF SERVICE
)	
	)	APPELLANT RESPONSE,S TO
	)	RESPONDENT,S BRIEF
)	
DENNIS DIEDRICH)	
)	
RESPONDENT)	

I APPELLANT SUE SHERMAN CERTIFY THAT I MAIED A COPY OF THE DOCUMENT LISTED ABOVE ON ALLPARTIES OR THEIR COUNSEL OF RECORD LISTED BELOW BY US MAIL:

DATED THIS 28 DAY OF SEPTEMBER 2009.

AT ADDRESS BELOW:

DAVID DAY-ATTORNEY
816 E.FAIRHAVEN AVE.
BURLINGTON,WASH 98233

COURT OF APPEALS
DIVISION-1,RICHARD JOHNSON
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PROOF OF SERVICE
APPELLANT RESPONSE,S TO
RESPONDENT,S BRIEF,PAGE-1 OF 1.