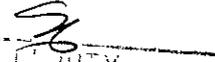


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COURT OF APPEALS
DIVISION II

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STATE OF WASHINGTON

No. 49867-7-IJY


DEPUTY

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

In Re the ESTATE OF ELMA KANGAS;

DALE KANGAS,
Appellant,

v.

RICHARD KANGAS, Personal Representative,
Respondent.

BRIEF OF APPELLANT DALE KANGAS

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ORIGINAL

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I. INTRODUCTION

The Appellant, Dale Kangas (hereinafter “Petitioner”) is the Personal Representative for the Estate of John Kangas, deceased. John Kangas and Richard Kangas, Respondent, were the only children of Wayne Kangas and Elma Kangas. Richard Kangas (hereinafter “Respondent”) has acted as the Personal Representative for the Estate of Elma Kangas since 1998.

This case stems from an order of the court striking Petitioner’s objection to personal representative fees and granting Reasonable personal representative fees without determining amount. Subsequently, the lower court entered an order awarding Respondent, Richard Kangas, \$60,000 in personal representative fees.

The parties have been involved in a probate matter spanning over twenty years. Given the extreme lack of expediency in the administration of the underlying estate, the failure of the Respondent to carry out his fiduciary duties, and the lack of any accounting on the part of the Respondent, the Petitioner seeks to overturn the trial court’s order awarding Respondent \$60,000 in personal representative fees.

II. ASSIGNMENTS OF ERROR

A. Assignments of Error (AOE)

(1) The Petitioner objected to the decree approving reasonable personal representative fees. In denying Petitioner's objection, the court so erred.

(2) The trial court erred in granting reasonable personal representative fees but without determining the amount thereof on October 25, 2016.

(3) The trial court erred in granting a motion for personal representative fees in the amount of \$60,000 on November 16, 2016.

B. Issues Pertaining to Assignments of Error

(1) Can a dilatory personal representative contract away his liability to force a settlement agreement during probate? (Assignment of Error 1.)

(2) Does contracting away legal claims alleging breach of fiduciary duty violate public policy? (Assignment of Error 1.)

(3) Given the utter failure of the Respondent to provide any evidence supporting the right to a fee, should the Personal Representative in this case be denied personal representative fees of \$60,000? (Assignment of Error 2.)

(4) Is the fee request of \$60,000 a reasonable fee to pay the Personal Representative given the facts and circumstances in this matter? (Assignment of Error 3.)

(5) Did the trial court err in denying the introduction of evidencing the unreasonableness of the fee requested? (Assignment of Error 1).

III. STATEMENT OF THE CASE

A. Procedural History

The original Petition for Probate in this case was filed on March 31, 1995. CP at 001. After years of litigation, a settlement agreement was entered on February 25, 2009. CP at 004-013. On September 02, 2016 Respondent filed a *Petition for Decree Approving Reasonable Personal Representative Fees and Closing the Estate*. CP at 049.

On September 26, 2016 Petitioner filed an *Objection to the Petition for Decree Approving Reasonable Personal Representative Fees*. CP at 143-150. On October 25, 2016 the trial court entered an *Order Granting Reasonable Personal Representative Fees Without Determining The Amount Thereof*. CP at 179-180. On November 16, 2016 the trial court entered an *Order Granting Reasonable Personal Representative Fees* in the amount of \$60,000. CP at 182-184.

B. Factual History

Given the length of the probate, the following is a general chronological history:

1. 1995-1998

The decedent, Elma Kangas, died on December 6, 1994. CP at 001. The Petition for Probate of Will was filed on March 31, 1995. CP at 001-003. It is undisputed that her Will directed the Respondent to transfer certain assets to the decedent's husband, Wayne Kangas. However, despite express direction, the Respondent blatantly refused to do so. The Personal Representative unilaterally determined that his father, Wayne Kangas, would not have wanted the transfers to occur. This decision was wholly contrary to the express words of Wayne Kangas, and his attorney, Ralph Olson.

During a deposition, the Respondent admitted Ralph Olson sent a letter on behalf of Wayne Kangas demanding that the Personal Representative transfer assets to Wayne Kangas and wrap up the estate. CP at 139. The Respondent simply did not believe his father knew what he wanted and did not trust that Mr. Olson was acting in accord with what his client wanted. CP at 140-141.

Wayne Kangas died in 1998, without the benefit of having received that to which he was entitled from the Estate of Elma Kangas.

2. 1998-2008

Following the death of Wayne Kangas, the Estate of Wayne Kangas requested the Respondent make the previously mentioned transfers of property. The Respondent refused to do so.

Subsequently, John Kangas requested the trust of Elma Kangas be funded so that he could receive his distributions. The Respondent acknowledged that responsibility, and said he “intended” to undertake the task. CP at 142. Unfortunately, it would take him **nearly two decades** to accomplish the task. CP at 182.

Instead, the Respondent took an obstructionist approach in administration of the Estate of Elma Kangas. Other than a couple small timber sales, which were handled by professional foresters, the Respondent took little to no action in his disposition of property until the Estate of Wayne Kangas filed an action against the Estate of Elma Kangas in 2008. *See generally*, CP at 096-102. A settlement agreement was reached between the two Estates on October 2, 2008. CP at 025-030.

3. 2008-2016

The Respondent continued the obstructionist approach, spending five years waiting for timber to be sold. The last three years have just been more waiting. The Respondent was prodded, encouraged, and even warned of renewed legal action, without taking any substantive action. CP

at 113-120. Several letters were sent between 2013-2014, and at one point a Motion to Close the Estate was noted. The most common response was “we are working on it,” with little or no follow up. *Id.*

Under no set of circumstances could one determine the actions of the Respondent were in accord with his fiduciary duty to timely administer the Estate. The Respondent’s delay was elective, and caused great harm to John Kangas. In fact, John Kangas died prior to receiving his full distribution from his mother’s estate despite the fact that their respective deaths were nearly 18 years apart.

Without any credible factual support, Respondent sought approval to pay himself a personal representative fee of \$60,000. Despite demand, the Respondent did not produce any type of time log, or detailed explanation supporting the contention that he is entitled to such an exorbitant fee.

IV. ARGUMENT

A. STANDARD OF REVIEW.

The Court applies a two-part standard to review a trial court judgment awarding fees: “(1) we review *de novo* whether there is a legal basis for awarding [attorney] fees by statute, under contract, or in equity and (2) we review a discretionary decision to award or deny fees and the reasonableness of fee award for an abuse of discretion.” *Gander v. Yeager*,

167 Wn.App. 638, 647, 282 P.3d 1100 (2012); *see also, In re Estate of Black*, 153 Wn.2d 152, 173, 102 P.3d 796 (2004).

When reviewing a trial court's decision for abuse of discretion, the Court upholds the decision unless it is, “manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons.” *In re Guardianship of Hays*, 176 Wash. App. 1009 (2013). A court makes a manifestly unreasonable decision if it falls outside the range of acceptable choices, given the facts and the applicable legal standard; a court bases its decision on untenable grounds if the record does not support the court's factual findings; a court bases its decision on untenable reasons if it uses an incorrect standard or the facts do not meet the correct standard's requirements. *In re Marriage of Littlefield*, 133 Wn.2d 39, 47, 940 P.2d 1362 (1997) (citing *State v. Rundquist*, 79 Wn.App. 786, 793, 905 P.2d 922 (1995)).

B. SUMMARY OF THE ARGUMENT

Petitioner seeks to overturn the lower court's determination of \$60,000 as a reasonable fee for the personal representative of the estate of Elma Kangas. Respondent purposefully frustrated and delayed the disposition of the estate he was charged to oversee. Moreover, Respondent took oppositional stances clearly counter to the wishes of the heirs set to inherit. Respondent then stalled administration, intentionally engaging in

conduct that was contrary to his fiduciary duty, thereby resulting in inevitable years of litigation and court mandated arbitration. Respondent has attempted to utilize the arbitration process to insulate himself from ever having to provide a proper accounting or justification for fees.

The respondent should not be able to profit from his own dilatory actions and wrongdoing as a matter of public policy. Moreover, Respondent should be required to provide a full and in-depth analysis demonstrating the hours worked and justifying his fee as reasonable. To date, Respondent's records are woefully inadequate to justify a \$60,000 fee.

The lower court erred as a matter of law in refusing to hear Petitioner's objections to the payment of this fee.

The lower court also abused its discretion by failing to require Respondent to provide a full accounting of his hours worked to justify such an enormous fee.

C. ARGUMENT

The personal representative of an estate stands in a fiduciary relationship to those beneficially interested in the estate and is obligated to exercise utmost good faith and diligence in administering the estate in the best interests of the heirs. *Matter of Estate of Larson* 103 Wash.2d 517, 694 P.2d 1051(1985).

1. As a matter of public policy, Respondent should not be allowed to prevent an objection to fees in this case.

The length of time this case took to probate should itself raise a suspicious judicial eyebrow. The Respondent took over twenty years to disburse the assets of Elma Kangas, with two beneficiaries (Wayne Kangas and John Kangas) predeceasing the conclusion of probate. CP at 143.

Respondent continuously took an oppositional approach in executing his duties as personal representative. As a result of the death of Elma Kangas, Respondent had a duty to fund a trust for the benefit of his father, Wayne Kangas. During deposition testimony, Respondent asserted that he refused to distribute any funds to the trust, because, "I don't believe these to be my dad's words at all". CP at 140. As a matter of course, Respondent had no personal knowledge supporting his claims and certainly had no discretionary authority to contravene his duties as a fiduciary. *Id.* Respondent's assertions were directly contraindicated by the written word of his father and his father's legal counsel. CP at 139-142.

Unfortunately, Wayne Kangas died testate on January 6, 1998 without realizing the benefits from the Estate of Elma Kangas. CP at 005. Respondent then spent the next 6 or 7 years waging the same meritless battle, which left the Estate of Wayne Kangas no choice but to seek arbitration of the matter.

Respondent's continued delays and inability to resolve estate issues resulted in eight years of virtually no administration, and then required four days of arbitration before Respondent finally came to his senses and reached a settlement which made the distribution to the Estate of Wayne Kangas. *Id.*

In this arbitration agreement, Respondent demanded he be relieved of liability for any breaches of fiduciary duty and also relieved of having to provide an accounting of duties performed as personal representative. CP at 005-011; CP at 027.

While the freedom to contract waivers and exculpatory clauses are accepted by courts, certain types of fiduciary duty claims are not susceptible to waiver. By way of example, in Arizona, partnership agreements may not eliminate the fiduciary duties of the partners although certain types of conduct or standards by which the obligation is to be measured may be included in the agreement. *See* A.R.S. § 29-1003 (2012).

ERISA similarly "prohibits parties from waiving claims for breaches of fiduciary duty." *In re Schering Plough Corp. ERISA Litig.*, 589 F.3d 585, 593 (3d Cir. 2009); *see also*, 29 U.S.C. § 1110(a) (2013) ("prohibits agreements that diminish the statutory obligations of a fiduciary"). "[N]umerous courts have held that under ERISA, individuals

do not have the authority to release a . . . plan's right to recover for breaches of fiduciary duty." *In re Polaroid ERISA Litig.*, 240 F.R.D. 65, 75 (S.D.N.Y. 2006).

Trustees and executors are generally not permitted to benefit from prospective waivers of fiduciary duty breaches either. For example, New York's trusts and estates laws expressly prohibit "a testator from exonerating a fiduciary under a will" and provide that "a fiduciary's duty to account is not waivable." *In re Chantarasmi*, 35 Misc. 3d 345, 350, 938 N.Y.S.2d 762 (Sur. 2012) (*Matter of Lubin*, 143 Misc 2d 121 [1989]).

Moreover, traditionally a trustee cannot be relieved of its duty to account (See, *Estate of Hitchcock*, 140 Wn.App. 526 (2007)). The same logic should hold true when it comes to providing justification for such a large fee for a personal representative. This agreement would be less dubious had Respondent wrapped up the estate in short order after the arbitration. However, this case continued for another eight years of dilatory action before it was finally ordered to be closed. CP at 025-030; CP at 182-184.

One principle that exists in probate matters, which is generally the motivation for slayer statutes, is that individuals cannot benefit from their own wrongdoings. This principle is encapsulated by the axiom, '*Ex turpi causa non oritur actio*,' ('He who comes into equity must come with clean

hands' or 'No action arises out of fraud'). See, *Langley v. Devlin*, 95 Wash. 171, 186, 163 P. 395, 400 (1917). It is the settled public policy of the United States that its courts shall sustain no action, whether in tort or on contract, which arises out of the moral turpitude of the plaintiff, or from his violation of a general law of public policy, because the maintenance of such actions promotes violations of the moral law and of the civil law by inspiring the belief that one may safely violate both, since if he loses the courts will make him whole. *Stewart v. Wright*, 147 F. 321, 338–39 (8th Cir. 1906).

Conduct of a person charged with trust, such as estate administrator, can be characterized as misfeasance or mismanagement for nonperformance of act which ought to have been done, notwithstanding that argumentatively and technically the conduct might be characterized as nonfeasance. *Hesthagen v. Harby* 78 Wash.2d 934, 481 P.2d 438 (1971). In *Hesthagen*, the court established a precedent of punishing an administrator who obstructs the disposition of an estate, and then profits significantly from his own misdeeds or inaction. *Id.* at 943. As a matter of law, the court should find Respondent does not qualify for the fees claimed.

Similarly, should the court find Respondent entitled to a fee, it should be drastically reduced based on the record. *Infra*. This point is

particularly salient because the court provided no justification as to why Petitioner could not properly object to the fee claimed for the subsequent eight years following the arbitrated settlement agreement. The court summarily struck Petitioner's objections and ordered Respondent be paid his fee. CP at. 179-181.

The general theme underlying all of these longstanding public policy considerations is simply that a wrongdoer should not benefit from his own actions or inactions. In the case at bar, Respondent should be denied as a matter of law from receiving a windfall from his own inaction. This is particularly true given the clear lack of support in the record justifying such an excessive fee. *Infra*.

2. Due to the lack of evidence provided, the lower court abused its discretion by granting fees without having a full factual hearing justifying payment.

It shall be the duty of every personal representative to settle the estate, including the administration of any nonprobate assets within control of the personal representative under RCW 11.18.200, in his or her hands as rapidly and as quickly as possible, without sacrifice to the probate or nonprobate estate. RCW 11.48.010. Here, Respondent's eight year delay after arbitration is clear evidence of dilatory conduct. As will be further discussed, even if these actions are determined not to be dilatory, there is

nothing substantiating the fees claimed after arbitration as reasonable and necessary. *Infra*. CP at 153-166.

An executor of an estate, as an officer of the court and standing in a fiduciary relationship to those beneficially interested therein, is obligated to exercise the utmost good faith and to utilize the skill, judgment, and diligence that an ordinarily cautious and prudent person would employ in the management of his own affairs. *Wilson's Estate v. Livingston*, 8 Wash.App. 519, 527-528 (1973). It is his duty to settle the estate as quickly as possible, without sacrifice to the estate, while protecting the rights of valid creditors and protecting the estate from invalid and doubtful claims. *Id.* He stands liable for any breach of his responsibility which causes loss to another. *Id.*

In fixing the amount of such fee or fees, the court is to consider, “the amount and nature of the services rendered, the time required in performing them, the diligence with which they have been executed, the value of the estate, the novelty and difficulty of the legal questions involved, the skill and training required in handling them, the good faith in which the various legal steps in connection with the administration were taken, and all other matters which would aid the court in arriving at a fair and just allowance.” *In re Merlino's Estate*, 48 Wash. 2d 494, 498, 294 P.2d 941, 943–44 (1956).

The Respondent provided no accounting as part of his initial demand. Once an objection was raised which specifically requested an hourly log of time spent, the Respondent provided an activity report that did not include any detail regarding time expended.

Instead, Respondent simply offered the conclusory statement that much of the delay was due to the estate having “complicated tax issues,” which simply is not the case. The Estate of Elma Kangas received a Federal Estate Closing letter on July 25, 1996 and a Department of Revenue release on August 27, 1996. CP at 049-051.

Respondent also tried to attribute an unreasonable timeframe to “family issues.” CP at 096-132. However, the bulk of those issues were the result of Respondent’s intentional disregard for performing tasks he was legally required to complete. *Id.*

Lastly, the last eight years have been wrought with Respondent’s slow-walking a timber sale, then holding the proceeds for an inordinate amount of time, and then only seeking to close the Estate under pressure from John Kangas. *Id.* Despite a record of consistent letters requesting the estate be closed, several years would pass before a final order would be entered. *Id.*; CP at 182-184.

a. The Respondent/Personal Representative should bear the burden of establishing his right to a \$60,000 fee.

The Personal Representative shall be allowed all necessary expenses in the care, management and settlement of estate. RCW 11.48.050. If the court finds that the personal representative has failed to discharge his or her duties as such in any respect, it may deny him or her any compensation whatsoever or may reduce the compensation which would otherwise be allowed. RCW 11.48.210.

The Court has jurisdiction to review fees requested by a personal representative, even in a non-intervention estate. *In re Bobbitt*, 60 Wn. App. 630, 631-634(1991). A personal representative shall be allowed such compensation for his or her services as the court shall deem just and reasonable. RCW 11.48.210. Granting of compensation to personal representative is within discretion of trial court, and such award will not be disturbed on appeal unless there are facts and circumstances clearly showing an abuse of that discretion. *In re Douglas' Estate*, 65 Wash.2d 495, 398 P.2d 7 (1965).

If the Respondent/Personal Representative expects to be paid for professional fees, the Respondent carries the burden of showing he was qualified to do the work, the work was necessary, the work performed was

done in an efficient and reasonable manner, and that the proposed compensation reflects the current market rate.

In establishing the reasonableness of attorney fees based on hours multiplied by an hourly rate, probate attorneys must offer evidence not only that the hourly rate was reasonable but also that the hours spent were necessary in processing the estate. *Matter of Estate of Larson* 103 Wash.2d 517, 531-532 (1985). While the Respondent is not an attorney, the same logic applies when looking at fees claimed by a personal representative. The Respondent should be held to a similar standard. When there are serious questions about the necessity or reasonableness of fees, it is appropriate to remand to the lower court to address these issues. *Id.* at 532.

b. The Respondent/Personal Representative is not entitled to be compensated as a Forestry Manager.

The Respondent hired, and paid, many professionals to administer the timber management and logging assets of the Estate. CP at 148. While the Respondent asserts himself as a Forestry Manager, he offered no evidence supporting this proposition. In fact, during his deposition, the Respondent testified that in 2008 he was a lab tech making \$18.74 an hour. CP at 135.

Respondent did offer the testimony of Gordon Pogorlec, who owns a logging company, in an attempt to convince the court that the Personal Representative earned \$30,000 of the fee requested. Once again, Mr. Pogorlec's affidavit is filled with conclusions, and lacks any specifics that would allow the Court to even consider determining the Respondent has earned a fee in the amount of \$30,000. CP at 092-094. The Respondent and Mr. Pogorlec, consistent with the theme of the Respondent's administration, simply offer conclusory statements that there was "a lot of complex work" to do, and ask the Court and the beneficiaries to take their word for it. *Id.*

The Court should not consider an award of fees this size absent a specific and itemized log showing exactly what was done, and how long it took to complete the project. Further, the personal representative must show that the work was necessary. *Supra.*

Interestingly, Mr. Pogorlec did testify in his affidavit that the Respondent spent "at least forty hours in discussions/negotiations/management with me" and then concludes that the services provided to the Estate in 2013 would "cost at least \$30,000 plus costs." CP at 094. That equates to a rate of \$750 per hour. The Respondent never established that it was necessary for him to spend any time, much less forty hours, managing professionals who presumably knew what they were doing.

c. The evidence provided by Respondent in the record is insufficient to justify \$60,000 as a reasonable fee.

Once again, when examined closely the Respondent offered generalizations, without any real specifics, in seeking approval of fees he already paid himself. CP at 153-166. There is no hourly log, and no description of specific acts which were undertaken. *Id.* Without offering any proof, the Respondent offers that he “spent at least 4000 hours over 20 years on the Decedent’s estate.” CP at 152.

In making his initial request for a \$60,000 fee, Respondent submitted almost no evidence indicating what he had done, when he had acted, how long he spent performing his duties, or how his actions may have been reasonable or necessary. *Supra.* Upon seeing the scant evidence, and considering the objection filed by the beneficiary, the Court gave Respondent a second chance to justify his request for a fee.

However, the submission by the Respondent on the second attempt was equally inadequate to justify such an enormous fee. Respondent provides a laundry list of one line entries, lacking virtually any detail for the Court to consider. CP at 153-166. Moreover, none of the entries provide any specifics as to the time spent on any task. *Id.* Respondent bears the burden of establishing his entitlement to a fee, but provided no basis upon which the Court could award a fee. *Id.*

This inadequate response is not surprising given the 21 year history of the probate case. The Court is asked to fill in the gaps and provide the detail necessary. This cannot be reasonably accomplished without a factual hearing. No hearing in this regard was granted, and therefore the court abused its discretion.

Looking at the list in a light most favorable to Respondent and agreeing that he performed each of the tasks listed, and that each of those tasks were reasonable and necessary, under no circumstances could the court award a fee of more than \$7,700. CP at 174.

Respondent's submission outlined 292 entries that fall into the following categories:

Review letter/correspondence	148 entries
Phone conference	95 entries
Office conference	47 entries
Attend Depositions	2 entries

If Respondent spent 12 minutes reading each letter, 15 minutes on each phone conference, 30 minutes in each office conference and 4 hours at each deposition, he would have spent 77.45 hours administering the estate. If he was paid \$45 per hour^a, the total compensation to which he would be entitled is \$3,485.25. CP at 173-175. Additionally, assuming

^a Respondent appears to argue he is entitled to be paid an amount equivalent to the cost his employer incurs in employing him (which is likely twice his actual wages and includes benefits, payroll taxes paid by the employer, etc). If any fee is earned, Respondent is entitled to be paid *what it would have cost* the estate to employ someone to perform the tasks. \$45 per hour is excessive based on Respondent's own testimony. CP at 135.

Respondent spent twice as much time on each task (24 minutes reading each letter, 30 minutes on each phone conference, 1 hour in each office conference and 8 hours at each deposition) he would still be entitled to no more than \$7,636.50. CP at 174-176.

Presumably, Respondent will argue that some of the tasks took longer—which has the potential to be true. However, undoubtedly, many of them took a much shorter length of time to accomplish. The numbers provided are pretty generous when looking at the average. Moreover, it is Respondent who should bear the burden of showing that such actions were both reasonable and necessary. RCW 11.48.210. Based on the record and the evidence put forth by Respondent, the court clearly abused its discretion in not requiring a more specific accounting of the hours worked justifying the fee of \$60,000.

V. CONCLUSION

The Court should reject the lower court's finding that no evidence regarding the Respondent's actions could be considered when determining the reasonableness of the requested fee.

The Court should deny Respondent's request for personal representative fees as a general proposition. Failing to deny a fee establishes a precedent whereby delay and obstructionism are rewarded, and the desires of devisees and heirs are rejected. Plainly, the Respondent

was dilatory in his actions and did not execute his duties in good faith,
thereby justifying a denial of fees.

In the event the Court finds a fee is warranted, this case should be
remanded to the lower court for a determination of the reasonableness and
necessity of the fees claimed.

Respectfully submitted this 27th day of February, 2017.



C. Scott Kee, WSB#28173
Attorney for Appellant/Petitioner,
Dale Kangas

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DIVISION II

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STATE OF WASHINGTON

BY  _____
DEPUTY

COURT OF APPEALS
DIVISION II
OF THE STATE OF WASHINGTON

In Re the ESTATE OF ELMA)
KANGAS;)
)
DALE KANGAS)
)
)
 Appellant.)
)
 vs.)
)
 RICHARD KANGAS, Personal)
 Representative.)
)
 Respondent.)
 _____)

NO. 49867-7-II

AFFIDAVIT OF
SERVICE

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

CATHERINE HITCHMAN, being first duly sworn on oath, deposes and states:

That I am now and at all times herein mentioned was a citizen of the United States, a resident of the State of Washington, and over the age of eighteen (18) years and not a party to or interested in the above-entitled matter.

1. I certify that on the 9th day of February, 2017, I served a copy of *Appellant's Brief* by email (per agreement) on all counsel of record, as indicated below;

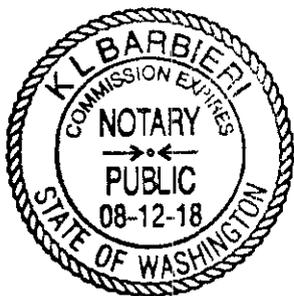
ORIGINAL

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P.O. Box 939
Chehalis, Wa 98532
Attorney for Personal Representative
bkelly@localaccess.com

DATED this 9th day of February, 2017.

Catherine Hitchman
Catherine Hitchman

SIGNED AND SWORN to before me this 9th day of February, 2017,
by Catherine Hitchman.



K.L. Barbieri
NOTARY PUBLIC in and for the State of
Washington, residing at Olympia.
My commission expires: 08-12-18