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Division II  
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COURT OF APPEALS, DIVISION II  
OF THE STATE OF WASHINGTON

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LEONARD C. DEWITT,

Appellant,

v.

KEVIN W. HANNAN,

Respondent

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SUPPLEMENTAL BRIEF OF RESPONDENT ESTATE OF KEVIN W.  
HANNAN

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**I. RESPONDENT’S STATEMENT OF FACTS RELEVANT TO  
SUPPLEMENTAL BRIEFING**

The Summary Judgment Order initially on appeal in this matter reserved the possibility of an additional monetary judgment against Mr. Dewitt in the event he was shown to have caused damage to Mr. Hannan’s residence at 2916 N. Lawrence Street in Tacoma. CP 275-276, CP 277-281. To prevent this from creating an issue about the finality of the Summary Judgment Order, on March 16, 2020 the Estate filed a Waiver of Claims for Additional Attorney’s Fees and Damages, and Motion for Entry of Final Judgment with the trial court. CP 1168-1170.

The trial court granted the Estate’s motion on April 3, 2020, and entered the Order and Final Judgment which Mr. Dewitt then designated in his Second Supplemental Notice of Appeal to the Court of Appeals, dated May 1, 2020.<sup>1</sup> By Notation Ruling dated May 5, 2020, Commissioner Schmidt consolidated Mr. Dewitt’s new appeal with the existing matter, and gave Mr. Dewitt until June 5, 2020 to file a supplemental brief of Appellant. Mr. Dewitt served a four-page supplemental brief on the Estate’s counsel on June 5, 2020, and filed it with this Court of June 8, 2020.<sup>2</sup> Also on June 8, 2020, Mr. Dewitt filed a 27-page Appellant’s Reply Brief.

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<sup>1</sup> Simultaneously with the filing of this Supplemental Response Brief, the Estate is filing another Designation of Clerk’s Papers with the trial court to bring both the Order and Final Judgment and Mr. Dewitt’s Second Supplemental Notice of Appeal into the record on review in this case.

<sup>2</sup> On its cover sheet, Mr. Dewitt’s brief is designated simply as “Appellant’s Brief.” The Estate refers to this brief here as the “Supplemental Appellant’s Brief.”

## II. ARGUMENT IN RESPONSE TO APPELLANT'S SUPPLEMENTAL BRIEF

This Court authorized Mr. Dewitt to file a supplemental brief to address any additional issues created by the trial court's Order and Final Judgment dated April 3, 2020. Mr. Dewitt's four-page Supplemental Appellant's Brief fails to identify any such issues, and barely even refers to the trial court's April 3, 2020 Order. Instead, Mr. Dewitt repeats arguments previously raised in his Appellant's Brief dated December 9, 2019, and rebutted in the Estate's Respondent's Brief dated March 16, 2020. Moreover, Mr. Dewitt cites to no new authorities, and no new relevant evidence, in support of his old positions. Accordingly, the Estate's response to Appellant's Supplemental Brief consists primarily in noting that it stands by the arguments and authorities set forth in its Respondent's Brief.

At one point in his Supplemental Appellant's Brief, however, Mr. Dewitt gives an old argument what may be a slightly new twist. He starts with the basically correct proposition that “[i]f a court finds a CIR then it can distribute [community] property.”<sup>3</sup> But he then tries to leap to the conclusion that if a court finds there is no CIR—as the trial court did

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<sup>3</sup> Supplemental Appellant's Brief, at p. 3 (citing to *Connell v. Francisco*, 127 Wn.2d 339, 898 P.2d 831 (1995)). *Connell v. Francisco* of course “limit[ed] the distribution of property following a meretricious relationship to property that would have been characterized as community property had the parties been married.” *Connell*, 127 Wn. 2d at 350.

here—then it cannot either clarify that the purported community property is in fact the separate property of one of the parties, nor enforce the rights attendant to such property.<sup>4</sup> The only reason Mr. Dewitt ever advanced in this litigation for having any interest in the Lawrence Street residence was the purported CIR. *See, e.g.*, CP 1-4, CP 185-187, CP 1076, at lines 1-3. Having determined that Mr. Dewitt’s claimed interest had no basis, the trial court properly ordered Mr. Dewitt to return the Lawrence Street residence to Mr. Hannan’s exclusive possession and control. CP 275-276, 285-287.

The Estate has previously explained why it believes the Residential Landlord Tenant Act (“RLTA”) does not apply to the facts here.<sup>5</sup> But even if the RLTA were to apply, it was not violated. Although the RLTA states in part that is unlawful for the landlord to remove or exclude from the premises the tenant thereof except under a court order so authorizing,” it is undisputed that Mr. Hannan had such an order—the first order on appeal.<sup>6</sup> CP 275-276. The unlawful detainer statute, Chapter 59.12 RCW, provides one particularly expeditious way of obtaining such a court order, but it is not the only way.<sup>7</sup>

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<sup>4</sup> *See* Supplemental Appellant’s Brief, at p. 3 (asserting, with no support, that “[w]ith no finding it can not then . . . distribute the property . . .”).

<sup>5</sup> *See* Respondent’s Brief, at pp. 44-45 and notes 110 and 111.

<sup>6</sup> RCW 59.18.290(1).

<sup>7</sup> *See, e.g.*, RCW 7.28.010 (authorizing actions for ejectment). *See also* CP 290 at ¶ 1.7 and CP 291 at lines 18-19 (Mr. Hannan’s Answer to Mr. Dewitt’s Complaint, asserting right to be placed in undisputed possession of the North Lawrence Street property), *and* 17 Wash. Prac., Real Estate § 6.80 (2d ed.) (noting that “[t]he main purpose of unlawful detainer under RCWA Chapter 59.12, or under any American summary eviction statute, is to give the landlord a speedy, efficient action to evict a tenant for breach or for certain activities on the premises). Nothing in any authority found

In short, Mr. Dewitt has failed to identify any reversible error by the trial court, either in his Appellant's Brief or in his Supplemental Appellant's Brief. The Court of Appeals should affirm each of the trial court orders on appeal.

DATED this 24<sup>th</sup> day of June 2020.

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by counsel for the Estate supports the extreme proposition that an unlawful detainer action is *the only way* the courts can be properly used to remove unauthorized persons from property, and any such conclusion would appear to fly in the face of a superior court's ability to fashion a proper remedy in cases ranging from trespass to marital dissolution.

**CERTIFICATE OF SERVICE**

I certify that on June 24, 2020, I emailed the foregoing Supplemental Brief of Respondent Estate of Kevin Hannan to Leonard C. DeWitt, Appellant *pro se*, at his email address of [leostar5678@gmail.com](mailto:leostar5678@gmail.com). I also placed a copy in the United States mail, first class postage prepaid, for delivery to the following address:

Leonard C. DeWitt  
2106 S. 25<sup>th</sup> St.  
Tacoma, WA 98405

Dated this 24<sup>th</sup> day of June 2020.

By: David J. Corbett  
David Corbett

**DAVID CORBETT PLLC**

**June 24, 2020 - 10:20 AM**

**Transmittal Information**

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