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COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

No. 342263

(Walla Walla County Superior Court – No. 11-4-00161-8)

**COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON**

WILLIAM MILLER

Appellant,

VS

ESTATE OF DOROTHY C. MILLER

Respondent,

**APPELLANTS BRIEF
FOR REVIEW**

WILLIAM "BILL" MILLER
29 E. Maple St.
Walla Walla WA 99362
(509) 876-4066

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A. INTRODUCTION

Comes now William Miller (hereafter, Bill) and respectfully submits Appellant brief. Seeking review of the DECISION AND ORDER DENYING RECONSIDERATION, filed March 17, 2016. Said Order charges me with Interest, Fees, and Costs that have accrued within probate proceedings. I have done my best with the difficult task of separating fact from emotion and humbly present this brief full of facts, dates, past arguments, and my interpretation of this case.

This Appeal is regarding the Estate of my mother, Dorothy C. Miller, Deceased. I am one of the beneficiaries as well as my brother, John Miller (hereafter John), my sister, Lori Montgomery, and four grandchildren. She died in testate, September 14, 2011, Last Will and Testament admitted to probate, September 21, 2011, non-intervention powers granted to John and myself, as co-personal representatives. The estate consisted of money in bank accounts, investor securities, cash in a safety deposit box, tangible assets and three homes owned outright. When she passed I was residing at 1540 J St. (hereafter, J St.), one of three properties. My mother resided at 1356 University St. (hereafter, University St.) and I maintained for her the third property, a rental, located at 229 Bush St. (hereafter, Bush St.). All of Walla Walla WA 99362.

At John's request, I moved from J St. to University St. John intended on inheriting J St. and I University St. Over the next 15 months he rented out J St. and learned how much damage renters can do. Then invested funds into restoring J St. and was disappointed when it sold for a little more than the appraised value. I did as John asked, moved to University St., took care of properties, helped remodel J St., and began work on Bush St. Never occurring to me, John would go back on his word if his personal gain was less than anticipated.

John and Personal Counsel, David S. Grossman (hereafter Grossman) manipulated facts to cause my appearance as intransigent. I did as John asked and found myself without a home, personal belongings, business equipment, and our mother's personal property. Indebted to the estate for rent never requested until John took a personal loss.

My conduct is their argument, intransigent and uncooperative. Efforts to cooperate revealed errors, facts changed, contradictions, neglect to heirs and lack of fiduciary duties. John expended funds, lied, and insisted on doing things without regard to the estate or heirs. Admittedly I am angry, but not without cause. I personally endured the expense of obtaining counsel, defending what I was told I would inherit, John should personally be responsible for the Interest, Fees, and Costs he expended to take it away.

B. ASSIGNMENTS OF ERROR

1. Awarding me Interest, Fees, and Costs of reversing Johns decision.
2. Facts merit Johns behavior intransigent lacking in fiduciary duty.
3. I “resisted” reasonable attempts to require me to vacate University St.
4. Awarding unnecessary attorney’s fees and costs so University St. could be listed and sold.
5. Awarding attorney’s fees of \$6,607.50 and costs of \$3,260.20 in related unlawful detainer, based on conduct.
6. Awarding attorney fees of not less than \$4,707.50 in probate proceeding, due to conduct.
7. Efforts requiring me to vacate University St. were not in the best interest of the estate heirs.

C. ISSUES PERTAINING TO ERROR

1. Abuse of Fiduciary duties. Negligence to Heirs.
2. Withholding facts to influence the Courts view
3. I did not resist efforts and I tried to cooperate.
4. Lack of Fiduciary duties is cause of court cost, fees, and interest.
5. Unlawful Detainer was not within legal standing.
6. Conduct of John and Grossman is dishonest and manipulative.
7. The heirs best interest has been neglected while John played landlord, home improvements, and my way or the highway.

D. STATEMENT OF CASE

The Last Will of Dorothy C. Miller residue of the Estate to John Miller and Bill Miller shares of 40% each and Lori Miller a share of 20%.

Decedent owned three real properties 1356 University St., 229 Bush St, and 1540 J St., all in Walla Walla WA 99362 (CP 1).

I was living at J St. Moved to University St at Johns request, never disputed.

No lease or talk of tenure for tenancy at University St. never disputed.

May 2013 John depleted bank account. Accused me of misspending funds.

May 22, 2013 I signed resignation

September 2013 Larry Seigel withdrew.

October 2013 Grossman appeared

February 2014 Grossman sent me a letter.

April 2014 I hired Brandon Johnson from Minnick-Hayner

Grossman served a 20-day notice on June 4, 2014(CP 3 ¶7)

Grossman filed an Unlawful Detainer July 2, 2014(CP 4 ¶1)

July 3, 2014 Brandon Johnson withdrew

July 2014 visited Grossmans office, Grossman sent me a letter.

October 2014 visited Grossmans office, Grossman sent me a letter

Petition for Instruction October 31, 2014 (CP 1)

Petition for Report of Affairs was filed December 8, 2014. (CP 8)

Order on Petition for Instructions filed December 12, 2014.

Submit loan app by Dec 18, 2014. proof of loan by Jan 7, 2015

Conditions not met Bill vacate by January 31, 2015 (CP 25, 26)

December 22, 2014 Ordered Deliver Report of Affairs in 30 days (CP 30).

January 27, 2015 Status Report filed (CP 42)

February 2, 2015 Order to Vacate,

Bill must move out by March 2, 2015 (CP 54).

April 2015 Bill requests distribution so he can comply with court order

July 27, 2015 Bill served with Unlawful Detainer

July 2015 Bill receives partial distribution for \$10,000

September 22, 2015, Bill charged \$700.00 per month for 46 months of occupation of University St home. Court reserves for further proceedings attorney fees and costs. (CP 235).

September 22, 2015 Order Status report within 30 days (CP 239).

September 22, 2015 Order RE: Bill Millers request for Instructions, all denied except partial grant of distribution to Bill of \$30,000 (CP 242).

February 29, 2016 Order Granting Renewed Motion to Charge Heir's Interest for Attorney's Fees and Costs totaling \$14,575.20

March 10, 2016 Motion for Reconsideration

Grossman wrote a letter to judge March 16, 2016

Decision and Order Denying Reconsideration filed March 17, 2016.

E. ARGUMENT

After the death of our mother, I followed John's lead, moving into University St., assisting him with general maintenance and yard care for all properties. When John's renters extensively damaged J St. property, I followed suit when he decided to renovate. John's idea, remodel J St. and Bush St. to obtain the best market value. My sweat equity would cover his buyout in University St. and any distributable share would pay the majority of Lori Montgomery's interest in the property. After renovations on the J St. property it sold for a couple thousand more than it appraised.

John never worked on Bush St. before he listed on the market. I disagreed with this but it was understood that University St. was mine and this would be up to John since it affected his inheritance.

After Bush St. was listed, Larry Seigel, the previous Estate attorney, informed me I was being accused of spending estate funds for personal use. The account in question was our mothers and to my knowledge, a nonprobate asset, as listed in September 2011 inventory. (CP 105).

RCW 11.02.070(10) defines nonprobate assets as

“..... "Nonprobate asset" includes, but is not limited to, a right or interest passing under a joint tenancy with right of survivorship, joint bank account with right of survivorship, transfer on death deed, payable on death or trust bank account, transfer on death security or security account, deed or conveyance if possession has been postponed until the death of the person, trust of which the

person is grantor and that becomes effective or irrevocable only upon the person's death, community property agreement, individual retirement account or bond, or note or other contract the payment or performance of which is affected by the death of the person....."

Both John and I were signers on the account with right of survivorship. According to above stated, the account was nonprobate and my spending should never have been an issue.

It shocked me John had an issue with money I spent over a year ago. John spent the majority of account funds as he pleased, purchasing unnecessary items including things for his home in Monroe. My spending included several things for repairs on University St. and admittedly some personal purchases. A description was in my December 8, 2014 Declaration.

"One expense included in this amount was \$900 for a new water heater for the University Street house where I now live. I replaced the water heater shortly after moving in during the fall of 2011 along with the kitchen drain, shutoff valves on sink and toilet and other repairs. The new water heater came from Home Depot." (CP 12)

The day I was accused of inappropriate spending John stopped by and that was the last time we have spoken. Coincidentally, since that evening receipts I kept together that verified purchases, I have not been able to locate. John's Declaration filed August 13, 2015, recounts his version,

"Both Bill Miller and I were signatories on the estate checking account. In April or May, 2013, when reviewing

bank statements, I determined that Bill had written checks from the estate account for what appeared to be personal expenses. The total of these checks was \$3,454.81. Checks issued by Bill for personal purposes included, but were not limited to, checks to Providence Physicians, Century link, Charter Communications, Cash, Aziz Chevron, Department of Corrections, Central Violation Bureau, Sprint, The New York Store, Staples, Falcon Video, and checks payable to certain individuals. I discussed these withdrawals with Larry Siegel and I understand he discussed them with Bill Miller. The result was, Bill Miller resigned as co-personal representative on May 24, 2013, and his name was removed from the estate bank account.” (CP 142).

The terms for my resignation came from Larry Seigel, May 20, 2013.

“The records show you took a total of \$3,454.81 of estate funds for your own use. If you will resign as Co-Personal Representative, I will balance out your “misuse” of these funds with an equal amount to pay you for times spent on homes and as Personal Representative so that hopefully there are no repercussions. I will then move forward to finalize the estate.”

Wednesday May 22, 2013, George Kaupf, local realtor, appeared at my job site and approached me about resigning. I was given the impression my resignation would not have any effect on University St. George Kaupf had the necessary paperwork and based on our conversation I signed and dated the document. The following week George Kaupf called requesting I come into the office, he had me sign off on the sale of Bush St., May 28, 2013. (CP 162). The tactics used to coerce my resignation left me unaware of effects it would have regarding my inheritance.

I was unaware what had been spent out of the estate account until a Statement of Affairs filed January 27, 2014. I learned John depleted all the funds in the account the same month my spending became an issue used to initiate my resignation. (CP 42). This nonprobate account overnight changed to probate and used several times to portray me as less than desirable. See CP 64 ¶2, CP 140, CP 129. Never a reason for the sudden change in account status beyond John and Larry Siegel saying so.

December 8, 2014, Lenard L. Wittlake, PLLC, questioned John's behavior bringing it to the court's attention,

“As personal representative, John owes a fiduciary duty to Bill. *In re Estate of Jones*, 152 Wn.2d 1, 93 P.3d 147 (2004). Instead of fulfilling that duty, John has been looking out for his own interest. He has been using estate counsel to advance his own interest. He had former estate counsel write a letter to Bill to the effect that if Bill would resign as co-personal representative, then he would not have to pay back about \$3,450 of unaccounted for expenses (CP20 ¶4).” RCW 11.98.078 (1) provides, “A trustee must administer the trust solely in the interests of the beneficiaries.”

RCW 11.98.078 (8) additionally states:

“If a trust has two or more beneficiaries, the trust must act impartially in administering the trust and distributing the trust property, giving due regard to the beneficiaries' respective interests.”

Supported by RCW 11.100.020 (3)(h):

“Among the circumstances that a trustee shall consider in investing and managing trust assets are such of the following as are relevant to the trust or its beneficiaries: An asset's

special relationship or special value, if any, to the purposes of the trust or to one or more of the beneficiaries.”

John led me to believe I was to receive University St. for a sum less than \$10,000, an exchange of sweat equity remodeling, and caring for the properties. I invested time and had respective interest, an accurate evaluation of circumstances brings Johns intentions into question.

After J St. and Bush St. sold and I resigned, Larry Seigel and John decided I should pay rent, the Estate should pay John for work hours, I owed John for estate Personal Property, and the estate had paid my utilities. I was not in agreement with these sudden decisions. Including work hours in with a resignation I was coerced to sign and pay John for work hours that were impossible given time spent, was unjustifiable. Expected me to pay rent which had never been discussed. I lived in J St. for almost five years and my mother never requested rent.

September 12, 2013, Larry Seigel withdrew as the Estates attorney due to a conflict of interest position. Grossman recounts a Notice of Appearance on October 22, 2013 in his letter dated February 19, 2014, described in declaration filed October 31, 2014:

“On February 19, 2014.....I wrote to William Miller and proposed that the Estate would sell him the house and adjacent lot for \$152,000. My letter stated that “If an agreement can’t be reached regarding the purchase price for the house, and you do not proceed with the transaction, it will be incumbent on John Miller to list the house for sale to

a third party.” I did not receive substantive response from William Miller to this proposal.” (CP 3 ¶6).

Claims Estate’s preference is to sale me the home and price is to assure the estate maximizes its assets values. Contradicting Johns actions nine months earlier when Bush St. sold at a loss. (CP 106). Grossman describes other letters sent to me in his Declarations:

“On July 16, 2014, I wrote to William Miller advising that the eviction would be deferred until after August 15 to allow him to secure financing. My letter stated “If by August 15, 20124, you do not have loan approval in place and it appears that loan approval is not forthcoming, I will have to recommence the unlawful detainer proceedings. The house needs to be sold, either to you or to a third party, and we cannot just continue with the status quo (CP 4 ¶5).””

Again states “preferable resolution” is for me to purchase the home and at the same time informs me John wants to sale the house. Acknowledges I had representation and served me a 20 Day Notice to vacate and was successful with receiving Order for Writ of Restitution. Several times throughout he threatens with an Unlawful Detainer.

“On October 7, 2014, I wrote to William Miller advising that by my computation he would need a loan of up to \$55,000 to purchase the house and to compensate the estate for his occupancy of the property for 37 months. My letter asked Mr. Miller to provide evidence within 10 days that he had applied for financing. I stated otherwise “I will proceed to reactivate the unlawful detainer action and begin taking steps to have you evicted from the house so that we can proceed to list the property for sale (CP 5 ¶2).””

This had a letterhead from Minnick-Hayner and informed of new sale price for property. References these letters as an example of attempting to work with me.

Grossmans Declaration dated August 28, 2015 he takes responsibility for providing me with representation (CP 212).

“8. At some point in early 2014, I spoke with Brandon Johnson, then an attorney with Minnick-Hayner and asked if he was interested in representing Mr. Miller. He said he was and I communicated that to Mr. Miller, although I do not recall the specifics of how this was communicated.

9. Mr. Miller apparently contacted Mr. Johnson, as Brandon Johnson filed a Notice of Appearance on April 17, 2014. After Mr. Johnson appeared, he and I had several conversations about Bill Miller’s purchase of the University Street house. I expressed that I did not believe Mr. Miller’s estimated distributive share of the estate would be sufficient to make up the purchase price and I believed it would be necessary for Mr. Miller to obtain loan financing for a portion of the price.

10. Despite Mr. Johnson’s appearance, I received no substantive response and no progress was made toward Bill Miller’s expressed interest in purchasing the University Street house. I sent Mr. Johnson as least several e-mails inquiring as to the status of the case.

11. On July 3, 2014, Mr. Johnson filed a Notice of Intent to withdraw from representing Bill Miller.”

At Mr. Grossman’s suggestion I contacted Brandon Johnson of Minnick-Hayner and obtained his service. Grossman admits knowing I was represented by Brandon Johnson, until his withdraw on July 3rd 2014. Declares me unresponsive February 2014 through June 2014 to the extent

he filed a 20-day notice. Served the notice, a month before my attorney withdrew, which violates the Rule of Professional Conduct 4.2 which reads:

“In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order.”

Filing an Unlawful Detainer action July 2, 2014, the day before my attorney withdrew (CP 4 ¶1).

October 31, 2014, Declaration Grossman admits I contacted him at least three times requesting alternative options and found errors in his accounting (CP 1-6). Demands to purchase University St. fluctuated and requests for estate accounting was ignored. Accurate accounting of the estate was never produced and I was unwilling to agree any terms of purchase without knowledge of my distributive share. The Interest, Fees, and Costs regarding an Unlawful Detainer began to accrue when a 20-day notice was filed in June 2014. RCW 59.18.200(1)(a):

When premises are rented for an indefinite time, with monthly or other periodic rent reserved, such tenancy shall be construed to be a tenancy from month to month, or from period to period on which rent is payable, and shall be terminated by written notice of twenty days or more, preceding the end of any of the months or periods of tenancy, given by either party to the other.

With no agreement of rent the 20-day notice Grossman filed was not within legal standing and should not have been allowed. RCW 59.12.030 defines an Unlawful Detainer:

A tenant of real property for a term less than life is guilty of unlawful detainer either:

- (1) Holding over after expiration of tenancy for a specified time;
 - (2) Continuing in possession after a 20-day notice to vacate has been served when the tenancy is for an indefinite time with monthly or periodic rent reserved;
 - (3) Continuing possession after default in payment of rent and tenant has failed either to pay or vacate the premises within 3 days after service of the notice to do so;
 - (4) Continuing in possession after neglect or failure to perform any of the covenants of the lease and failure to comply with the terms within 10 days after service of the notice requiring him to do so;
 - (5) Committing or permitting waste or maintaining a nuisance upon the premises and continuing in possession after service of a 3-day notice to vacate;
 - (6) Entering upon the land of another without the owner's consent and remaining thereon after 3-day notice to vacate;
- or
- (7) When he or she commits or permits any gang-related activity at the premises as prohibited by RCW 59.18.130.

My residency at University St. did not fall within unlawful detainer circumstances as clearly stated in *Turner v White, 20 Wash.App.290 (1978)*.

Grossman was Johns attorney for a year, in that time he mailed me three letters, talked to me over three times, filed a 20-day notice, and an Unlawful Detainer while I had representation. I attempted via personal contact, declarations, and attorneys, to present additional and alternate

solutions to resolve my purchasing University St. (CP 110 ¶6, CP 111 ¶8, CP 117). No mediation or fact finding although mentioned was never presented as an option. The intentions were clearly laid out in Grossman's letters before the matter was ever brought to court. I was to get a loan for an amount dictated or an Unlawful Detainer filed and the home sold to a third party. The indication I could purchase the home was never really the intent.

Grossman has made numerous errors in accounting and recounting of dates and events. CP 1 has my mother's date of death listed 3 years after the actual date. CP 5 describes an error on his spreadsheet that was discovered by myself and friends of almost \$10,000. Conflicting dates in his own paperwork. CP 131 says writ of restitution was done on July 17, 2015 and CP 170 states it was June 23, 2015. CP 213 Grossman joined the Minnick-Hayner firm October 1, 2015, the year in this matter clearly should have been 2014, supported by the Petition of Instructions filed October 31, 2014, Minnick-Hayner in the address heading. (CP 1).

CP 211 ¶6 from same document as CP 213 and differs in the statement:

“I appeared for John Miller, Personal Representative on October 22, 2014. At the time of my appearance, and until October 31, 2015, I practiced with the firm Reese, Baffney, Frol & Grossman, P.S.”

CP 202 ¶3 gives alternate dates.

“At the time of his appearance and until September 30, 2015, Mr. Grossman was with the firm Reese, Baffney, Frol & Grossman, P.S. From October 1, 2015 to present, Mr. Grossman has practiced with the Minnick-Hayner firm.”

The particular Declaration was defending a conflict of interest due to my former attorney working for the firm where Grossman now works. The date Grossman changed firms is at best October 7, 2014, the letter informing me of his new firm. Numerous errors used to influence the courts views. Lack of acknowledgement is a consistent frustration. Grossman repeatedly states I have not turned in hours for work on J St. and Bush St or receipts for costs expended. These were filed December 8, 2014 with my Declaration. I made repeated requests to receive credit for hours and receipts, none has ever been given. (CP 5). In CP 3 ¶6 Grossman states he never received substantive response regarding the house. Substantive defined by Learners Dictionary is:

1. Important, Real, or Meaningful
2. Supported by Facts or Logic

<http://www.learnersdictionary.com/definition/substantive> (Sept.10, 2015)

Grossmans use of substantive is no more than a colorful lie. Violating the Rules of Procedural Conduct:

“A lawyer shall not knowingly: offer evidence that the lawyer knows to be false.” RPC 3.3a (4).

Statement of Affairs filed, January 27, 2015, showed John and Lori both received a cash distribution. It was explained to me my distribution was

held towards my interest in University St. This was never included or mentioned during communications with Grossman and was excluded from the Statement of Affairs. (CP 42-49, CP 87 ¶5). Less than a week later I received the Order to Vacate. (CP 41 & 42). Grossman and John were not forthcoming about the estate holding \$40,000 towards my purchase of University St., because it was beneficial when influencing the Court. Grossman's efforts to portray me as uncooperative are an overindulgence of impartial truths presented in circles of semi facts to accomplish Johns agenda.

The Unlawful Detainer Grossman has been adamant about, was put in action outside of its legal realm. Leonard L. Wittlake, PLLC detailed the legalities of an Unlawful Detainer and brought to the courts attention that I was a tenant-at-will. (CP 22 & 23). Black's Law Dictionary, 9th Ed., states:

A tenancy-at-will is one in which the tenant holds possession with the landlord's consent but without fixed terms such as duration and rent.

Washington State already decided that a tenancy-at-will is not subject to an unlawful detainer. *Turner v. White*, 20 Wn.App.290, 291-92, 579 P.2d 410 (Div.3 1978);

The tenant took occupancy with permission of the owner, terminable without notice and provided no monthly or periodic payments. Tenancy does not fall within RCW 59.12.030 provisions and is what common law refers to as

tenancy at will, only terminable upon demand for possession.

No demand for possession was made and although it was never admitted that John requested I move into University St., it was not denied either. Since there was not a rental contract there was no claim which relief would be granted with an unlawful detainer.

Grossman and John were deceptive withholding information that \$40,000 was being held by the estate toward my purchase of University St. Fraud described in RCW 9.45.060.

“Every person being in possession thereof, who shall sell, remove, conceal, convert to his or her own use, or destroy or connive at or consent to the sale, removal, conversion, concealment, or destruction of any personal property or any part thereof, upon which a security agreement, mortgage, lien, conditional sales contract, rental agreement, or lease exists, with intent to hinder, delay, or defraud the secured party of such security agreement, or the holder of such mortgage, lien, or conditional sales contract or the lessor under such lease or rentor under such rental agreement, or any assignee of such security agreement, mortgage, lien, conditional sales contract, rental agreement or lease shall be guilty of a gross misdemeanor.”

John entered into a conditional sales contract when I moved from J St. to University St. at his request. John doesn't want to acknowledge it but inadvertently did when no distribution was made to me at the same time as him and Lori Montgomery. Once all involved and the court became aware of the \$40,000 said to be held by the estate towards my purchase of the

University St. property, removal from the home should have been ceased. I never received any distribution until after I was illegally forced to leave the property. Fraud was the means by definition that Grossman and John committed in order to take possession of University St.

Lenard L Wittlake, PPLC, was correct when he stated we had Joint Tenancy in University St. RCW 64.28.010 describes:

“Whereas joint tenancy with right of survivorship permits property to pass to the survivor without the cost or delay of probate proceedings, there shall be a form of co-ownership of property, real and personal, known as joint tenancy.”

We all owned our perspective percentage of University St. and John entered into a conditional sales contract, my sweat equity in trade for his equity in University St., escrow of \$40,000 held toward University St. and I was ordered to vacate. The Writ of Restitution ordered lacked a claim upon which relief could be granted and was signed by the same Trial Court judge presiding over probate proceedings. I should not have to pay for John and Grossman to legally break the law in order to cheat me out of my inheritance.

Anything presented by me or through counsel seems to have been ignored by the Trial Court Judge. John's estate spending (CP 12), Won't acknowledge that I submitted hours to the court or question counsel in regards to crediting me. (CP 12). Declaration filed December 8 2014,

mentions my representation by Minnick-Hayner, Judge could have or should have questioned to avoid conflict of interest. (CP 14). Sound argument in Memorandum of Law filed December 8, 2014, but Judge insisted I seek funding without knowing estate financials. Order to Vacate though an Unlawful Detainer was not the appropriate procedure. (CP 22, 23). CP 25, Trial Court doesn't acknowledge consideration of my Declaration, the Memorandum of Law that was filed, and that I don't know estates accounting. Trial Court never questions validity of funds misspent but allows it to implicate uncooperative behavior. (CP 109). The Court could have settled real estate in several ways as stated in CP 115 & 116. CP 220 Trial Court notes all of my objections that he overruled while changing the wording for John and Grossmans paperwork so it is not considered a conflict of interest. Judicial estoppel was explained at length in CP 222 with no avail. Never questioned the disbursement I didn't receive or validity of unlawful detainer and claims of unresponsiveness. (CP 52, 53). CP 55 it is even claimed that the Judge has been advised, I'm just curious by who? The Courts power of the estate never questioned claims made by Grossman or considered claims by myself and counsel. (CP 77). CP 82 judge already decided I will pay rent although it had not been presented. CP 83 the Judge describes hours John worked as credible and mine are claims, although my records are the only ones on file.

The proceedings of a 20 day notice and unlawful detainer were started before any litigation and obtained even though it never should have been legally enforceable. The Interest Cost and Fees of Johns persistence not to mediate, litigate, or request fact finding should be given back to John's distributive share as the facts were not considered and his behavior brought to account.

F. CONCLUSION

John requested I move to University St. John did not request rent or a written agreement. RCW 11.48.030:

“Every Personal representative shall be chargeable in his or her accounts with the whole estate of the deceased which may come into his or her possession. He or she shall not be responsible for loss or decrease or destruction of any of the property or effects of the estate, without his or her fault.”

John had possession of the University St. property and at his request I took tenancy. It was Johns actions that caused me to believe I would inherit University St. no problem. Johns actions pursuant to RCW 11.48.030, RCW 11.98.078 (1), RCW 11.98.078 (8), and 11.100.020 (3)(h) were misleading, not in the interest of heirs, and put his own gain first. The Interest, Fees, and Costs of removing me from the home he requested I occupy are the fault of John. Trial Court decision should be reversed and awarded to John.

When all facts are equally taken into account Johns behavior is intransigent and severely lacks in fiduciary duties. My behavior is not intransigent when up against John's best interest, Grossman's inconsistencies, and the Trial Court Prejudices. The procedure used to remove me from University St. was outside of its legal jurisdiction, premature in its actions, and illegal in its standing. The cost of forced

inappropriate actions should be on those forcing them. Cost of Unlawful Detainer proceedings should be reversed and awarded to John.

Throughout proceedings facts were misrepresented, left out, and changed by Grossman. Grossman threatened, harassed, bullied, and filed illegal procedures. It is uncanny that I am awarded to pay him for the intransigence he treated me with due to my uncooperative behavior. These fees should be awarded to John, it was in his interest Grossman was representing, not that of the estates. When the Personal Representative is looking out for his own interest I as an heir should not be held accountable for the Interest, Costs, and Fees that incur. Award of Attorneys fees should be reversed and awarded to John.

My conduct in this matter can hardly be considered intransigent when the facts clearly show constant errors, facts changed or left out, abrasive confrontations, contradictions, neglect to heirs and breach of fiduciary duties, where I was supposed to find resolution. Admittedly I am angry but not without cause.

Respectfully submitted this 21 day of September, 2016.

Bill Miller



Appellant