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Division III
State of Washington
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No. 35879-8-III

COURT OF APPEALS DIVISION III

IN RE THE ESTATE OF
HELEN LOUISE GIORGI GRIMSLEY OWEN,
Deceased.

Paul Grimsley,
Appellant

v.

Karen Grimsley, Personal Representative,

Owen Grimsley Homestead Trust
a Massachusetts Trust,

And

Lorna Johnson and Douglas Barnes,
as individuals and in their Marital Community,
Respondent(s).

Other parties:

Michael Grimsley, Beneficiary
Diane Grimsley, Beneficiary

REPLY BRIEF OF APPELLANT(S)

APPEAL FROM THE SUPERIOR COURT FOR
SPOKANE COUNTY

Hon. Timothy Fenessy
Cause No. 15-4-00818-0
(consolidated with 16-4-01713-6)

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Not applicable.

I. ARGUMENT IN REPLY

A. Respondents' Introduction(s)/Statement(s) of Case. The Appellant offers *Appendices A and B* to clarify Respondent(s) respective Statements of Case with regard to Estate property ownership, and Johnson/Barnes' estate scheme. Lorna Johnson and her husband Douglas Barnes assured the Decedent Helen Owen that transferring her unencumbered land ("Owen Parcels") to their Owen Grimsley Homestead Massachusetts trust entity (OGH) and making it the major beneficiary of her *Last Will and Testament* (Will) would not only benefit her children equally as certificate-holders but "avoid probate, limit liability of the beneficiaries," and keep her estate out of the hands of "the lawyers." (VRP 460, Lines 9-25; VRP 461, Lines 18-22; VRP 481, Lines 11-15; VRP 484 Lines 5-10). Unfortunately, the opposite has "ensued." For all of the couple's "help," (which by their own admission went well beyond typing up a document or having a conversation) Ms. Owen would've surely been better off had she died intestate--in which case, her assets would have been divided four ways, and her children would enjoy "equal benefit" as she clearly intended, without nearly the drama or cost.

Respondents beneficiary and Personal Representative Karen Grimsley ("PR") and "OGH" largely avoid meaningful analysis of the arguments as made in opening brief by asserting that they were unclear or irrational, there were no citations (or too many), or otherwise relegating them to the realm of "emotional argument." Such "micro-aggressions" pervaded the proceedings

below, up to and including the refusal of the simple request to make their proposed orders as prevailing parties commensurate with the claims as set forth in the amended TEDRA petition, arguably further confusing issues on review.

In reply to repeated assertions of frivolity and abuse of process by Mr. Grimsley in even bringing his appeal, the Appellate Court will note that the PR/her attorney's firm made three times as many filings in the Trial Court than the the Brothers Grimsley--including approximately twenty-eight (28) motions and memoranda (excluding procedural notices and answers), twelve (12) declarations and affidavits, six (6) motions to shorten time, and (22) motions in limine--almost all of which the Trial Court granted without a single word about litigiousness or threat of contempt --including dismissal the Appellant(s) case against the PR mid-trial. (*Index to Clerk's Papers*, generally, VRP 118, Lines 18-20; VRP 126, Lines 17-19). Conversely, the record reflects that the Appellant(s)' several attempts at procedural clarity which were met with "not my job"- type responses from the Trial Court, and their motions were almost all either denied, or not ruled upon. (VRP 7, Lines 8-12; VRP 9, Lines 7-25, VRP 10-11; VRP 12, Lines 19-25; VRP 17, Lines 3-12; VRP 21, Lines 7-25; VRP 22, Lines 1-12; VRP 23, Lines 19-25; VRP 26, Lines 7-12; VRP 27, Lines 5-25, VRP 28, Lines 1-5; VRP 29, Lines 22-25; VRP 30-39, VRP 81 Line 25-VRP 81, Line 1; VRP 83, Lines 7-10; VRP 85, Lines 6-11; VRP 105, VRP 15-25) The timing of trial was also apparently most unfortunate, as Judge Fennessy eulogized his good friend and mentor, Hugh Lackie (a partner

of the prestigious law firm to which attorneys Sean Boutz (for the PR) and Jeremy Zener (attorney for OGH) both then belonged) before issuing his oral ruling in this case--absolving his firm's clients from all wrongdoing; and awarding almost \$.5 Million in debt, attorneys fees and estate administrative costs, based on "illustrative" evidence, in violation of the Dead Man's Statute as well as the Statute of Limitations (because "there had been "no assertion of the passage of time." (VRP 857, Lines 24-25; VRP 858, Lines 1-22; VRP 860-866). Mr. Grimsley maintains that the Trial Court's decisions in this matter constitute numerous abuses of discretion that were "outside the range of acceptable choices....manifestly unreasonable, rest on facts unsupported by the record, or [were] reached by applying the wrong legal standard. (*State v. Curry*, 423 P3d. 179, 183 (2018). The errors identified in Opening Brief are "plain errors," defined as "(1) error, (2) that is plain" (3) "affects substantial rights"and (4) "seriously affects the fairness, integrity, or public reputation of judicial proceedings." *United States v. Yijun Zhou*, 838 F.3d 1007, 1012 (9th Cir., 2016) The PR herself cites case law stating that "An error of law necessarily constitutes and abuse of discretion" and must be reversed (*PR's Response Brief*, § IV(A)(4), Page 18 at bottom).

B. Any will challenge was precluded by the court's erroneous decision(s) as to venue under RCW 11.96A.050(3) in violation of the 'Absurd Result' Doctrine. (*PR's Response Brief* § IV(A)(1)); *OGH Response Brief*, § IV(A), Page 5) Contrary to the PR's allusions, the the Brothers Grimsley's first motion

under RCW 11.96A.050(3) was made timely, and the Trial Court was mandated to change venue (and reset the “clock” on the challenge included in the motion) upon timely objection, absent good cause. A full Due Process analysis is unnecessary here to determine whether the Trial Court denied the process due, because “Statutes must be interpreted and construed so that all the language used is given effect, with no portion rendered meaningless or superfluous....We will not construe a statute in a manner that creates an absurd result.” *In Re Pierce*, 173 Wn.2d 372, 377-378, 268 P.3d 907, 909-910 (2011). The Trial Court's absurd holding that the PR can defeat a venue objection merely by preferring that venue and having started the case leads to the “absurd result” of rendering an estate beneficiary's statutory right to object “meaningless or superfluous”--and as such, it cannot stand. (VRP Page 5, Lines 5-12; VRP 11, Lines 12-18; VRP 24, Lines 21-25)

Contrary to the PR's further assertions, the Appellant(s) “took another run” at venue once a petition was filed because Judge Plese explicitly stated that she would reconsider her decision not upon “changed circumstances, but rather upon formal filing of the petition and full assessment of issues with travel and witnesses and other concerns raised at the first hearing. (VRP Page 10, Lines 24-25; VRP Page 11, Lines 1-12). Thus, the Trial Court's second denial of venue change was also faulty.

C. The Appellant(s) were due relief on Summary Judgment as a matter of law. (PR's Response Brief, § IV(A)(2), Page 9; OGH Response Brief, §IV(B),

Page 7). Mr. Grimsley concurs with the PR and OGH as to the standard on Summary Judgment. (*PR's Response Brief* at page 9-11) and assert that the burden was met.

(1) **PR failed to follow the will, act in good faith, or take timely action when it was her case to bring and has wasted the estate**

(*PR's Response Brief*, § IV(A)(3)(a), Page 11) Two years into this case, the PR had distributed nothing-- including personal property or specific bequests (which she would later admit disposing of or losing). (VRP 55, Lines 11-22) This, in addition to early objections to change of venue or mediation, and refusal to communicate with any clarity regarding the Giorgi Parcel transfer or OGH distribution were signal of her unwillingness to carry out her duties in good faith (VRP 707-711, CP 145-150). The PR's refrain that her "hands were tied" by her brothers with regard to real estate is disingenuous at best (and the Trial Court's finding that the PR was authorized to transfer real estate was incomplete and/or irrelevant) because because the Estate only ever had 65% of any real estate parcel to transfer; and Article III of the Will explicitly provides for that real estate to be transferred to OGH. Thus any delay due to "valuation" or other efforts to coerce her brothers to sell the parcels instead were strictly the PRs "preference"-- which was contrary to the the intent of the Testator as well as her brother's wishes. (VRP 51, Lines 2-5; VRP 52 Lines 18-25; VRP 708, Lines 15-22; Appendix A) Contrary to her assertions, this was always

the PR's case to bring, as it is the PR's responsibility to resolve any perceived real estate ownership disputes as was required to achieve her goal either way. Her choice instead to attempt to disinherit her brothers _____ with counterclaims barred by elementary principles of law constitute a dereliction of duties of attorney(s) and PR alike to administer the estate in good faith. This added greatly to the cost and burden to the beneficiaries and amounted to waste of the estate. (VRP 55, Lines 11-23).

(2) **Non det tibi (vel redditus cum e) id quod non habet** (“**You can't give (or rent out) what you don't have**”). (PR's Response Brief, A3, Page 15) Whereas the PR/Estate is currently holding all interests pending sale, pursuant to the *Partial Mediated Settlement*, neither Ms. Owen, nor the Estate never owned 100% of any of the Giorgi Parcels. The PR offers no alternative theory of the Estate's co-ownership with the Giorgi Trust (and now with the beneficiaries) to tenancy-in common beyond mere denial, and thus provides no refutation of authority provided that a tenant-in-common can not charge another rent without a rental agreement or partition action. The Respondents don't contest that the Ms. Owen had freely given her son, Appellant Paul Grimsely permissive license to live on one of the Giorgi Parcels (therefore there was no pre-existing rental agreement that would have justified a rent obligation). Furthermore, this was not

nearly as inordinate or exploitative as the PR wishes to paint it. The express purpose of the Giorgi Trust was to benefit not only the Ms. Owen but her children as well. In keeping with this, as asserted below, the Ms. Owen deeded Ferry County Parcel 33923210002000 to her daughter Diane and her partner Penny Rulon, after sending Diane to school with Giorgi Trust funds. Karen Grimsley came back from college (thanks to Giorgi Trust funds) in the 1980s and never left. She too lived just as “rent free” as her brother did in Ms. Owen's own home until the Ms. Owen finally quit-claimed it to her (Parcel 33923210002000) (VRP 672, Lines 7-12; VRP 675, Lines 10-14). As neither Mr. Grimsley nor his three siblings derive their existing property interests by nature of being Ms. Owen's heirs,” as the PR appears to argue, but rather as beneficiaries of the Giorgi Trust, they are not just “using the Estate's property as their own,” it is their own. Therefore the PR's citation to *In re Estate of Jones*, 152 Wash.2d 1,14, 93 P.3d 147(2004) on Page 16 pp. 2 of her *Response Brief*, does not apply here. Mr. Grimsley's argument stands that the Trial Court's imposition of a rental obligation upon him as a tenant-in-common of the parcel upon which he resides, based only on a PR's general duty to “marshal assets,” or as the “PR's choice” was plain error and an abuse of discretion.(VRP 59, Lines 3-21;VRP 151, Lines 13-25, VRP 152, Lines 1-10, VRP 157, Lines 12-20, VRP 159, Lines 3-10)

(3) Te potest colligunt quae non commodare (“You can't collect what you didn't lend”). (*PR's Response Brief*, § IV(A)(5), Page 20; *OGH Response Brief*, §IV(D), Page 14) As to her counterclaim for Debt, the PR once again makes the untenable argument that Courts must stay within the “four corners” of the Will, and abide by the Dead Man's Statute--but only when it comes to other parties. At Summary Judgment, the PR could not state with certainty that either Brothers Grimsley had even seen the 40-year-old home budget ledgers she and Johnson had dug up from the basement and purportedly relied on for her “accounting” (VRP 45, Lines 14-18)--nor any other document asserting debt--nor were any mentioned in the Will, nor were any admitted as evidence. Hardly a “failed attempt” at demonstrating “forgiveness” (*PR's Response Brief* at 22). Mr. Grimsley's offered tax returns (and Michael Grimsley offered evidence of Ms. Owen having a common business investment that was discharged in Bankruptcy would have refuted any claim of outstanding debt, and were wrongly stricken from the record. (VRP 513 6-12; VRP 547, Lines 18-21; VRP 549, Lines 15-17; VRP 802-803; VRP 809, Lines 13-21) The PR had an obvious interest in increasing her brothers debt (and her share) in decreasing their share of the Estate. (VRP 579, Lines 6-12; VRP 751, Lines 8-16) Articles III and IV of the Will as well as the whole of the D/C clearly make OGH a de facto beneficiary to the Estate, as the

Trustee is allowed to own "beneficial credits" with no duties whatsoever to credit-holders. Although Johnson's (and OGH's) claim that she does not benefit from or hold "beneficial credits" in OGH now, it was still her testimony that the terms of the D/C give her the option to change that at any time. (VRP 311; VRP 388 through 390, Lines 1-4) Johnson had also already "benefited" from the Estate in that she was listed on the PR's expense list for "CPA services." She also firmly expected that her attorney fees and other costs would be born by the estate (VRP 723, Line 5; VRP 724, Lines 1-5, VRP 784, Lines 7-14). As previously argued there should have been no trial, or a very short trial, because all witnesses were interested parties whose testimony or evidence should have been barred by RCW 5.60.030, the Dead Man's Statute (which trumps any court rule) per the PR's own motion(s) at summary judgment and in limine, as well as her own *Response Brief*. (VRP195, Line15, VRP 200, Lines 16-20, VRP 211, Lines 12-17)

Hearsay/Dead Man's Statute notwithstanding, trial would reveal that the PR's accounting was utterly unreliable. Not only did the PR and Johnson make markings, multiple additions, alterations and omissions from what the ledgers allegedly contained (e.g. omitting large loans taken out by the girls for education, changing entries from "personal draws" or "on contract" to loans), but the lump sum debt the PR attributed to her brother Michael Grimsley did not

come from these ledgers at all-- nor any other documentation submitted or admitted to the Trial Court, (VRP 722-723, Lines 2-3, VRP 723, Lines 12-15; VRP 752, Lines 1-5, VRP 769, Lines 14-22) The PR also had not made a good faith effort to review more current bank statements or tax returns to discern any transactions or payments since 2002 when the ledgers ended. (VRP 46, Lines 5-8; VRP 46, Lines 20-25; VRP 49, Lines 14-25; VRP 663, Lines 16-24, VRP 664, Lines 10-17; VRP 673 11-13). Furthermore, the source of the funding for draws of any kind was revealed as more than likely traceable to the Giorgi Trust in association with its sale of a mine at the time the ledgers allegedly began. (VRP 755, Lines 22-25, VRP 756, VRP 770, Lines 21-25) Thus the PR's "accounting" in no way represented "debts owed to me by my children" as stated in the Will--even if they represented cognizable debt, which they do not. The funding source would have once again been the Giorgi Trust, which was to benefit not only Ms. Owen but also and her children, and closed at a surplus. (VRP 574, Lines 1-12; VRP 575, Lines 10-13; VRP 537, Lines 9-14)

Finally, neither the Trial Court nor the PR has ever provided legitimate authority for her assertion that the 6-year statute of limitations on debt claims under RCW 4.16.040 magically re-sets upon one's demise.¹ Neither was there any analysis of *In Re Estate of*

¹ The passage Attorney Boutz' cited as being from *In re Estate of Bowers* at trial does not in fact appear in that opinion. (VRP 47, Lines 8-15)

Miller cited in Opening Brief as well as in the Trial Court as addressing both debt and statute of limitations issues in the context of a probate action. (VRP 141, Lines 10-15) The Trial Court's finding of the debt on this basis was plain error and abuse of discretion.

(4) “I guess [that's why] they call it a trust.” (VRP 419, Lines 9-12) (*Johnson Response Brief*, Generally; *PR's Response Brief*, § IV(A)(2) (6); *OGH Response Brief*, §IV(E), Page 16) Johnson conveniently lost any notes Ms. Owen might have given her which she would have merely typed the Will from. (VRP 346, Lines 6-18) -- but even this admission arguably runs awry of applicable law and rule as previously cited and argued. Trial would reveal that Johnson and Barnes intruded on the family grief with a group of strangers as “witnesses” to Johnson’s reading of the Will and advice to others as to their legal rights, and presentation of additional documents which she believed and advised had legal effect. The highly problematic Massachusetts Trust instrument she “typed up” still does, in fact, purport to also impose contractual obligations on the “credit holders” in the manner of a contract upon their acceptance of the certificates. (See Johnson's *Motion for Summary Judgment*, Generally at VRP 32-35; See also VRP 34, Line 7- VRP35, Line 20; VRP 338, Line16-25; VRP 342-344, 350 Lines 3-8, VRP 353, Line 15 VRP 354 Lines 7-14; VRP 406-407, VRP 409-410); VRP 476, Lines 7-13) The record

simply doesn't support the Trial Court's conclusion that there was no violation of law in terms of Johnson and Barnes' role in Ms. Owen's estate planning process. Be that as it may, Johnson's confounding "beneficial credit" math, as well as her persistence in the stance that she enjoys a form of sovereign immunity as "Trustee" of OGH would be comical if it didn't have real consequences:

THE COURT: All right. Tell me for a moment, is it the contention of you--as the trustee of Owen Grimsley homestead ... is it your argument that there is some benefit to the four heirs of the Owen estate?

MS. JOHNSON: The only benefit they have is to the Owen Grimsley Homestead. They hold equal certificates in that Homestead Trust.

THE COURT: I mean, what good do those certificates do to them?

MS. JOHNSON: What good that does is when the property within that trust is sold, it will be distributed to them as beneficiaries.

THE COURT: And how is the sale of that property ever to be determined?

MS. JOHNSON: I don't understand the question.

THE COURT: Why would that property ever be sold?

MS. JOHNSON: To be able to benefit the trustee or the beneficiaries.

THE COURT: Who makes that choice?

MS. JOHNSON: I do, as trustee.

....

THE COURT: How does a Massachusetts trust, in your understanding, differ from a normal corporation under the laws of the State of Washington?

MS. JOHNSON: Under the laws, it follows the Massachusetts Trust Act if it's operating as a business within the state, which in selling real estate it would be, and that's why it is registered, and there are provisions within RCW 23.B that would apply to the trust and as long as those provisions are written in the contract and

there are certain provisions that the secretary of state requires to make it a Massachusetts trust and the trust meets all those requirements.

THE COURT: What if the requirements of 23.B are not written in the Massachusetts trust?

MS. JOHNSON: If they are not written in, they do not apply.

THE COURT: How can that be if the --isn't the law of the State of Washington superior to whatever else and doesn't the Massachusetts trust have to satisfy the laws of the State of Washington rather than the laws of the State of Washington comporting with the Massachusetts trust?

MS. JOHNSON: It has to comply with the US Constitution before it applies to the State of Washington, and that's why when the--the remedy at law with 23B is the word "applies," as I've argued continuously.

THE COURT: But it's the court's determination which laws of the State of Washington apply to that Massachusetts trust, and it is the state court of the State of Washington that makes the choice.

MS. JOHNSON: No.

THE COURT: All right. That's what I was afraid of.

(VRP 36-37; see also VRP 32, Line 23 through VRP 36, Line 16; VRP 347 Lines 11-19; VRP 358 Lines 1-9; VRP 370, Line 6 through VRP 371; VRP 372-373; VRP 376-377, VRP 382-383; VRP 391, 392 lines 15-20; VRP 393; 395, Lines 7-21, VRP 455VRP 465, Lines 2-13 VRP 466, Lines 4-17) Ms. Johnson offers no new or controlling authority in her response brief for the above being the case in modern day Washington State. This Court will take judicial notice that the State Attorney General enforces business and consumer laws, and that filing with the Secretary of State of Washington is a legal

requirement that has little bearing on the legitimacy of her business entity, nor the underlying unconscionable *Declaration and Contract Creating the Owen Grimsley Homestead* (D/C) that “created” it. Appellant(s) suggest that Johnson's conduct is the very behavior lawmakers were trying to prevent by codifying the Massachusetts Trust Act in 1959 which Johnson herself cites; which imposes statutory fiduciary duties she has openly refused to comply with; and which supersedes any law review article or case ruling(s) by Illinois court in 1927. (*Johnson Response Brief* at Page 5, VRP 327, Lines 21-25 - VRP328, Lines 1-6; VRP 329, Lines 18-25 through VRP 330 Lines 1-25 VRP 331 1-9 VRP 332-VRP 338, Lines 1-14)

Contrary to what Johnson/OGH argues on Johnson's behalf (*OGH Response Brief*, Page 16-17, Section E) The Trial Court's finding that no injuries resulted--was irrelevant as well as incorrect, since no injury need be demonstrated for judicial dissolution of OGH under RCW 23B.14.300 as argued in *Opening Brief* and not refuted here. This statute merely requires a showing by a shareholder (or “credit-holder”) such as the Brother's Grimsley (representing 50% interest) establishing any of the criteria listed therein including that the directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent; that there is deadlock preventing business from being conducted to the general benefit of shareholders; the corporate assets are being

misapplied or wasted; or “the corporation has ceased all business activity and has failed, within a reasonable time, to dissolve, to liquidate its assets, or to distribute its remaining assets among its shareholders.” (RCW 23B.14.300(2)(c),(a),(b) and (d); CR 23.1) Appellant(s) assert that all these were evidenced in Johnson's own pleadings at time of summary judgment, if not at trial. The final Provision of RCW 23.B.300 gives the superior courts power “to assume control over a dissolved corporation's assets and the process for winding up and liquidating its business and affairs, in a proceeding instituted by the dissolved corporation to have its voluntary dissolution continued under court supervision.” The Trial Court's statement upon ruling on Summary Judgment that it still wasn't sure what a Massachusetts Trust was yet was of particular concern to the Brothers Grimsley as it continued to acquiesce to Johnson unto trial. (VRP 58, Lines 10-18)

(5) What did the Court need to know that it didn't at Summary Judgment? Respondents still cannot say. The reason it was not "practical" for the Trial Court to identify remaining genuine issues of fact in it's order granting the PR partial summary judgment as required under CR 56(d) is not that there were “so many” genuine issues of material fact as the PR argues, but because there were none--and no further evidence or testimony that was properly put before the court

under the Dead Man's Statute. It was evident by time of Summary Judgment that neither the PR or Trustee had any lawful reason for delaying distribution, the Appellant's claims regarding individual misconduct and request for dissolution of OGH, as well as the PR's counterclaims for rent and debt should have been disposed of upon summary judgment in the Brothers Grimsley's favor as matters of law. Mr. Grimsley maintains that what the Trial Court did decide on Summary Judgment, it decided in error, and it must be reversed.

D. Motion(s) to Disqualify attorney Jeremy Zener were wrongly denied by both Trial and Appellate Courts. (PR's Response Brief, § IV(A)(4), Page 18; OGH Response Brief, § IV(C), Page 9) Appellant(s) maintain that neither Johnson nor OGH have any lawful purpose in this proceeding and that Jeremy Zener's representation of either Johnson or OGH presents a conflict of interest with the Brothers Grimsley as its credit-holders, and that the PR had no authority to waive that conflict; and that Zener's move to another firm does not cure. Alternatively, the Trial Court's oral finding that the Decedent intended that the OGH "be part of her estate" should have eliminated the need for an additional attorney. (VRP 841, Lines 13-21; VRP 842, Lines 18-23). Zener defeated the Appellant(s) motion to disqualify him on appeal with assurance that he did not and would not be representing Johnson.² Yet Zener's *Response*

² Johnson did not attend the telephonic hearing on the appellate motion, further suggesting that she believed she was represented by Zener and did not need to appear in her own right.

Brief does exactly that. Therefore, not only is Zener in ongoing violation of RPC 1.7 (conflict of interest) and RPC 1.10 (imputation of conflicts), he arguably runs awry of RPC 2.4(b) provisions regarding interactions with unrepresented parties. To the extent that he defends and does not correct the unconscionable contract that is OGH (or Johnson's understanding of it), the unlawful beneficial credit scheme it represents; and/or Johnson's unlawful conduct in withholding assets or refusing to provide information, he also courts RPC 1.6(b)(3) and RPC 1.2(d). To wit: “ A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent.”

E. “Because the Court can” is not enough to justify attorney fees to any party under RCW 11.98.050. (*PR's Response Brief*, § IV(A)(7), Page 24) The Trial Court's award of Attorneys' fees and administrative costs at trial were exceedingly inappropriate under the circumstances, violating the American rule which seeks to protect access to justice by poor litigants such as the appellant by barring the award of awards of attorneys fees solely on the basis of being the prevailing party absent specific contractual or statutory authorization. (*Maytown Sand and Gravel, LLC v. Thurston County*, 423 P.3d 223, 246 (2018)) Because there is no specific provision the in RCW 11.98.050, and the Trial Court offered no equitable grounds beyond that “and

RCW 11.98.050” this decision was an abuse of discretion and must be overturned.

F. *Compulsory Set-off is presumed in the duty to settle the Estate in Good Faith.* (*PR's Response Brief*, § IV(A)(6), Page 24) The PR offers no authority for the assertion that compulsory set-off does not apply to actions under TEDRA as distinct from any other civil act. If any judgment should stand in this instance, it is the PR's express duty both under statute and according to the Will is not only to “marshaling assets” but to settle estate debts as part of probate. The Trial Court's issuance of any judgment (and denial of supersedeas pending appeal) was premature and the without taking the Petitioners' right to receive “equal benefit” from both the Estate and the OGH into account and such judgment(s) should be stayed or overturned on that basis.

.II. OBJECTION TO MOTION(S) FOR ATTORNEYS FEES

The Brothers Grimsley's arguments against the Respondents' respective motions for attorney's fees on appeal (*PR's Response Brief*, § IV(B), Page 27; *OGH Response Brief*, § IV(F), Page 18) is the same as in the trial court: it is not just or equitable, in light of the relative resources of the parties and their attempts at both levels to prevent waste of the estate through duplication and overlap of representation. The Respondent's motions are also premature, as these parties have not as yet prevailed or submitted any records under relevant rule. Johnson herself was denied attorneys fees or costs by the Trial Court, and there is no reason for it here.

III. CONCLUSION

Perhaps the Trial Court's starkest mistake of law was not initially enumerated: namely its denial of res judicata on the Appellant(s) claim(s)--"TEDRA" being short for "Trust and Estate *Resolution* Act-- not the "I cannot order transparency among members of this family," Act (VRP 866, Lines 13-17), "That's a math problem that's virtually impossible for the court to decide," Act (VRP 857, Lines 21-25); or the "sounds like we're headed for a new action," Act. (VRP 849, Lines 19-21). In addition to errors of law cited herein, specific conduct also implicated Rules of Professional Responsibility as well as Canons of Judicial Conduct regarding competence, bias and the responsibility to decide. (CJC 1.1, CJC 1.2, CJC 2.2, CJC 2.3, CJC 2.4(b)-(c), CJC 2.5(a), CJC 2.7, CJC 2.11(a)(1)).

Wherefore, the rulings of the trial court must be overturned and the case moved to Ferry County for proper notice to possible creditors and access to justice by the parties.

Respectfully submitted this 12th day of June, 2019


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APPENDIX

APPENDIX

APPENDIX A

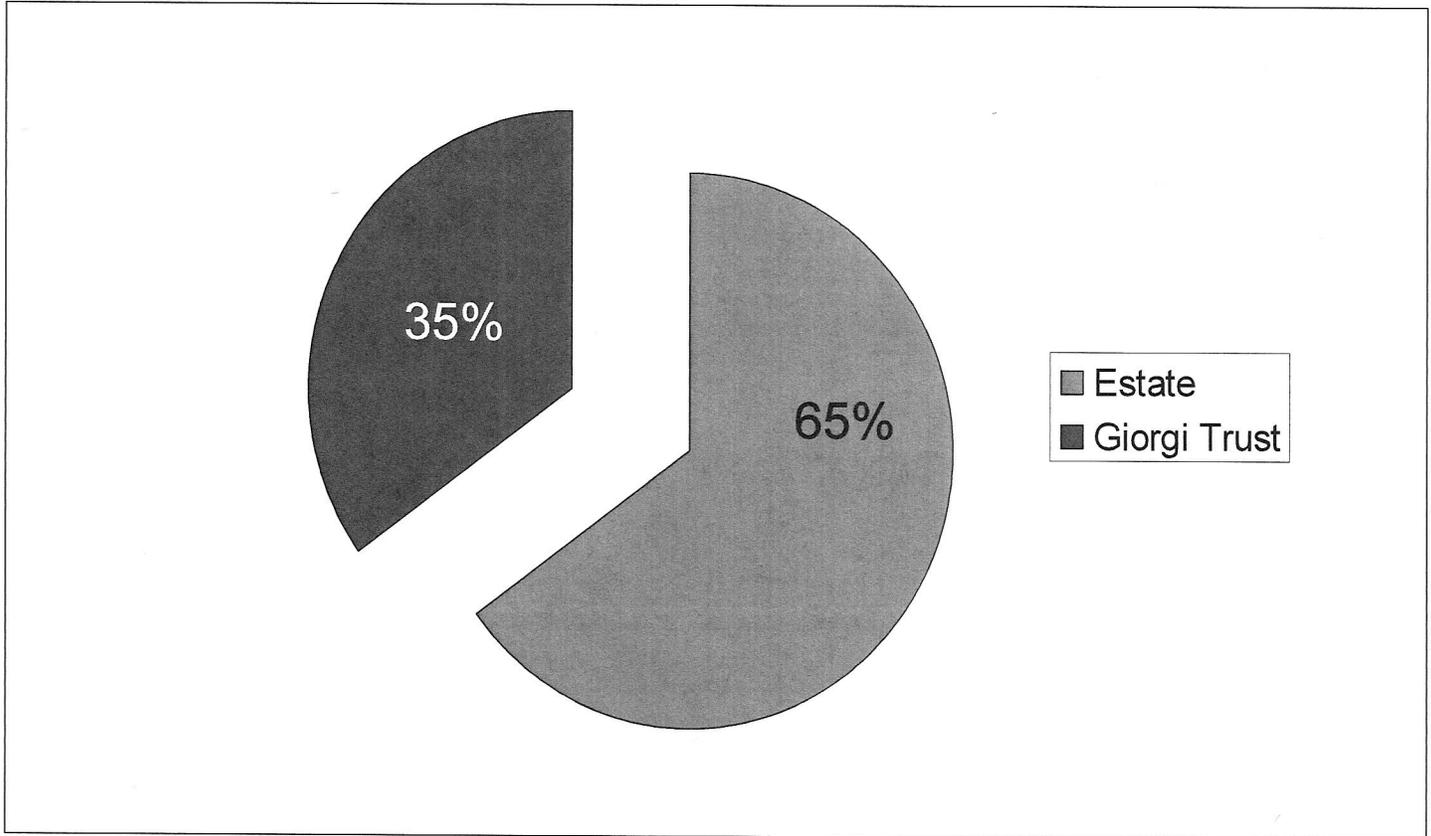
Visual Depiction of Ownership Interest
in Six (6) "Giorgi Parcels"

APPENDIX

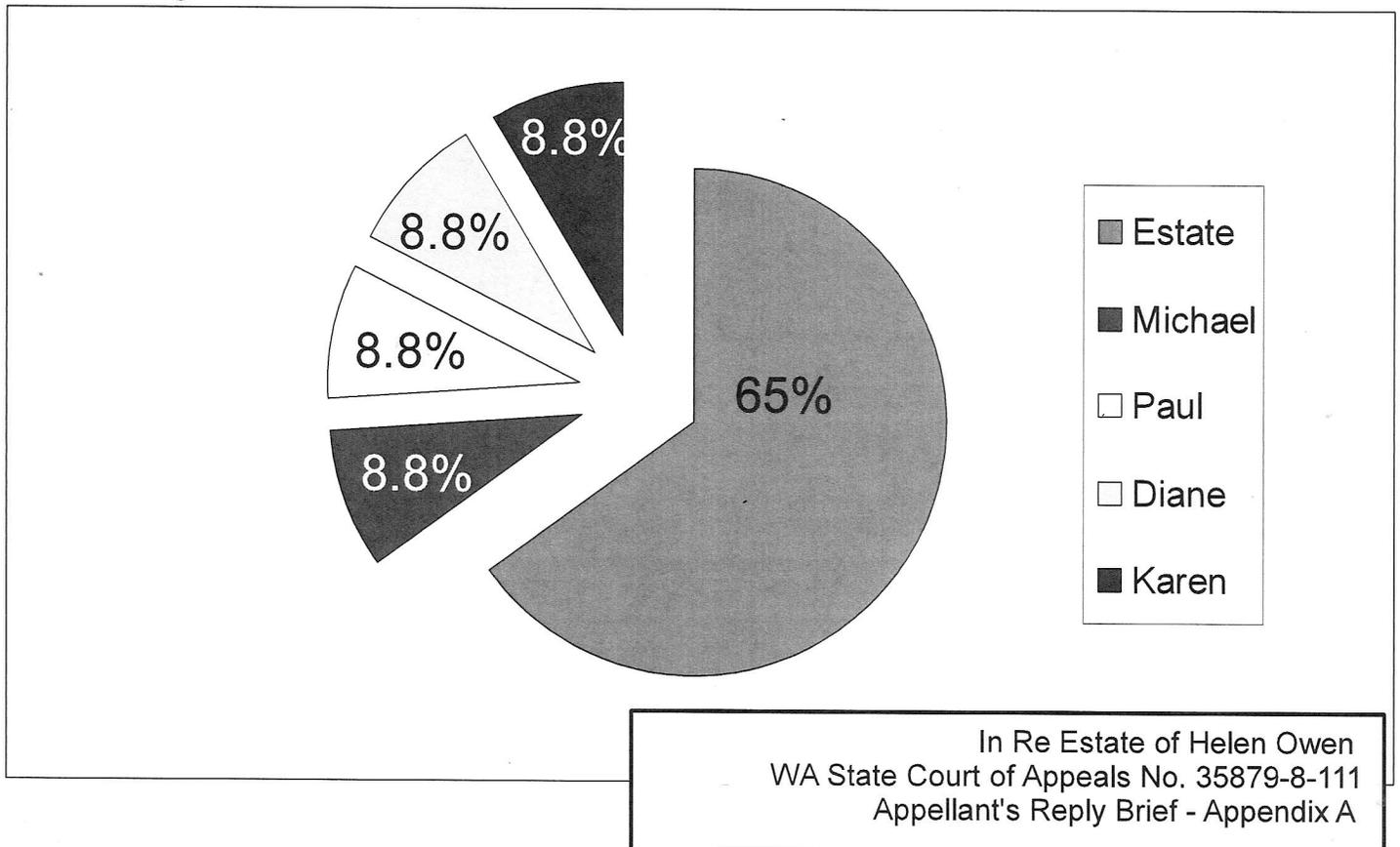
APPENDIX

Appendix A

A. "Giorgi Parcels" Upon Decedent's Death



B. "Giorgi Parcels" After Decedent's Death



APPENDIX

APPENDIX

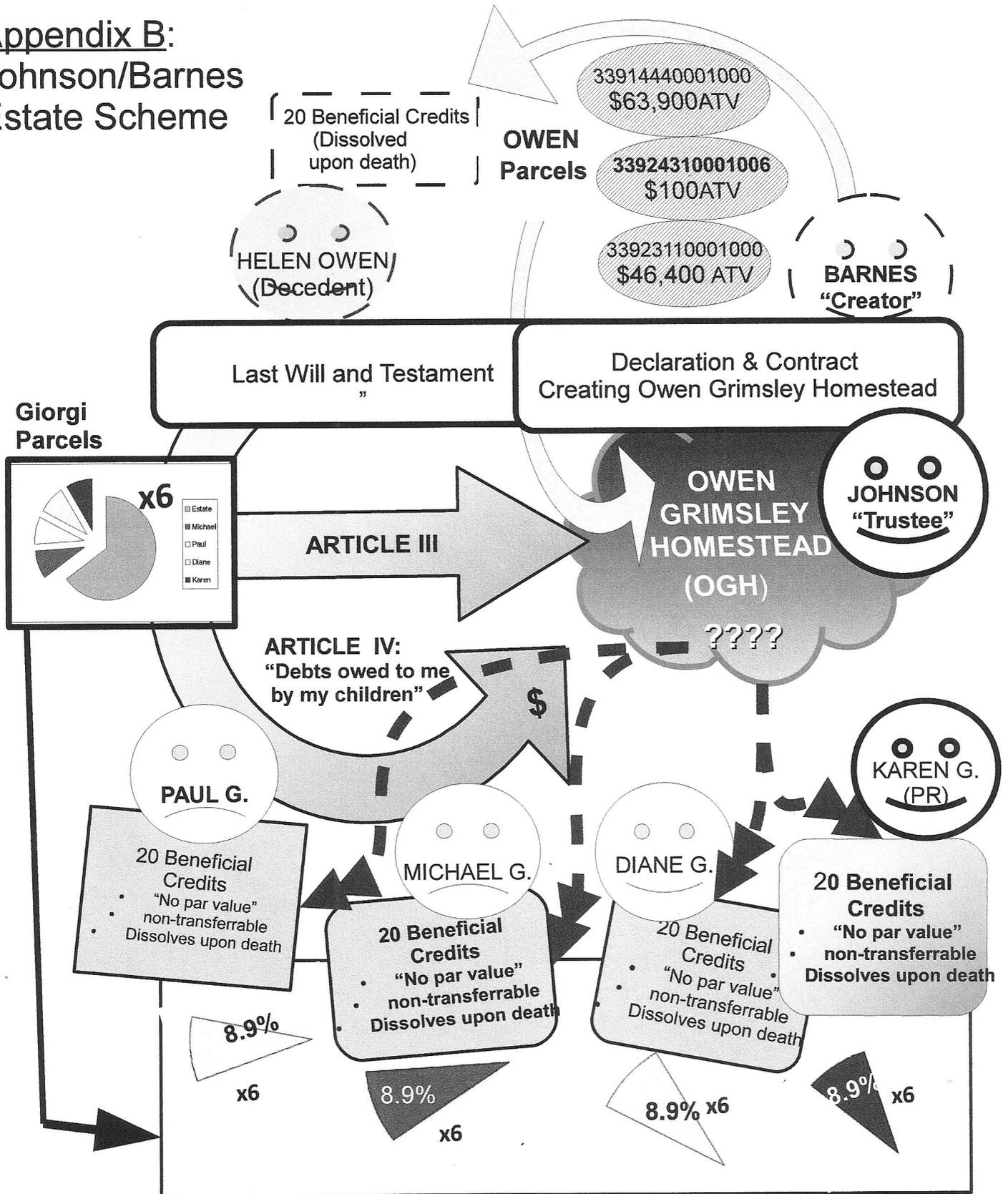
APPENDIX B

Visual Depiction of Last Will and Testament and
Johnson and Barnes' Declaration and Contract
Creating the Owen Grimsley Homestead (OGH)

APPENDIX

APPENDIX

Appendix B: Johnson/Barnes Estate Scheme



(ATV=Assessed Tax Value)

In Re Estate of Helen Owen
WA State Court of Appeals No. 35879-8-111
Appellant's Reply Brief - Appendix B

IRWIN LAW FIRM, INC.

June 13, 2019 - 4:14 PM

Transmittal Information

Filed with Court: Court of Appeals Division III
Appellate Court Case Number: 35879-8
Appellate Court Case Title: In re the Estate of Helen Louise Giorgi Grimsley Owen
Superior Court Case Number: 15-4-00818-0

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Comments:

re/e-filing of 2nd Request for Extension of time faxed to the Court yesterday at court request. Additional filing of Cert. of Service/Declaration of Counsel in Response to Objection to 2nd Request for Extension of Time

Sender Name: C. Olivia Irwin - Email: irwinlawfirm@plix.com

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