

FILED
Court of Appeals
Division III
State of Washington
12/28/2018 4:25 PM
NO: 362205

Spokane County Superior Court No: 154015209

IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION III

In the Matter of the Estate of Clara V. Larson,

Norman D. Larson, Personal Representative of the
Estate of Clara V. Larson and
Successor Trustee of Gordon E. Larson
Testamentary Trust,

Respondent/Appellant

v.

Connie M. Mitchell,

Petitioner/Respondent.

APPELLANT'S OPENING BRIEF

J. Scott Miller, WSBA #14620
Law Offices of J. Scott Miller, P.S.
201 W. North River Drive, Suite 305
Spokane, WA 99201-2266
509.327.5591
jscottmiller@jscottmiller.com

TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	ASSIGNMENTS OF ERROR.....	1
a.	The Trial Court Improperly Denied Norman Larson’s Motion for Summary Judgment Based on the Authority of a Trustee granted in RCW 11.98.070.....	1
b.	The Trial Court had no Jurisdiction to Construe the Non-Intervention Will of Clara Larson.....	1
c.	The Trial Court Improperly Considered Unauthorized Actions of Norman Larson’s Former Attorney.....	1
d.	The Trial Court Improperly Denied the Motion for Reconsideration.....	1
III.	STATEMENT OF THE CASE.....	1
IV.	ARGUMENT.....	8
a.	The Court Should Not Have Disregarded the Trustee’s Partition Allocation of Trust Property	8
b.	The Court Had No Jurisdiction to Construe the Nonintervention Will of Clara V. Larson.....	10
c.	Actions by Norman Larson’s Former Attorney Should Not Have Been Considered by the Court.....	12
d.	Findings of Fact, Conclusions of Law and Order Are Unsupported by the Evidence at Trial.....	13

V.	TRIAL COURT'S ALLOCATION OF PROPERTY IS UNFAIR AND UNEQUAL.....	19
VI.	CONCLUSION.....	21

TABLE OF AUTHORITIES

State Cases:

<i>Austin v. U.S. Bank of Washington</i> , 73 Wn.App. 293, 869 P.2d 404 (1994).....	10
<i>Barton v. Tombari</i> , 120 Wash. 331, 207 P. 239 (1922).....	12
<i>In re Coggins</i> , 13 Wn.App. 736, 537 P.2d 287 (1975).....	12
<i>Estate of Ehlers</i> , 80 Wn.App. 751, 911 P.2d 1007 (1996).....	9,17
<i>Fred Hutchinson Cancer Research Ctr. V. Holman</i> , 107 Wn.2d 693, 732 P.2d 974 (1987).....	12
<i>Graves v. P.J. Taggares Co.</i> , 94 Wn.2d 298, 616 P.2d 1223 (1980).....	12,13
<i>Grossman v. Will</i> , 10 Wn.App. 141, 516 P.2d 1063 (1973).....	12
<i>In re Houts</i> , 7 Wn.App. 476, 499 P.2d 1276 (1972).....	12
<i>In Re Estate of Jones</i> , 152 Wn.2d 1, 93 P.3d 147 (2004).....	11
<i>Lane v. Brown & Haley</i> , 81 Wn.App. 102, 912 P.2d 1040 (1996).....	13
<i>Morgan v. Burks</i> , 17 Wn.App. 193, 563 P.2d 1260 (1977).....	12
<i>Occidental Life Ins. Co. v. Blume</i> , 65 Wn.2d 643, 399 P.2d 76 (1965).....	10
<i>Peoples National Bank v. Jarvis</i> , 58 Wn.2d 627, 364 P.2d 436 (1961).....	10
<i>Estate of Rathbone</i> , 190 Wn.2d 332, 412 P.3d 1283 (2018).....	10,11
<i>Templeton v. Peoples Nat. Bank of Wash.</i> , 106 Wn.2d 304, 722 P.2d 63 (1986).....	10

Statutes:

RCW 11.96A.....	8,10
RCW 11.98.070.....	8,9,11
RCW 11.98.070(145).....	8
RCW 11.98.145.....	8

Appendices:

Appendix 1 – Spokane County Assessor Historical Parcel Value

Appendix 1A – Parcel Information – 27122.9006

Appendix 1B – Parcel Information – 27122.9007

Appendix 1C – Parcel Information – 27122.9008

Appendix 1D – Parcel Information – 27024.9009

I. INTRODUCTION

This is a case that began as a dispute between siblings regarding distribution of property in rural Spokane County, but evolved into a legal conflict between the rights and duties of a Personal Representative in a nonintervention will, in the context of a TEDRA petition contesting the authority of a Successor Trustee.

The Trial Court divided real property differently than proposed by the Trustee, resulting in an unequal and unfair distribution. The Trial Court incorrectly analyzed the law, thereby depriving the Trustee of his statutory authority.

The Appellant is Norman Larson who was appointed as Personal Representative by the terms of his mother's will and appointed as Successor Trustee by the terms of his father's will. His sister, Connie Mitchell, was a co-beneficiary and is the Plaintiff in the TEDRA Petition.

II. ASSIGNMENTS OF ERROR

- a. The Trial Court Improperly Denied Norman Larson's Motion for Summary Judgment Based on the Authority of a Trustee Granted in RCW 11.98.070
- b. The Trial Court had no Jurisdiction to Construe the Non-Intervention Will of Clara Larson
- c. The Trial Court Improperly Considered Unauthorized Actions of Norman Larson's Former Attorney
- d. The Trial Court Improperly Denied the Motion for Reconsideration

III. STATEMENT OF THE CASE

Gordon E. Larson and Clara V. Larson were husband and wife. They jointly

owned nine parcels of real property¹. Some of the property was developed as farmland and some was unimproved.

This litigation involves the authority of the Trustee in a testamentary trust created in the Last Will and Testament of Gordon E. Larson executed in 1984 (Trial Exhibit R105) , and the Last Will and Testament of Clara V. Larson executed in 2002 (Trial Exhibit R106²), which involved the assets not previously transferred into trust.

Gordon E. Larson died June 22, 1984. His Last Will and Testament left his undivided one-half in the nine parcels of real property owned by the marital community to the Gordon E. Larson Trust, and named Clara V. Larson as the sole Trustee (Trial Exhibit P-1).

The Gordon E. Larson Trust now at issue was created in Article V of his 1984 will. The Trustee has sole authority to determine the property in trust (§ 5.3), and sole authority to manage the trust (§ 5.5). Clara Larson was the original Trustee and beneficiary of the Trust (§ 5.4), and after she passed away their son Norman Larson was named as successor Trustee (§ 5.6).

As a result of her husband's death, Clara Larson owned an undivided one-half interest of the family farm land as her share of the marital community property. On 09/11/2002 Clara Larson partitioned the trust property (Trial Exhibit R107), and the following 5 parcels totaling 240 acres were transferred by quit claim deed to the Gordon E. Larson Testamentary Trust as the sole owner:

- Assessor No. 27024.9009 (80 acres)

¹ Tax Parcels: 27013.9005, 27013.9006, 27013.9007, 27024.9007, 27024.9008, 27024.9009, 27122.9006, 27122.9007, 27122.9008.

² Also at CP 4-10.

- Assessor No. 27122.9008 (40 acres)
- Assessor No. 27122.9007 (80 acres)
- Assessor No. 27122.9006 (40 acres)

The partition also transferred the following 5 parcels totaling 240 acres by quit claim deed to Mrs. Larson as the sole owner:

- Assessor No.27013.9005 (40 acres)
- Assessor No. 27013.9006 (80 acres)
- Assessor No.27013.9007 (40 acres)
- Assessor No.27024.9008 (40 acres)
- Assessor No. 27024.9007 (40 acres)

On 02/24/2016 the Estate of Clara V. Larson executed a Special Warranty Deed transferring Mrs. Larson's interest in the 5 parcels listed above, to Norman Larson (Trial Exhibit R101), pursuant to Paragraph 2.4 of the Last Will and Testament of Clara Larson (Trial Exhibit R106).

Pursuant to paragraph 2.3 of the Last Will and Testament of Clara V. Larson, her daughter, Connie (Larson) Mitchell was to receive none of the real property but was to receive one-half of the cattle, all of the net cash in the Estate, and forgiveness of money loaned to Connie before her mother passed away. Neither will makes any mention of forgiving debts owed to the Trust.

Clara Larson died October 9, 2015. On October 26, 2015 The Last Will and Testament of Clara V. Larson was properly admitted to probate as a nonintervention will (CP 1-3; CP 11-12).

Connie M. Mitchell and Norman D. Larson are the sole beneficiaries of the Estate of Clara V. Larson. Norman Larson was named as Personal Representative of the Estate of Clara V. Larson, and also the Successor Trustee of the Gordon E. Larson Trust.

Pursuant to the terms and conditions of the Last Will and Testament of Clara V. Larson, the parcels that she previously partitioned to her separate ownership, were conveyed to her son Norman (§ 2.4). It was her stated intention that Norman would receive the land because he has been actively farming it for his entire life, and Connie has no interest in farming. The will conveyed all her cash to her daughter Connie (§ 2.3) totaling well over \$300,000.00, to compensate her for the land that Norman received.

For the past several years Connie has been residing in the house located on Parcel 27122.9006, where there are also multiple outbuildings. (RP 57:19 – 58:1) It is undisputed that Connie Mitchell never paid rent to the trust while residing on its property. (RP 90:15-16).

Parcel 27122.9006 and Parcel 27122.9008 are the only parcels that have road frontage and lie to the east of N. Austin Road (Trial Exhibit 103A). The undisputed trial testimony established that the only parcel usable for farming is 27122.9008, located immediately south of the parcel where Connie resides, and a portion of parcel 27122.9007 to the east of those two parcels (RP 121:8 - 13). The remaining Parcel (No. 27024.9009) is located northeast of the other parcels (Trial Exhibit 103B) and is not suitable for farming (RP 121:14-19).

In early 2016 Norman and Connie were engaging in a personal dispute regarding distribution of assets under their mother's will. On 06/24/2016 Connie Mitchell filed a separate TEDRA action asking the court to declare her property interest in the trust and in the estate (CP 13-28). [Note, on 11/16/2016 the two matters were consolidated by stipulation (CP 45-48)].

The TEDRA case filed in June 2016 included 5 claims for relief (CP 18-19):

1. To declare the intent of the Gordon E. Larson Trust; and
2. To require an accounting of the Gordon E. Larson Trust; and
3. To award Connie Mitchell damages; and
4. To award Connie Mitchell attorney fees; and
5. For further and additional relief as the court deemed appropriate.

Connie Mitchell had retained attorney Steve Hughes to represent her in the TEDRA case. The attorney representing the Estate, Richard Algeo, determined it would be a conflict of interest to represent Norman individually and advised him to obtain separate counsel for the TEDRA case. (RP 128:21 – 129:2). Norman retained attorney Brant Stevens.

Attorney Brant Stevens, who filed a “Motion for Instruction/Approval” on 07/14/2016 (CP 29-40) scheduled for hearing on 07/29/2016 (CP 41-42). However, this action was against express instructions and were contrary to the position Norman wanted taken in the probate matter. (RP 130:9 - 13). Consequently, on 07/17/2016 attorney Algeo filed a notice striking the motion (CP 43-44). The motion was never renoted, it has never been heard, and no Order has been entered.

Norman and Connie are equal beneficiaries of the four parcels held in trust. However, because they have never been able to get along, and it was apparent they could not peacefully share the Trust property, so on 12/21/2016 Norman Larson, as Trustee of the Gordon E. Larson Trust, issued notice of the intent to divide the land equally pursuant to RCW 11.98.145. (CP 49-56³)

As indicated in the notice, the Trustee proposed to allocate trust land as follows:

³ Also found at Trial Exhibit R102.

Connie:

- Parcel 2122.9006 (40 acres); and
- North ½ of parcel 2122.9007 (40 acres)

Norman:

- Parcel 2122.9008 (40 acres); and
- South ½ of 27122.9007 (40 acres); and
- 27024.9009 (80 acres)

Trial exhibit 103A illustrates segregation of Parcel No. 27122.9007 into two 40-acre parcels as proposed by the Trustee. Connie filed an objection to the proposed plan of distribution which did not identify the basis for the objection (CP 57-59).

After receiving the Objection, Norman Larson filed an Answer to the TEDRA Petition (CP 60-87) and a First Amended Answer to TEDRA Petition (CP 88-125). It was clear that the TEDRA Petition was filed in response to the unauthorized claims by Brant Stevens, therefore the Answer and First Amended Answer to the TEDRA petition clearly explained that Norman Larson did not agree with or accept those assertions (see ¶ 2.7 in both). Nevertheless, this was precisely the argument presented at trial.

Norman Larson filed a Motion for Summary Judgment on 06/09/2017 (CP 129-137) with supporting Declaration of Norman Larson's new attorney J. Scott Miller (CP 138-202). The Motion asserted the Trustee's authority under RCW 11.98.145 to make the allocation of Trust property as indicated in the notice previously sent to the two beneficiaries.

The Motion for Summary Judgment prompted Connie Mitchell to file a Motion to Remove Norman Larson as Personal Representative in the probate matter (CP 203-205) as well as a response which dealt almost entirely with Connie

Mitchell's attempt to have the Court interpret and construe the nonintervention Will of Clara Larson. Norman Larson filed a Reply in Support of Summary Judgment (CP 340-348) with supporting declarations by attorney Algeo (CP 319-330) and Norman Larson (CP 349-360) directly disputing essentially all of Connie's claims, and a supporting declaration by attorney Miller (CP 332-339). A correcting Praecipe was filed 07/10/2017 (CP 365-368).

The trial court heard the matters as scheduled on 07/07/2017 and took the matter under advisement. The Court rendered an oral decision denying the motions on 10/23/2018 at the pretrial hearing. Norman Larson submitted proposed Findings and Conclusions on 10/03/2017 (CP 369-379) and Amended Findings and Conclusions (CP 389-400). On 10/27/2018 the Court did not sign Mr. Larson's proposed pleadings and entered an Order Denying the Motion for Summary Judgment.

A bench trial was held 10/30/2017.

The Court rendered its Findings of Fact and Conclusions of Law on 05/01/2018. (CP 456-463).

On 05/14/2018 Norman Larson filed a Motion for Reconsideration (CP 464-474) and brief (CP 475-482) and Reply Brief (CP 494-503). The motion was denied at hearing on 06/29/2018 (CP 504), and an Order entered on 07/09/2018 (CP 505-506). Norman Larson timely filed a notice of appeal.

IV. ARGUMENT

a. The Court Should Not Have Disregarded the Trustee's Partition and Allocation of Trust Property.

A Trustee has discretionary power to acquire, invest, reinvest, exchange, sell, convey, control, divide, partition, and manage the trust property in accordance with the standards provided by law. RCW 11.98.070. As successor Trustee Norman Larson has the same powers, duties and discretionary authority as the original Trustee. RCW 11.98.060. Therefore, he has sole and exclusive nonintervention authority under the will to construe the terms of the will and TEDRA cannot be used to undermine that authority.

On 12/21/2016 Norman Larson, as Successor Trustee, filed and served a Notice of Proposed Plan of Final Distribution from Testamentary Trust pursuant to RCW 11.98.145:

“RCW 11.98.145. (1) Upon termination or partial termination of a trust, the trustee may send, by personal service, certified mail with return receipt requested, or in an electronic transmission if there is a consent of the recipient to electronic transmission then in effect under the terms of RCW 11.96A.110, to the beneficiaries a proposed plan to distribute existing trust assets. . . .”

The Trustee's announced distribution of the trust property proposed to divide Parcel No. 27122.9007 into north and south halves, each of which is 40 acres. The Trustee proposed to transfer the north half of Parcel No. 27122.9007 and all of Parcel No. 27122.9006 to Connie, and the south half of Parcel No. 27122.9007, together with Parcel No. 27122.9008, to Norman. This would give each sibling 80 acres with equal road frontage.

As Trustee, Norman also proposed that Parcel No. 27024.9009 be distributed

to him because it is adjacent to his other property. That parcel is not farmable, and is subject to an easement for high power electrical lines that is located through the center of the property

01/03/2017 Mitchell filed an objection to the proposed allocation, without explaining the basis for resisting equal distribution.

At trial, Ms. Mitchell testified that she believed she was entitled to all of the trust property, because she believed it was unfair for her mother to give all the farmland to her brother, Norman, even though she received all the cash and cash equivalents valued in excess of \$300,000. (RP 108:1-7).

Norman Larson's Motion for Summary Judgment explained RCW 11.98.070(15) gives the Trustee authority to distribute the trust property. This is, of course, a process expressly recognized in *Estate of Ehlers*, 80 Wn.App. 751, 911 P.2d 1007 (1996).

As expressly stated in RCW 11.98.070 the trustee has absolute authority to make pro-rata distribution of trust property without equitable adjustment. But in this case, Mr. Larson notified Ms. Mitchell that the property with road access would be divided equally, and that she would be given the property on which there was a house, barn, and multiple outbuildings. He would receive a parcel that is littered with scrub pines and bisected by a powerline easement.

Ms. Mitchell's TEDRA action did not ask the court to divide the trust property, the prayer was limited to requesting that Norman Larson be removed as Personal Representative of the Estate and as trustee, that replacements be appointed, and for reimbursement of costs.

b. The Court Had No Jurisdiction to Construe the Nonintervention Will of Clara V. Larson.

The TEDRA petition expressly requested that the trial court construe the terms of the Will of Gordon E. Larson to determine its intent. However, such use of the TEDRA statutes is inappropriate because the Supreme Court has previously held, where the language of the trust is clear and unambiguous, it is improper to use the will in an attempt to create ambiguity in the Trust. *Templeton v. Peoples Nat. Bank of Wash.*, 106 Wn.2d 304, 722 P.2d 63 (1986).

“Furthermore, where discretion is conferred upon a trustee with respect to carrying out the provisions of a trust, the exercise thereof is not subject to control by the court except to prevent an abuse of such discretion. *Peoples Nat'l Bank v. Jarvis*, 58 Wn.2d 627, 630, 364 P.2d 436 (1961).”

Templeton v. Peoples Nat. Bank of Wash., supra, at 310.

A trustee abuses his discretion only when he acts arbitrarily, in bad faith, maliciously, or fraudulently. *Austin v. U.S. Bank of Washington*, 73 Wn.App. 293, 304, 869 P.2d 404 (1994), citing: *Occidental Life Ins. Co. v. Blume*, 65 Wn.2d 643, 648, 399 P.2d 76 (1965). There was no abuse of discretion by Norman Larson regarding administration of the Trust. He did nothing more than divide the property equally, giving each beneficiary an equal amount of road frontage.

In *Estate of Rathbone*, 190 Wn.2d 332, 412 P.3d 1283 (2018) was asked to apply TEDRA (Title 11.96A RCW) in the context of a nonintervention will. The Will in *Rathbone* contained a “No Contest Provision” essentially the same as the provision in Clara Larson’s Will.

The Supreme Court explained the trial court has no jurisdiction under

TEDRA when the Personal Representative is administering a nonintervention will.

“Generally, a superior court's authority when dealing with nonintervention wills is statutorily limited. *In re Estate of Jones*, 152 Wn.2d 1, 9, 93 P.3d 147 (2004). Once a court declares a nonintervention estate solvent, the court has no role in the administration of the estate except under narrow, statutorily created exceptions that give courts limited authority to intervene. The court can regain this limited authority only if the executor or another person with statutorily conferred authority properly invokes it”

In re Estate of Rathbone, 190 Wn.2d 332, 339, 412 P.3d 1283, 1286 (2018)

Where the Will gives nonintervention power, the personal representative has exclusive authority to interpret the provisions of the will. The trial court has no authority, even under TEDRA. The trial court in *Rathbone* declared that RCW 11.68.070 gave it authority to construe the nonintervention will in that case. (This is the same statute relied on by Connie Mitchell in this case.)

Similarly, it is impossible for the court to evaluate the facts in the case without interpreting Gordon Larson’s will. It is undisputed that Clara Larson’s will does not create a different trust. The Court candidly admits in Finding of Fact #24 that the TEDRA action was filed by Connie Mitchell “...*demanding a declaration of her interest in the property under Gordon’s Trust and her interest in Clara’s Estate...*” (emphasis added). This is not permitted.

Further, Clara Larson’s will includes a “no contest” provision (§ 6.2). This provision is similar to the one described by the *Rathbone* court. Clearly, the court recognized that Ms. Mitchell asked the court to intervene in how the will was administered, as recognized by the court’s Order expressly instructing Mr. Mitchell to make certain payments pursuant to the court’s interpretation of the terms and condition of Clara Larson’s will.

In short, it's impossible to construe the Gordon E. Larson testamentary trust without interpreting the terms and conditions of the nonintervention wills, which is in violation of the *Rathbone* decision. The trial court had no authority in this matter, and the Trustee's proposed distribution and allocation of trust assets should be enforced.

Finally, the TEDRA petition requested that Norman Larson be removed as Personal Representative of the Will of Clara V. Larson. First of all, the matter before the court involved the trust and it would have been totally inappropriate to remove a Personal Representative in that context. Furthermore, a trial court's decision in a trustee removal case will seldom be reversed absent a manifest abuse of discretion. *Fred Hutchinson Cancer Research Ctr. v. Holman*, 107 Wn.2d 693, 716, 732 P.2d 974 (1987). Here Mr. Larson was not removed, and contrary to Conclusion of Law #E, there was no abuse of discretion.

c. Actions by Norman Larson's Former Attorney Should Not Have Been Considered by the Court.

Norman Larson cannot be vicariously liable for actions his attorney took contrary to instructions. Case law clearly provides that an attorney has no authority to act contrary to his client's instructions and has no authority to surrender his client's substantial rights. *Graves v. P.J. Taggares Co.*, 94 Wn.2d 298, 303, 616 P.2d 1223, 1227 (1980). See also: *Barton v. Tombari*, 120 Wash. 331, 207 P. 239 (1922); *Morgan v. Burks*, 17 Wn.App. 193, 563 P.2d 1260 (1977); *In re Coggins*, 13 Wn.App. 736, 537 P.2d 287 (1975); *Grossman v. Will*, 10 Wn.App. 141, 516 P.2d 1063 (1973); *In re Houts*, 7 Wn.App. 476, 499 P.2d 1276 (1972).

Case law to the contrary focuses primarily on such things as the attorney unsuccessfully pursuing a questionable legal theory. See: *Lane v. Brown & Haley*, 81 Wn.App. 102, 912 P.2d 1040 (1996).

Testimony at trial by both Norman Larson and the attorney representing the Clara Larson Estate, Richard Algeo, was uncontradicted. Mr. Algeo declined to intervene against attorney Stevens, so Mr. Larson acquiesced against his better judgment. (RP 129:4-24).

When attorney Stevens filed a motion seeking unwanted relief from the court Mr. Larson fired him and canceled the motion. That motion was never refiled and the relief sought by attorney Stevens was not only contrary to the language in the Will of Clara V. Larson, it was in direct defiance of instructions received from Norman Larson. In fact, both the Answer and the Amended Answer to the TEDRA Petition expressly state that the claims attorney Stevens pursued were denounced and rejected.

Once the parties (and the Court) have been notified that representation of an attorney has been terminated, the parties may no longer rely on the attorney's apparent authority to act on behalf of his former client. *Graves v. P.J. Taggeres, Co., supra*.

d. Findings of Fact, Conclusions of Law, and Order Are Unsupported by the Evidence at Trial.

- **Findings of Fact #1-18.** Appellant has no dispute with the first 18 Findings of Fact. However, Finding of Fact #13 fails to note that the Last Will and Testament of Clara V. Larson did not forgive any debt owed by Connie Mitchell to the Gordon E. Larson Trust.

- **Findings of Fact #19-26.** The Court extensively discusses the involvement of Brant Stevens in the timer period between May and July 2016. The Trial Court recognizes that attorney Stevens was terminated but does not mention that it was because he disregarded the best interests of his client and acted contrary to instructions from Norman Larson. Mr. Larson testified (without objection and without contradiction) that Brant Stevens acted without authority and against express instructions, when Stevens asserted that Certificates of Deposit and other similar instruments were not “cash” as contemplated by Clara Larson’s will. Nevertheless, the Court entered Conclusion of Law #E in specific reference to the unauthorized actions of Brant Stevens but disregarded the fact that such actions were unauthorized and subsequently refuted in the Answer and the Amended Answer filed by Norman Larson. (Note:
- **Finding of Fact #19.** The Court indicates “*Gordon D. Larson*” retained attorney Brant L. Stevens. Obviously, the Court meant “*Norman D. Larson*”.
- **Finding of Fact #20** The Court relies on a letter that Stevens wrote to attorney Hughes dated May 5, 2016, that was offered as Exhibit P-6, but it was only marked for identification and was not admitted as an exhibit. (CP 428).
- **Finding of Fact #21.** The Court fails to acknowledge that Mr. Larson objected to the characterizations Stevens sent without authorization, or that he reluctantly relented after talking with the Estate’s attorney, Richard

Algeo. This important distinction was confirmed by attorney Algeo's testimony, which was presented without objection or contradiction. (RP 136:13 – 138:3; 141:7-14)

- **Finding of Fact #22 and #23.** Exhibit P-7 was not offered and Exhibit P-8 was marked for identification but was not admitted. (CP 428)
- **Finding of Fact #24.** The Court correctly recites that Ms. Mitchell initiated the TEDRA action 06/24/2016, but it incorrectly describes the relief requested. The Prayer does not include a demand to declare her interest in trust property or her interest in Clara Larson's Estate. It only asks that Norman Larson be removed as Personal Representative and as trustee, that replacements be appointed, and for reimbursement of expenses. (CP 13-28)
- **Finding of Fact #25 and #26.** The Court's language is misleading and, therefore, inaccurate because although attorney Stevens did file a motion seeking instructions on 07/14/2016, after which he was terminated, the Court fails to also acknowledge that the motion was then withdrawn on 07/27/2016 (CP 43-44), or that the unauthorized position taken by attorney Stevens was subsequently retracted in both the Answer (CP 60-87) and the Amended Answer (CP 88-125) where Norman Larson expressly denied and disavowed the unauthorized position taken by attorney Stevens. This is critically important because it proves he was not acting contrary to Connie Mitchell's interest, and was not in bad faith. (Note that the Court mentions the Answer and the Amended Answer in Finding of Fact #29,

but does not discuss the Second Affirmative Defense therein that clearly and definitively rejects the unauthorized assertions by Stevens.)

- **Finding of Fact #27-28.** Appellant has no dispute with these Findings of Fact.
- **Finding of Fact #29.** The Court recognized that an Answer and an Amended Answer were filed to the TEDRA Petition. But the Court failed to recognize that the actions of Brant Stevens listed in Findings of Fact #19-26 were withdrawn and did not represent the position of Norman Larson. Nevertheless, the Court entered Conclusion of Law #E in specific reliance on the actions of Brant Stevens, disregarding the fact that such actions were unauthorized and subsequently refuted in the Answer and the Amended Answer filed by Norman Larson.
- **Findings of Fact #30-33.** Appellant has no dispute with these Findings of Fact.
- **Finding of Fact #34.** This Finding of Fact is incomplete and, therefore, inaccurate because it fails to mention that Connie Mitchell admitted she did not pay rent on the house during the years she occupied it.
- **Finding of Fact #35-37.** Appellant has no dispute with these Findings of Fact.
- **Finding of Fact #38.** The Findings of Fact make no mention that Stephen Barrett was the only expert witness that testified at trial and does not disclose the actual values Stephen Barrett established for the various parcels, or that there was no testimony contrary to his expert opinions.

Trial testimony regarding value from Stephen L. Barrett and showed that the division of land as proposed by Norman Larson as Trustee was \$250,000 for Connie's share, and \$350,000 Norman's share. (Trial Exhibit R104).

However, that included the 80-acre parcel 27024.9009 which has marginal (if any) use because of the powerline easement that cuts through the middle.)

Comments by the Connie Mitchell's during trial implied that there was something wrong with relying on Mr. Barrett's value analysis (RP 92:2-8).

However, a Trustee has the right to use a market analysis in lieu of a formal appraisal. *In re Ehlers*, 80 Wn. App. 751, 911 P2d 1017 (1996).

A. The only witness to testify regarding the value of the property was Steve Barrett. He estimated the value of all real property held in the trust to be \$575,000.00. His testimony is correctly summarized as follows (RP 144-171):

1. Parcel 27122.9006 – consists of 40 acres adjacent to Austin Road. It has the residence in which Connie Mitchell resides, along with a hay barn, and storage shed, valued at \$30,000-\$50,000, in addition to the value of the underlying land.
2. Parcel 27122.9008 – consists of 40 acres adjacent to Austin Road. It has no buildings or other improvements and is located immediately to the south of parcel 27122.9006.
3. Parcel 27122.9008 – consists of 80 acres of

unimproved land. It has no road access except across the two parcels with frontage on Austin Road.

4. Parcel 27024.9009 – consists of 80 acres of unimproved land. It has no road access, and is largely rocky with scrub pines. It has a powerline easement that bisects the property.

B. Barrett's testimony was uncontradicted that the 80-acre parcel to the northwest (27024.9009) is inaccessible, and cannot be farmed.

C. Barrett's unchallenged estimate of land value was \$1750-\$2500/acre. Using these figures, the value of the Court's partition to Connie Mitchell is \$245,000-\$350,000 for 140 acres, plus improvements valued at \$30,000-\$50,000, for a total value estimated to be \$275,000-\$400,000.

D. Also using the same Steve Barrett value estimates, the value of the court's partition to Norman Larson is \$175,000-\$250,000 for 100 acres.

Obviously, Conclusions of Law are incorrect when they depend on Findings of Fact that are incorrect. Similarly, when factual information is incomplete, legal conclusions are ambiguous, at best.

- **Conclusion of Law "A"** – the *Rathbone* decision cited above undercuts this Conclusion. The trial court does not have the broad authority as described.

- **Conclusion of Law “E”.** The Court states that Norman Larson did not recognize Certificates of Deposit are not cash, which is directly contrary to the Answer filed in response to the TEDRA action, and is directly contrary to Norman Larson’s testimony at trial.
- **Conclusion of Law “E”** also incorrectly concludes that a claim for rent was a violation of Norman’s duties of good faith, diligence and undivided loyalty because Connie has no right as trust beneficiary to occupy the house owned by the trust.
- **Conclusion of Law “E”** exceeds the trial court’s authority as defined in the Rathbone decision which precludes a court from construing a nonintervention will contrary to the authority granted to the Personal Representative.
- **Conclusion of Law “E”** is incorrect because the undisputed testimony and evidence shows that Mr. Larson did pursue the motion filed by Brant Stevens. It was only the unauthorized actions of attorney Brant Stevens that raised these issues. His argument made in May 2016 was rejected by Norman Larson, and formally withdrawn in July 2016. The Conclusion of Law is directly contrary to both the Answer and the Amended Answer.

V. TRIAL COURT’S ALLOCATION OF PROPERTY IS UNFAIR AND UNEQUAL.

The Gordon E Larson Trust clearly indicates that the property is held by the beneficiaries in undivided equal shares. However, the Findings of Fact, Conclusions of Law and Order does not accomplish this clear instruction. The valuations as determined by the Spokane County Assessor (attached Appendix 1) distinguishes

between the assessed value of the property, and the taxed value because some of the land is farmland (except for Parcel No. 27122.9006 on which the residence and outbuildings are located).

The relevant timeframes to evaluate the equality of allocation would be 2017 when the Trustee proposed to allocate the parcels, and 2018 when the Trial Court entered its Order. The combined *assessed* values of all parcels held by the Trust were:

- 2017 - \$372,540
- 2018 - \$309,320

Since the Order indicates the intent was to render a decision that awarded both beneficiaries an “equal share of the undivided ½ interest” the partition in the Order does not accomplish that goal. Based on the 2017-2018 *assessed* values of the various parcels as calculated by the Spokane County Assessor, and comparing the allocation proposed by the Trustee to the allocation included in the Trial Court’s Order, the unfairness that results from the Court’s approach is clearly apparent:

	2017 Trial Court	2017 Trustee	2018 Trial Court	2018 Trustee
Connie	66.0%	46.6%	71.4%	53%
Norman	28.3%	53.3%	26%	45%

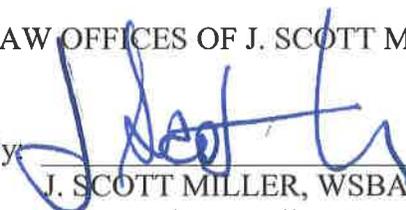
Appellant has already complied with the Trial Court’s Order. The funds have been distributed to Connie Mitchell, and all real property has been quit-claimed as instructed. Appellant has no objection to distribution of the cash and cash equivalents. However, the real property should be distributed fairly and equally, and not as calculated by the Trial Court.

VI. CONCLUSION

Appellant respectfully requests that the Court of Appeals vacate the Findings of Fact, Conclusions of Law, and Order entered on May 1, 2018 and remand the matter with instructions to the Trial Court that the Trustee's proposed allocation and distribution of property owned by the Gordon E. Larson Trust be affirmed and enforced.

DATED: December 28, 2018.

LAW OFFICES OF J. SCOTT MILLER, P.S.

By: 

J. SCOTT MILLER, WSBA #14620
Attorney for Appellant/Respondent

CERTIFICATE OF SERVICE

I declare, pursuant to RCW 9A.72.085 and under penalty of perjury under the laws of the State of Washington, on December 28, 2018, at Spokane, Washington, a copy of the foregoing was duly served on all parties entitled to service by the method listed below, addressed as follows:

<ul style="list-style-type: none"><input type="checkbox"/> Via Hand Delivery<input type="checkbox"/> Via Overnight Mail<input type="checkbox"/> Via U.S. Mail<input type="checkbox"/> Via Facsimile<input type="checkbox"/> Via Messenger<input checked="" type="checkbox"/> Via Email	<p>Jeffrey R. Ropp Kevin J. Curtis Nicholas R. Ulrich Winston & Cashatt 601 W. Riverside Avenue Suite 1900 Spokane, WA 99201-0695</p> <p>838-1416 – fax</p> <p>jrr@winstoncashatt.com kjc@winstoncashatt.com nru@winstoncashatt.com</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------



LISA S. MITTLEIDER, Paralegal
Law Offices of J. Scott Miller, PS

APPENDIX 1

Estate of Clara V. Larson
 Court of Appeals Div. III No. 362205
 Spokane County Superior Court No. 15-4-01520-8

Appendix 1

Spokane County Assessor Historical Parcel Values
 (<https://www.spokanecounty.org/219/Assessor>)

Taxed Values

<u>Parcel No.</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
27122.9006	\$132,320	\$136,420	\$144,030	\$151,830
27122.9007	\$5,630	\$5,840	\$5,610	\$5,610
27122.9008	\$2,850	\$2,960	\$2,750	\$2,750
27024.9009	\$4,480	\$4,630	\$4,450	\$4,450
Total	\$12,960	\$149,850	\$156,840	\$164,640

Assessed Values

<u>Parcel No.</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
27122.9006	\$132,320	\$136,420	\$144,030	\$151,830
27122.9007	\$70,800	\$74,400	\$52,080	\$92,400
27122.9008	\$82,800	\$91,340	\$63,940	\$109,340
27024.9009	\$69,580	\$70,380	\$49,270	\$90,810
Total	\$355,500	\$372,540	\$309,320	\$444,340

Taxed Value of Parcels Awarded to Connie by Trial Court

<u>Parcel No.</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
27122.9006	\$132,320	\$136,420	\$144,030	\$151,830
27122.9007	\$5,630	\$5,840	\$5,610	\$5,610
27122.9008 (half)	\$1,425	\$1,480	\$1,375	\$1,375
Total	\$139,375	\$143,740	\$151,015	\$158,815

Assessed Value of Parcels Awarded to Connie by Trial Court

<u>Parcel No.</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
27122.9006	\$132,320	\$136,420	\$144,030	\$151,830
27122.9007	\$70,800	\$74,400	\$52,080	\$92,400
27122.9008 (half)	\$41,400	\$45,670	\$31,970	\$54,670
Total	\$244,520	\$256,490	\$228,080	\$298,900

Taxed Value of Parcels Awarded to Norman by Trial Court

<u>Parcel No.</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
27122.9008 (half)	\$1,425	\$1,480	\$1,375	\$1,375
27024.9009	\$4,480	\$4,630	\$4,450	\$4,450
Total	\$5,905	\$6,110	\$5,825	\$5,825

Assessed Value of Parcels Awarded to Norman by Trial Court

<u>Parcel No.</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
27122.9008 (half)	\$41,400	\$45,670	\$31,970	\$54,670
27024.9009	\$69,580	\$70,380	\$49,270	\$90,810
Total	\$110,980	\$116,050	\$80,660	\$145,480

Comparison of Allocation of Assessed Property Values

	<u>2017 – Trustee</u>	<u>2017 – Court</u>	<u>2018 – Trustee</u>	<u>2018 - Court</u>
Connie ¹	\$173,620	\$256,490	\$170,070	\$228,080
Norman ²	\$198,920	\$116,050	\$139,250	\$80,660

¹ Trustee allocation to Connie: Parcels 27122.9006 + ½ of parcel 27122.9007

² Trustee allocation to Norman: Parcels 27122.9008 + 27024.9009 + ½ of parcel 27122.9007

APPENDIX 1A

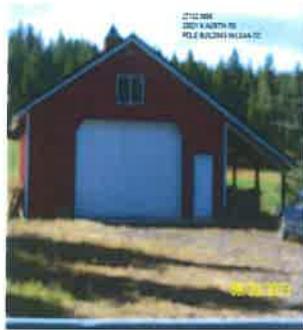
Parcel Information



WEBPADAL Data As Of: 12/27/2018

Parcel Number: 27122.9006
Site Address: 22021 N AUSTIN RD

Parcel Image



Owner Name: MITCHELL, CONNIE M
Address: 22021 N AUSTIN RD, COLBERT, WA, 99005

Taxpayer Name: MITCHELL, CONNIE M
Address: 22021 N AUSTIN RD, COLBERT, WA, 99005

Site Address

Parcel Type	Site Address	City	Land Size	Size Desc.	Description	Tax Year	Tax Code Area	Status
R	22021 N AUSTIN RD	COLBERT	39.09	Acre(s)	Mixed Use - Open Space	2018	1200	Active

Assessor Description

12 27 42 NE1/4 OF NW1/4

Appraisal

Parcel Class	Appraiser	Neighborhood Code	Neighborhood Name	Neighborhood Desc	Appraiser Name	Appraiser Phone
--------------	-----------	-------------------	-------------------	-------------------	----------------	-----------------

Parcel Class	Appraiser	Neighborhood Code	Neighborhood Name	Neighborhood Desc	Appraiser Name	Appraiser Phone
83 Cur - Use - Ag	130	232740	WAYS A	RNGE WAYSIDE A SUBDIV	Stephanie	477-5928

Assessed Value

Tax Year	Taxable	Total Value	Land	Dwelling/Structure	Current Use Land	Personal Prop.
2019	151,830	151,830	111,220	109,000	42,830	0
2018	144,030	144,030	93,220	101,200	42,830	0
2017	136,420	136,420	93,220	93,400	43,020	0
2016	132,320	132,320	84,070	89,400	42,920	0
2015	127,840	127,840	94,920	90,000	37,840	0

Characteristics

Dwelling/ Structure	Year Built	Gross		Type	House Type	Roof Material	Heat	Cool	Bedroom	Half Bath	Full Bath
		Living Area	Size								
Dwelling	1905	1,080		NA SF	47 Ranch 1000-1499	Comp sh medium	Forced hot air-gas	None	4	1	1
General Purpose Bldg Wood Pole Frame	2005	NA		1,080 SF						0	0
Lean-to	2000	NA		360 SF						0	0
Lean-to	2000	NA		360 SF						0	0
Lean-to	2005	NA		360 SF						0	0
Storage - Hay Cover	1994	NA		360 SF						0	0

Residential Sq Ft Breakdown

Residential Sq Ft Breakdown	Sq Ft	Extension
Basement	720	R01
1st Floor	720	R01
1.5	360	R01

Land Number	Soil ID	Acreage	Sq Ft	Frontage	Depth	Lot(s)
1	DF74	10.79	0	0	0	0
2	DF52	2.69	0	0	0	0
3	4e1Z	17.43	0	0	0	0
4	7A	7.18	0	0	0	0
5	TO05	1.00	0	0	0	0
6	MC05	4.00	0	0	0	0
8	MC10	5.00	0	0	0	0
10	MC20	10.00	0	0	0	0
12	MC80	5.61	0	0	0	0

Sales

Sale Date	Sale Price	Sale Instrument	Excise Number	parcel
-----------	------------	-----------------	---------------	--------

Sale Date	Sale Price	Sale Instrument	Excise Number	parcel
09/24/2018	0.00	Quit Claim Deed	201815114	27122.9006

Property Taxes

Taxes are due April 30th and October 31st

Total Charges Owing: \$0.00

Tax Year	Charge Type	Annual Charges	Remaining Charges Owing
	Total Taxes for 2018	1,913.70	0.00
2018	AV Property Tax	1,882.40	0.00
2018	Soil Conservation Principal CNSV1	8.91	0.00
2018	State Forest Patrol Principal SFFIRE1	17.20	0.00
2018	State Forest Patrol Principal SFFIRE3	0.50	0.00
2018	Weed Control Principal WCWEED1	4.69	0.00
	Total Taxes for 2017	1,801.19	0.00
2017	AV Property Tax	1,769.89	0.00
2017	Soil Conservation Principal CNSV1	8.91	0.00
2017	State Forest Patrol Principal SFFIRE1	17.20	0.00
2017	State Forest Patrol Principal SFFIRE3	0.50	0.00
2017	Weed Control Principal WCWEED1	4.69	0.00
	Total Taxes for 2016	1,784.61	0.00
2016	AV Property Tax	1,753.31	0.00
2016	Soil Conservation Principal CNSV1	8.91	0.00
2016	State Forest Patrol Principal SFFIRE1	17.20	0.00
2016	State Forest Patrol Principal SFFIRE3	0.50	0.00
2016	Weed Control Principal WCWEED1	4.69	0.00
	Total Taxes for 2015	1,679.58	0.00
2015	AV Property Tax	1,648.28	0.00
2015	Soil Conservation Principal CNSV1	8.91	0.00
2015	State Forest Patrol Principal SFFIRE1	17.20	0.00
2015	State Forest Patrol Principal SFFIRE3	0.50	0.00
2015	Weed Control Principal WCWEED1	4.69	0.00
	Total Taxes for 2014	1,551.47	0.00
2014	AV Property Tax	1,526.34	0.00
2014	Soil Conservation Principal CNSV1	1.74	0.00
2014	Soil Conservation Principal CNSV2	1.00	0.00
2014	State Forest Patrol Principal SFFIRE1	17.20	0.00
2014	State Forest Patrol Principal SFFIRE3	0.50	0.00

Tax Year	Charge Type	Annual Charges	Remaining Charges Owing
2014	Weed Control Principal WCWEED1	4.69	0.00

Tax Receipts

Tax Year	Receipt Number	Receipt Date	Receipt Amount
2018	7645516	10/12/2018	956.85
2018	7453621	04/06/2018	956.85
2017	7281046	10/18/2017	900.60
2017	7098416	04/17/2017	900.59
2016	6906415	10/13/2016	892.31
2016	6734558	04/21/2016	892.30
2015	6571310	10/26/2015	839.79
2015	6370063	04/20/2015	839.79

Disclaimer

We are pleased to give you online access to the Assessor's Office and Treasurer's Office property tax and valuation information. While we make every effort to produce and publish the most current and accurate information possible, portions of this information may not be current or correct. Neither Spokane County, the Assessor, nor the Treasurer makes any warranty, express or implied, with regard to the accuracy, reliability, or timeliness of information in this system, and shall not be held liable for losses caused by using this information. Any person or entity that relies on any information obtained from this system, does so at his or her own risk. Please feel free to contact us about any error you discover or to give comments and suggestions. Call the Assessor's Office at (509) 477-3698 or the Treasurer's Office at (509) 477-4713.

RCW 42.56.070 (9) prohibits the release of lists of individuals requested for commercial purposes. The requester expressly represents that no such use of any such list will be made by the user or its transferee(s) or vendee(s). I understand, acknowledge, and accept the statements above, and agree to adhere to the prohibitions listed in RCW 42.56.070 (9).

APPENDIX 1B

Parcel Information



WEBPADAL Data As Of: 12/27/2018

Parcel Number: 27122.9007
Site Address: 0 ADDRESS UNKNOWN

Parcel Image

Owner Name: LARSON TRUST, GORDON E
Address: 22425 N AUSTIN RD, COLBERT, WA, 99005-9747

Taxpayer Name: LARSON TRUST, GORDON E
Address: 22425 N AUSTIN RD, COLBERT, WA, 99005-9747

Site Address

Parcel Type	Site Address	City	Land Size	Size Desc.	Description	Tax Year	Tax Code Area	Status
R	0 ADDRESS UNKNOWN	SPOKANE	80	Acre(s)	Mixed Use - Open Space	2018	1200	Active

Assessor Description
12 27 42 W1/2 OF NW1/4

Appraisal

Parcel Class	Appraiser	Neighborhood Code	Neighborhood Name	Neighborhood Desc	Appraiser Name	Appraiser Phone
83 Cur - Use - Ag	130	232740	WAYS A	RNGE WAYSIDE A SUBDIV	Stephanie	477-5928

Assessed Value

Tax Year	Taxable	Total Value	Land	Dwelling/Structure	Current Use Land	Personal Prop.
2019	5,610	5,610	92,400	0	5,610	0
2018	5,610	5,610	52,080	0	5,610	0
2017	5,840	5,840	74,400	0	5,840	0
2016	5,630	5,630	70,800	0	5,630	0
2015	5,460	5,460	80,800	0	5,460	0

Characteristics

Land Number	Soil ID	Acreage	Sq Ft	Frontage	Depth	Lot(s)
1	MO20	16.20	0	0	0	0
3	DF62	48.40	0	0	0	0
4	DF74	15.40	0	0	0	0
5	3e5G1	8.32	0	0	0	0
6	7A	5.40	0	0	0	0
7	3s1	2.48	0	0	0	0

**Sales
Property Taxes**

Taxes are due April 30th and October 31st
Total Charges Owing: \$0.00

Tax Year	Charge Type	Annual Charges	Remaining Charges Owing
	Total Taxes for 2018	117.62	0.00
2018	A/V Property Tax	73.32	0.00
2018	Soil Conservation Principal CNSV1	13.00	0.00
2018	State Forest Patrol Principal SFFIRE1	17.20	0.00
2018	State Forest Patrol Principal SFFIRE2	4.00	0.00
2018	State Forest Patrol Principal SFFIRE3	0.50	0.00
2018	Weed Control Principal WCWEED1	9.60	0.00
	Total Taxes for 2017	120.12	0.00
2017	A/V Property Tax	75.76	0.00
2017	Soil Conservation Principal CNSV1	13.00	0.00
2017	State Forest Patrol Principal SFFIRE1	17.20	0.00
2017	State Forest Patrol Principal SFFIRE2	4.06	0.00
2017	State Forest Patrol Principal SFFIRE3	0.50	0.00
2017	Weed Control Principal WCWEED1	9.60	0.00
	Total Taxes for 2016	118.96	0.00
2016	A/V Property Tax	74.60	0.00
2016	Soil Conservation Principal CNSV1	13.00	0.00
2016	State Forest Patrol Principal SFFIRE1	17.20	0.00
2016	State Forest Patrol Principal SFFIRE2	4.06	0.00
2016	State Forest Patrol Principal SFFIRE3	0.50	0.00
2016	Weed Control Principal WCWEED1	9.60	0.00
	Total Taxes for 2015	114.76	0.00

Tax Year	Charge Type	Annual Charges	Remaining Charges Owing
2015	AV Property Tax	70.40	0.00
2015	Soil Conservation Principal CNSV1	13.00	0.00
2015	State Forest Patrol Principal SFFIRE1	17.20	0.00
2015	State Forest Patrol Principal SFFIRE2	4.06	0.00
2015	State Forest Patrol Principal SFFIRE3	0.50	0.00
2015	Weed Control Principal WCWEED1	9.60	0.00
	Total Taxes for 2014	101.13	0.00
2014	AV Property Tax	67.69	0.00
2014	Soil Conservation Principal CNSV1	1.08	0.00
2014	Soil Conservation Principal CNSV2	1.00	0.00
2014	State Forest Patrol Principal SFFIRE1	17.20	0.00
2014	State Forest Patrol Principal SFFIRE2	4.06	0.00
2014	State Forest Patrol Principal SFFIRE3	0.50	0.00
2014	Weed Control Principal WCWEED1	9.60	0.00

Tax Receipts

Tax Year	Receipt Number	Receipt Date	Receipt Amount
2018	7714625	10/23/2018	58.81
2018	7453621	04/06/2018	58.81
2017	7281046	10/18/2017	60.06
2017	7098416	04/17/2017	60.06
2016	6906415	10/13/2016	59.48
2016	6734558	04/21/2016	59.48
2015	6571310	10/26/2015	57.38
2015	6370063	04/20/2015	57.38

Disclaimer

We are pleased to give you online access to the Assessor's Office and Treasurer's Office property tax and valuation information. While we make every effort to produce and publish the most current and accurate information possible, portions of this information may not be current or correct. Neither Spokane County, the Assessor, nor the Treasurer makes any warranty, express or implied, with regard to the accuracy, reliability, or timeliness of information in this system, and shall not be held liable for losses caused by using this information. Any person or entity that relies on any information obtained from this system, does so at his or her own risk. Please feel free to contact us about any error you discover or to give comments and suggestions. Call the Assessor's Office at (509) 477-3698 or the Treasurer's Office at (509) 477-4713.

RCW 42.56.070 (9) prohibits the release of lists of individuals requested for commercial purposes. The requester expressly represents that no such use of any such list will be made by the user or its transferee(s) or vendee(s). I understand, acknowledge, and accept the statements above, and agree to adhere to the prohibitions listed in RCW 42.56.070 (9).

APPENDIX 1C

Parcel Information



WEBPADAL Data As Of: 12/27/2018

Parcel Number: 27122.9008
Site Address: 0 ADDRESS UNKNOWN

Parcel Image

Owner Name: LARSON TRUST, GORDON E
Address: 22425 N AUSTIN RD, COLBERT, WA, 99005-9747

Taxpayer Name: LARSON TRUST, GORDON E
Address: 22425 N AUSTIN RD, COLBERT, WA, 99005-9747

Site Address

Parcel Type	Site Address	City	Land Size	Size Desc.	Description	Tax Year	Tax Code Area	Status
R	0 ADDRESS UNKNOWN	SPOKANE	39.09	Acre(s)	Mixed Use - Open Space	2018	1200	Active

Assessor Description
12 27 42 SE1/4 OF NW1/4

Appraisal

Parcel Class	Appraiser	Neighborhood Code	Neighborhood Name	Neighborhood Desc	Appraiser Name	Appraiser Phone
83 Cur - Use - Ag	130	232740	WAYS A	RNGE WAYSIDE A SUBDIV	Stephanie	477-5928

Assessed Value

Tax Year	Taxable	Total Value	Land	Dwelling/Structure	Current Use Land	Personal Prop.
2019	2,750	2,750	109,340	0	2,750	0
2018	2,750	2,750	63,940	0	2,750	0
2017	2,960	2,960	91,340	0	2,960	0
2016	2,850	2,850	82,800	0	2,850	0
2015	2,770	2,770	93,510	0	2,770	0

Characteristics

Land Number	Soil ID	Acreage	Sq Ft	Frontage	Depth	Lot(s)
1	DF74	11.55	0	0	0	0
2	DF52	1.06	0	0	0	0
3	DF62	1.83	0	0	0	0
4	4e1Z	14.69	0	0	0	0
5	3s1	1.66	0	0	0	0
6	MO80	24.67	0	0	0	0
8	7A	8.32	0	0	0	0

Sales

Property Taxes

Taxes are due April 30th and October 31st
Total Charges Owing: \$0.00

Tax Year	Charge Type	Annual Charges	Remaining Charges Owing
	Total Taxes for 2018	67.23	0.00
2018	A/V Property Tax	35.93	0.00
2018	Soil Conservation Principal CNSV1	8.91	0.00
2018	State Forest Patrol Principal SFFIRE1	17.20	0.00
2018	State Forest Patrol Principal SFFIRE3	0.50	0.00
2018	Weed Control Principal WCWEED1	4.69	0.00
	Total Taxes for 2017	69.70	0.00
2017	A/V Property Tax	38.40	0.00
2017	Soil Conservation Principal CNSV1	8.91	0.00
2017	State Forest Patrol Principal SFFIRE1	17.20	0.00
2017	State Forest Patrol Principal SFFIRE3	0.50	0.00
2017	Weed Control Principal WCWEED1	4.69	0.00
	Total Taxes for 2016	69.06	0.00
2016	A/V Property Tax	37.76	0.00
2016	Soil Conservation Principal CNSV1	8.91	0.00
2016	State Forest Patrol Principal SFFIRE1	17.20	0.00
2016	State Forest Patrol Principal SFFIRE3	0.50	0.00
2016	Weed Control Principal WCWEED1	4.69	0.00
	Total Taxes for 2015	67.01	0.00
2015	A/V Property Tax	35.71	0.00
2015	Soil Conservation Principal CNSV1	8.91	0.00

Tax Year	Charge Type	Annual Charges	Remaining Charges Owing
2015	State Forest Patrol Principal SFFIRE1	17.20	0.00
2015	State Forest Patrol Principal SFFIRE3	0.50	0.00
2015	Weed Control Principal WCWEED1	4.69	0.00
	Total Taxes for 2014	59.14	0.00
2014	AV Property Tax	34.11	0.00
2014	Soil Conservation Principal CNSV1	1.64	0.00
2014	Soil Conservation Principal CNSV2	1.00	0.00
2014	State Forest Patrol Principal SFFIRE1	17.20	0.00
2014	State Forest Patrol Principal SFFIRE3	0.50	0.00
2014	Weed Control Principal WCWEED1	4.69	0.00

Tax Receipts

Tax Year	Receipt Number	Receipt Date	Receipt Amount
2018	7714625	10/23/2018	33.62
2018	7453621	04/06/2018	33.61
2017	7281046	10/18/2017	34.85
2017	7098416	04/17/2017	34.85
2016	6906415	10/13/2016	34.53
2016	6734558	04/21/2016	34.53
2015	6571310	10/26/2015	33.51
2015	6370063	04/20/2015	33.50

Disclaimer

We are pleased to give you online access to the Assessor's Office and Treasurer's Office property tax and valuation information. While we make every effort to produce and publish the most current and accurate information possible, portions of this information may not be current or correct. Neither Spokane County, the Assessor, nor the Treasurer makes any warranty, express or implied, with regard to the accuracy, reliability, or timeliness of information in this system, and shall not be held liable for losses caused by using this information. Any person or entity that relies on any information obtained from this system, does so at his or her own risk. Please feel free to contact us about any error you discover or to give comments and suggestions. Call the Assessor's Office at (509) 477-3698 or the Treasurer's Office at (509) 477-4713.

RCW 42.56.070 (9) prohibits the release of lists of individuals requested for commercial purposes. The requester expressly represents that no such use of any such list will be made by the user or its transferee(s) or vendee(s). I understand, acknowledge, and accept the statements above, and agree to adhere to the prohibitions listed in RCW 42.56.070 (9).

APPENDIX 1D

Parcel Information



WEBPADAL Data As Of: 12/27/2018

Parcel Number: 27024.9009
Site Address: 0 ADDRESS UNKNOWN

Parcel Image

Owner Name: LARSON TRUST, GORDON E
Address: 22425 N AUSTIN RD, COLBERT, WA, 99005-9747

Taxpayer Name: LARSON TRUST, GORDON E
Address: 22425 N AUSTIN RD, COLBERT, WA, 99005-9747

Site Address

Parcel Type	Site Address	City	Land Size	Size Desc.	Description	Tax Year	Tax Code Area	Status
R	0 ADDRESS UNKNOWN	SPOKANE	80	Acre(s)	Mixed Use - Open Space	2018	3240	Active

Assessor Description
02 27 42 S1/2 OF SE1/4

Appraisal

Parcel Class	Appraiser	Neighborhood Code	Neighborhood Name	Neighborhood Desc	Appraiser Name	Appraiser Phone
83 Cur - Use - Ag	130	232720	WAYSID	RNGE WAYSIDE	Stephanie	477-5928

Assessed Value

Tax Year	Taxable	Total Value	Land	Dwelling/Structure	Current Use Land	Personal Prop.
2019	4,450	4,450	90,810	0	4,450	0
2018	4,450	4,450	49,270	0	4,450	0
2017	4,630	4,630	70,380	0	4,630	0
2016	4,480	4,480	69,580	0	4,480	0
2015	4,380	4,380	67,100	0	4,380	0

Characteristics

Land Number	Soil ID	Acreage	Sq Ft	Frontage	Depth	Lot(s)
1	DF63	1.99	0	0	0	0
2	DF52	3.48	0	0	0	0
3	DF62	13.29	0	0	0	0
4	DF74	44.66	0	0	0	0
5	DF81	4.93	0	0	0	0
6	DF61	1.42	0	0	0	0
7	7A	3.50	0	0	0	0
8	3e5G1	1.75	0	0	0	0
9	2s3	2.79	0	0	0	0
10	4W1X	2.19	0	0	0	0
11	MO80	10.23	0	0	0	0

Sales

Sale Date	Sale Price	Sale Instrument	Excise Number	parcel
09/11/2002	0.00	Quit Claim Deed	200218390	27024.9009

Property Taxes

Taxes are due April 30th and October 31st

Total Charges Owing: \$0.00

Tax Year	Charge Type	Annual Charges	Remaining Charges Owing
	Total Taxes for 2018	103.13	0.00
2018	AV Property Tax	58.78	0.00
2018	Soil Conservation Principal CNSV1	12.81	0.00
2018	State Forest Patrol Principal SFFIRE1	17.20	0.00
2018	State Forest Patrol Principal SFFIRE2	4.47	0.00
2018	State Forest Patrol Principal SFFIRE3	0.50	0.00
2018	Weed Control Principal WCWEED1	9.37	0.00
	Total Taxes for 2017	104.78	0.00
2017	AV Property Tax	60.26	0.00
2017	Soil Conservation Principal CNSV1	12.81	0.00
2017	State Forest Patrol Principal SFFIRE1	17.20	0.00
2017	State Forest Patrol Principal SFFIRE2	4.64	0.00
2017	State Forest Patrol Principal SFFIRE3	0.50	0.00
2017	Weed Control Principal WCWEED1	9.37	0.00

Tax Year	Charge Type	Annual Charges	Remaining Charges Owing
Total Taxes for 2016		104.40	0.00
2016	A/V Property Tax	59.88	0.00
2016	Soil Conservation Principal CNSV1	12.81	0.00
2016	State Forest Patrol Principal SFFIRE1	17.20	0.00
2016	State Forest Patrol Principal SFFIRE2	4.64	0.00
2016	State Forest Patrol Principal SFFIRE3	0.50	0.00
2016	Weed Control Principal WCWEED1	9.37	0.00
Total Taxes for 2015		104.59	0.00
2015	A/V Property Tax	60.07	0.00
2015	Soil Conservation Principal CNSV1	12.81	0.00
2015	State Forest Patrol Principal SFFIRE1	17.20	0.00
2015	State Forest Patrol Principal SFFIRE2	4.64	0.00
2015	State Forest Patrol Principal SFFIRE3	0.50	0.00
2015	Weed Control Principal WCWEED1	9.37	0.00
Total Taxes for 2014		92.08	0.00
2014	A/V Property Tax	58.37	0.00
2014	Soil Conservation Principal CNSV1	1.00	0.00
2014	Soil Conservation Principal CNSV2	1.00	0.00
2014	State Forest Patrol Principal SFFIRE1	17.20	0.00
2014	State Forest Patrol Principal SFFIRE2	4.64	0.00
2014	State Forest Patrol Principal SFFIRE3	0.50	0.00
2014	Weed Control Principal WCWEED1	9.37	0.00

Tax Receipts

Tax Year	Receipt Number	Receipt Date	Receipt Amount
2018	7714625	10/23/2018	51.57
2018	7453621	04/06/2018	51.56
2017	7281046	10/18/2017	52.39
2017	7098416	04/17/2017	52.39
2016	6906415	10/13/2016	52.20
2016	6734558	04/21/2016	52.20
2015	6571310	10/26/2015	52.30
2015	6370063	04/20/2015	52.29

Disclaimer

We are pleased to give you online access to the Assessor's Office and Treasurer's Office property tax and valuation information. While we make every effort to produce and publish the most current and accurate information

possible, portions of this information may not be current or correct. Neither Spokane County, the Assessor, nor the Treasurer makes any warranty, express or implied, with regard to the accuracy, reliability, or timeliness of information in this system, and shall not be held liable for losses caused by using this information. Any person or entity that relies on any information obtained from this system, does so at his or her own risk. Please feel free to contact us about any error you discover or to give comments and suggestions. Call the Assessor's Office at (509) 477-3698 or the Treasurer's Office at (509) 477-4713.

RCW 42.56.070 (9) prohibits the release of lists of individuals requested for commercial purposes. The requester expressly represents that no such use of any such list will be made by the user or its transferee(s) or vendee(s). I understand, acknowledge, and accept the statements above, and agree to adhere to the prohibitions listed in RCW 42.56.070 (9).

LAW OFFICES OF J. SCOTT MILLER

December 28, 2018 - 4:25 PM

Transmittal Information

Filed with Court: Court of Appeals Division III
Appellate Court Case Number: 36220-5
Appellate Court Case Title: In the Matter of the Estate of Clara V. Larson
Superior Court Case Number: 15-4-01520-8

The following documents have been uploaded:

- 362205_Briefs_20181228162408D3226586_0961.pdf
This File Contains:
Briefs - Appellants
The Original File Name was LARSON APPELLANT OPENING BRIEF.pdf

A copy of the uploaded files will be sent to:

- jrr@winstoncashatt.com
- kjc@winstoncashatt.com
- nru@winstoncashatt.com

Comments:

Sender Name: Lisa Mittleider - Email: lm@jscottmiller.com

Filing on Behalf of: J. Scott Miller - Email: jscottmiller@jscottmiller.com (Alternate Email: lm@jscottmiller.com)

Address:
201 W. North River Drive
Suite 305
SPOKANE, WA, 99201
Phone: (509) 327-5591 EXT 118

Note: The Filing Id is 20181228162408D3226586