

ORIGINAL

NO. 36000-4

COURT OF APPEALS  
DIVISION II  
JULY 17 PM 1:00  
STATE OF WASHINGTON  
BY *[Signature]*

COURT OF APPEALS - DIVISION II  
STATE OF WASHINGTON

---

IN RE THE ESTATE OF ROBERT F. PLATTE

---

BRIEF OF APPELLANT

---

VANDER STOEP, REMUND, BLINKS & JONES  
Rene J. Remund, WSBA #2928  
Of Attorneys for Appellant  
345 N.W. Pacific Avenue  
PO Box 867  
Chehalis, WA 98532  
Tel: (360) 748-9281

SMITH KOSANKE & WRIGHT, P.L.L.C.  
Gregory L. Kosanke, WSBA #8936  
Of Attorneys for Appellant  
105 Fifth St., #201  
PO Box 632  
Lynden, WA 98264  
Tel: (360) 354-4482

pm 5-16-07

## TABLE OF CONTENTS

I. TEN-POINT INTRODUCTION .....	1
II. ASSIGNMENTS OF ERROR (“AE”).....	3
A. Assignments of Error Pertaining to Final Judgment.....	3
B. Assignments of Error Pertaining to Conclusions of Law .....	4
C. Assignments of Error Pertaining to Findings of Fact.....	4
III. ISSUE RELATED TO ASSIGNMENTS OF ERROR.....	4
IV. STATEMENT OF THE CASE .....	4
A. Procedural Summary .....	4
B. Background .....	5
V. ARGUMENT .....	7
A. The trial court committed reversible errors as a matter of law by concluding that a valid and enforceable creditor claim was fully satisfied through receipt of three payable on death accounts opened by the decedent prior to his death .....	7
(i) Court of Appeals reviews a trial court’s interpretation of a will de novo .....	8
(ii) Robert directed that all of his just debts be paid from the general estate, not from non-probate assets .....	9
(iii) Assets in a payable on death (P.O.D.) account belong to the beneficiary upon death of the depositor .....	10
(iv) Assets held in a P.O.D. account are non-probate assets.....	12
B. The claim of the creditor is liquidated such that in the event of reversal, prejudgment interest is appropriate .....	14

C. Catherine J. Platte is entitled to an award of her attorney fees and costs ..... 14

VI. CONCLUSION ..... 15

## TABLE OF AUTHORITIES

### State Cases

<u>In re Estate of Curry,</u> 98 Wn. App. 107, 112-13, 988 P.2d 505 (1999).....	8
<u>In re Estate of Long,</u> 82 Wn. App. 609, 613-14, 918 P.2d 975 (1996).....	8
<u>In re Estate of Niehenke,</u> 117 Wn.2d 631, 639, 818 P.2d 1324 (1991).....	8
<u>McDonald v. Moore,</u> 57 Wn. App. 778, 780, 790 P.2d 213 (1990).....	9
<u>Estate of Burks v. Kidd,</u> 124 Wn. App. 327, 100 P.3d 328, (Wash. App. Div. 2 2004).....	13
<u>Matson v. Weidenkopf,</u> 101 Wn. App. 472, 3 P.3d 805, (Wash. App. Div. 2 2000).....	14

### Other Authorities

RAP 18.1 (b).....	14
RCW 11.02.005 (15) .....	13
RCW 11.11.010 (7) .....	13
RCW 11.12.230.....	8
RCW 11.40.080 (2) .....	14
RCW 30.20.005.....	11
RCW 30.22.....	11
RCW 30.22.020.....	11

RCW 30.22.030.....	11
RCW 30.22.050 (5) .....	11
RCW 30.22.100.....	11
RCW 30.22.100 (4) .....	11
RCW 30.22.100 (5) .....	12

## I. TEN-POINT INTRODUCTION

This appeal involves a creditor claim filed by Catherine J. Platte (“Catherine”) against the estate of her son, Robert F. Platte (“Robert”). This appeal rises and falls upon this legal question: whether a valid and enforceable creditor claim against an estate is fully satisfied because the creditor was a named beneficiary on Payable on Death (P.O.D.) accounts established by the decedent. The claim of Catherine and the trial courts ruling are summarized in the following ten points:

1. Robert’s uncle, Frank Davis (“Frank”), passed away on July 15, 2000. (Ex 1) Robert was a beneficiary of his uncle’s estate. (RP 4; Ex 2). Robert opened an account at Washington Mutual Bank on January 16<sup>th</sup>, 2002, and listed his mother, Catherine, as a payable on death (P.O.D.) beneficiary. (Ex 6) Additionally, Robert opened two additional bank accounts, of uncertain date, also naming his mother as a P.O.D. beneficiary in each account (RP 14, 15, 16).

2. Catherine purchased a home in Chehalis, Washington (“Winchester Hills Home”). (FOF 2) Catherine sold a one-half interest in her home to Robert. (RP 6, 7) The parties lived in the

Winchester Hills Home as co-tenants until the home sold on November 12<sup>th</sup>, 2005. (RP 7)

3. All of the proceeds of sale from the Winchester Hills Home were payable to Robert or for his benefit. (Ex 12, FOF 4) Catherine was to receive one half of the sale proceeds from the Winchester Hills property (\$143,462) but only received \$50,000 from Robert (RP 7-8).

4. Robert and Kathleen Platte ("Kathleen") were married on the 24<sup>th</sup> day of December, 2005. (RP31)

5. Robert passed away on January 27, 2006. At the time of his death, the P.O.D. accounts naming Catherine as the beneficiary had a total value of approximately \$128,000 to \$129,000. (RP 13, 14, 15)

6. On April 7, 2006 Robert's will was admitted to probate. (CP 82-84) The last will and testament of Robert directed that all just debts be paid from Robert's general estate. (CP 88-92; Article 2)

7. On the 16<sup>th</sup> day of May, 2006, Catherine filed a creditor's claim in the sum of \$93,462 against the estate of Robert, seeking repayment of her interest in the Winchester home proceeds that remained unpaid. (FOF 13)

8. An evidentiary hearing was held on February 9<sup>th</sup>, 2007. The trial court concluded that Catherine had a valid and enforceable creditor claim against Robert's estate for \$93,462. (CL 2)

9. Rather than ordering the creditor claim to be paid from the general estate, as directed by Robert in his last will and testament, the trial court concluded that the receipt by Catherine of the proceeds in the three P.O.D. accounts satisfied Catherine's creditor claim. (CL 3)

10. The trial court, contrary to clear statutory and case law authority, concluded that Catherine's creditor claim was satisfied by her receipt of P.O.D accounts.

## **II. ASSIGNMENTS OF ERROR**

The findings of fact and conclusions of law and order are respectfully copied as Appendix 1 in the appendix.

### **A. Assignments of Error Pertaining to Final Judgment**

The trial court erred in granting final judgment denying the creditor claim of Catherine.

**B. Assignments of Error Pertaining to Conclusions of Law**

The trial court erred by entering conclusion of law (CL) 3 that ruled that any obligation owed by Robert to his mother, Catherine, was more than satisfied when she received the three POD accounts.

**C. Assignments of Error Pertaining to Findings of Fact**

Appellant does not assign errors to any finding of fact.

**III. ISSUE RELATED TO ASSIGNMENTS OF ERROR**

Whether the trial court erred in concluding that a valid and enforceable debt against the estate of Robert F. Platte was fully satisfied through the receipt of proceeds of P.O.D. accounts.

**IV. STATEMENT OF THE CASE**

**A. Procedural Summary**

On April 7, 2006 the last will and testament of Robert was admitted to probate in Lewis County. (CP82-84) Catherine, the mother of Robert, was appointed as personal representative of his estate. On the 16<sup>th</sup> day of May, 2006, Catherine filed a creditor claim against her son's estate in the amount of \$93,462.00. (CP80)

The creditor claim was objected to by Robert's surviving spouse, Kathleen.

An evidentiary hearing was held on the 9<sup>th</sup> day of February, 2007, before the Honorable Nelson E. Hunt. On the 9<sup>th</sup> day of February, 2007, findings of fact and conclusions of law and an order finding Catherine's claim valid and enforceable, but satisfied by her receipt of P.O.D. accounts was entered by the court. (Appendix 1)

On the 2<sup>nd</sup> day of March, 2007, Catherine timely filed a notice of appeal before Division II of the Court of Appeals of the State of Washington.

## **B. Background**

Catherine is the mother of Robert. (RP 3) Robert was predeceased by his uncle, Frank, who died on July 15<sup>th</sup>, 2000. (RP 3) When Frank passed away, Robert was named as a beneficiary in his uncle's will. (RP3, 4; Ex 2) Robert received cash, stocks, and bonds. (RP 4) Robert opened three bank accounts and designated a P.O.D. account beneficiary for each account, listing his mother Catherine as the P.O.D. beneficiary. (RP13, 14, 15)

In 2005, Robert and his mother lived together in the Winchester Hills Home. Robert and his mother were equal co-

tenants in this property. (RP 6) Robert met his surviving spouse, Kathleen, and they decided to purchase a home together.

Robert and his mother sold their Winchester Hills Home, and Robert received all of the proceeds of sale. (Ex 12) Shortly after the home was sold, Robert re-paid his mother \$50,000. (RP 11) The remainder of the proceeds from the sale of the Winchester Hills home was kept by Robert. (Ex 23; Ex 12 )

Robert became very ill in the fall of 2005. (RP27, 28) Robert married Kathleen on December 24, 2005, and thereafter executed his last will and testament on January 17, 2006. Robert passed away on January 27, 2006. Robert appointed his mother Catherine, as the personal representative of his estate. After Catherine was appointed personal representative of his estate, she learned, for the first time, that Robert had opened bank accounts and named his mother as a payable on death beneficiary of these bank accounts. The only explanation in the record is from Kathleen, who testified that Robert loved his mother very much. (RP 14-16, 35) While the record is unclear on the date that two of the smaller P.O.D. accounts were opened, the record is absolutely clear that the most valuable P.O.D. account at Washington Mutual bank was

opened on January 16, 2002 and all accounts were opened prior to the sale of the Winchester Hills Home. (FOF 10, Ex 6)

Catherine has received only \$50,000 from the sale proceeds of the Winchester Hills property. The remainder of her interest in the property remains unpaid. Because of this, Catherine filed a claim against her son's estate.

The last will and testament of Robert is clear and unambiguous. There is a clear directive to pay all just debts from the corpus of the estate. (Article 2 of Robert's will; CP 88-92) There exists no evidence that Robert intended that the obligation to his mother was to be paid through the receipt of P.O.D. accounts. Regardless of the absence of this evidence, and the clear directive in Robert's will to pay all just debts out of his general estate, the trial court concluded as a matter of law that the receipt of proceeds from a P.O.D. account satisfied Catherine's valid creditor's claim against the estate. That conclusion of law is error as a matter of law.

## **V. ARGUMENT**

### **A. THE TRIAL COURT COMMITTED REVERSIBLE ERROR AS A MATTER OF LAW BY CONCLUDING THAT A VALID AND**

**ENFORCEABLE CREDITOR CLAIM WAS FULLY SATISFIED THROUGH RECEIPT OF THREE POD ACCOUNTS OPENED BY THE DECEDENT PRIOR TO HIS DEATH**

On the 16<sup>th</sup> day of May, 2006, Catherine filed a creditor's claim for \$93,462 against the estate of Robert. Following a hearing, the court concluded that the creditor claim of Catherine in the sum of \$93,462 was valid and enforceable (Conclusion of Law number 2). The court then erroneously concluded that the creditor claim was more than satisfied through the receipt of three payable on death accounts, which exceeded the creditor claim. This was error.

**(i). COURT OF APPEALS REVIEWS A TRIAL COURT'S INTERPRETATION OF A WILL DE NOVO**

The beginning point for analysis is the interpretation of the will of Robert. The review of the trial court's interpretation of a will is *de novo*. In re Estate of Curry, 98 Wn. App. 107, 112-13, 988 P.2d 505 (1999). In reviewing the trial court's interpretation of will, the appellate court seeks to ascertain the testator's intent. RCW 11.12.230; In re Estate of Long, 82 Wn. App. 609, 613-14, 918 P.2d 975 (1996) citing In re Estate of Niehenke, 117 Wn.2d 631, 639, 818 P.2d 1324 (1991). This intent must, if possible, be determined from the four corners of the will. Long, 82 Wn. App. at 614, 918

P.2d 975 (citing McDonald v. Moore, 57 Wn. App. 778, 780, 790 P.2d 213 (1990)).

**(ii). ROBERT DIRECTED THAT ALL OF HIS JUST DEBTS BE PAID FROM THE ASSETS OF HIS GENERAL ESTATE, NOT FROM NON PROBATE ASSETS**

In this instance, the will directed that all “just debts” of Robert are to be paid from the assets of the general estate.

Article 2 of Robert’s will states as follows:

I direct that all estate and inherited taxes which may be lawfully declared and imposed upon my estate at my death as a taxable item shall be paid out of my general estate and not charged against any beneficiary or distributee, and that the just debts, expenses of last illness, funeral expenses, and the cost of administering my estate be paid for out of my general estate (emphasis added). (CP88-92)

Despite the clear and unambiguous language of Robert’s will, the trial court conducted an evidentiary hearing on December 8<sup>th</sup>, 2006. Testifying at the hearing was Catherine, Robert’s mother, the surviving spouse, Kathleen, and Robert’s brother, Richard Platte (“Richard”) and the escrow officer handling the sale of the Winchester Hills Home. The evidentiary hearing was brief. All evidence offered to the trier of fact conclusively proved that Catherine was a co-tenant with her son, Robert, in the Winchester Hills Home. That upon sale, the net proceeds were \$286,764.38

and that Robert received all proceeds of sale either directly or for his benefit (FOF 4, Ex 12). Following sale Robert paid his mother from the sale proceeds \$50,000. (FOF 7).

All evidence offered and inferences proved that Catherine, a co-tenant in the Home, held a valid and enforceable creditor claim against the estate in the amount of \$93,462.00, representing the remainder of her co-tenancy interest in the proceeds of sale. Catherine therefore had a valid and enforceable creditor claim for her portion of the co-tenancy proceeds, which following payment of \$50,000.00 totaled \$93,462.00. Despite the lack of ambiguity in the will, and further despite the uncontroverted testimony before the trial court, the trial court then erroneously entered a conclusion of law that stating that the P.O.D. accounts more than satisfied the creditor claim. (CL 3) That conclusion of law was not only in direct conflict with the testimony that Robert directed the P.O.D. accounts to his mother because he loved her very much, but also, and most importantly, in direct contradiction of the clear and unambiguous language of his will that all of his just debts be paid out of his general estate.

**(iii). ASSETS IN A PAYABLE ON DEATH (P.O.D.)  
ACCOUNT BELONG TO THE BENEFICIARY UPON  
DEATH OF THE DEPOSITOR**

Washington adopted the Financial Institution and Individual Account Deposit Act in 1981. ("Act") The Act is codified in Chapter 30.22 RCW. The Act governs the deposits at issue in this appeal. RCW 30.20.005. The Purpose of the Act is to set forth a consistent law applicable to all individual deposit accounts, simplify the law concerning the respective ownership interests of individuals to funds held on deposit by financial institutions, and simplify and make consistent the law pertaining to payments by financial institutions after the death of a depositor (including provisions for the validity and effect of certain non-testamentary transfers of deposits upon the death of a depositor). RCW 30.22.020. The Act is to be liberally construed. RCW 30.22.030.

A P.O.D. account is specifically authorized by Statute. RCW 30.22.050(5). Upon death, the funds on deposit are payable to the account beneficiary.

RCW 30.22.100. Ownership of funds after death of a depositor

Subject to community property rights and subject to the terms and provisions of any community property agreement, upon the death of a depositor:...

(4) Funds remaining on deposit in a trust or P.O.D. account belong to the trust or P.O.D. account beneficiary designated by the deceased depositor...

There is no ambiguity in the statute. When Robert passed away, the funds in the account became the property of Catherine.

**(iv). ASSETS IN THE P.O.D. ACCOUNT ARE NON-PROBATE ASSETS**

Both the Act and case clearly state that P.O.D. account funds are non-probate assets.

RCW 30.22.100. Ownership of funds after death of a depositor:

Subject to community property rights and subject to the terms and provisions of any community property agreement, upon the death of a depositor:...(5) Upon the death of a depositor of an agency account, the agency shall terminate and any funds remaining on deposit belonging to the deceased depositor shall become the property of the depositor's estate or such other persons who may be entitled thereto, depending upon whether the account was a single account, joint account, joint account with right of survivorship, or a trust or P.O.D. account.

Any transfers to surviving depositors or to trust or P.O.D. account beneficiaries pursuant to the terms of this section are declared to be effective by reason of the provisions of the account contracts involved and this chapter and are not to be considered as testamentary dispositions. The rights of survivorship and of trust and P.O.D. account beneficiaries arise from the express terms of the contract of deposit and cannot, under any circumstances, be changed by the will of a depositor.

In the case of Estate of Burks v. Kidd, 124 Wn. App. 327, 100 P.3d 328, (Wash. App. Div. 2 2004), this court correctly confirmed that under Washington Law, P.O.D. accounts are non probate assets.

The definition of "nonprobate asset" under RCW 11.11.010(7) is, except for some inapplicable exceptions, the same as the definition under RCW 11.02.005(15), which provides that "nonprobate asset" means "those rights and interests of a person having beneficial ownership of an asset that pass on the person's death under a written instrument ... other than the person's will," including payable on death bank accounts. (at 100 P.3d 329-100 P.3d 330)

The holding in Burks is instructive in this matter. There the trial court ruled that certain P.O.D. accounts should be treated as probate assets, based upon language in the will that identified "certain bank accounts and savings accounts". This court reversed, stating that P.O.D. accounts are non-probate assets. As such, the trial court committed reversible error when it directed that funds in two P.O.D. accounts be distributed to the heirs under the will. Here, the trial court by its erroneous conclusion of law, identified non probate assets belonging to Catherine and directed that those assets are estate assets specifically designated to pay a lawful claim against the estate. That is error as a matter of law.

**B. THE CLAIM OF THE CREDITOR IS LIQUIDATED SUCH THAT IN THE EVENT OF REVERSAL, PREJUDGMENT INTEREST IS APPROPRIATE**

A claim is "liquidated," such that prejudgment interest may be awarded, when the evidence furnishes data which, if believed, makes the exact computation of the amount possible without resort to opinion or discretion. The award of prejudgment interest is based on the public policy that a person retaining money belonging to another should pay interest on that sum to compensate for the loss of the money's "use value." Matson v. Weidenkopf, 101 Wn. App. 472, 3 P.3d 805, (Wash. App. Div. 2 2000). The Winchester Hills Home sold on November 2, 2005. On that date Catherine was entitled to receive one-half of the net proceeds of sale. She received \$50,000 (RP7). The balance is a liquidated sum owing from the date of sale. In the event of reversal then Interest on the unpaid balance is appropriate.

**C. CATHERINE J. PLATTE IS ENTITLED TO AN AWARD OF HER ATTORNEY FEES AND COSTS**

Pursuant to RAP 18.1(b), Catherine J. Platte requests that this court award her attorney fees and legal costs incurred in bringing this action and this appeal. Attorney fees are discretionary. RCW 11.40.080(2). Accordingly, if this court

reversed the trial court, then this court is authorized to award reasonable attorney fees and costs.

## VI. CONCLUSION

If this Court reverses the trial court, then this Court should direct the trial court to enter a judgment in favor of Catherine for the sum of \$93,462, plus prejudgment interest from November 2, 2005 until paid and her attorney fees and costs incurred.

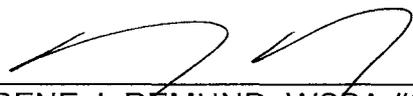
Dated this 14 day of May, 2007.

Respectfully Submitted:

SMITH KOSANKE & WRIGHT, P.L.L.C.

By:   
GREGORY L. KOSANKE, WSBA #8936  
Of Attorneys for Catherine J. Platte

VANDER STOEP, REMUND, BLINKS & JONES

By:   
RENE J. REMUND, WSBA #2928  
Of Attorneys for Catherine J. Platte

DECLARATION OF SERVICE

The undersigned declares under penalty of perjury, under the laws of the State of Washington, that the following is true and correct:

That on May 16, 2007, I arranged for service of the foregoing Brief of Appellant, by U.S. Mail, postage prepaid, to the parties listed below:

James Lawler, Attorney at Law  
Olsen, Althaus, Lawler & Samuelson  
PO Box 210  
Centralia, WA 98531

John O. Linde, Attorney at Law  
PO Box 668  
Friday Harbor, WA 98250

DATED at Chehalis, Washington this 16<sup>th</sup> day of May, 2007.



1111  
COURT OF APPEALS  
DIVISION II  
MAY 17 PM 1:00  
STATE OF WASHINGTON  
BY James Lawler  
DEPUTY

# **APPENDIX 1**

Received & Filed  
LEWIS COUNTY, WASH  
Superior Court  
FEB 09 2007  
By Kathy A. Black, Clerk  
Deputy

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43

Superior Court of Washington  
County of Lewis

IN RE THE ESTATE OF:	)	
	)	NO. 06-4-00056-6
ROBERT F. PLATTE,	)	
	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW
	)	AND ORDER DENYING
Deceased,	)	CREDITOR'S CLAIM

THIS MATTER coming regularly before the Court, the Petitioner, Catherine Platte appearing by and through her attorney, Dale A. McBeth, and the Respondent, Kathleen Platte, appearing by and through her attorney James Lawler and the court having heard testimony of witnesses and argument of counsel and the Court being advised in the premises, now, therefore, it is

ORDERED, ADJUDGED AND DECREED as follows:

FINDINGS OF FACT

1. That Petitioner Catherine Platte is the Personal Representative of this estate and the mother of the decedent, Robert F. Platte.
2. That Robert F. Platte and Catherine J. Platte were co-owners of a residence in Chehalis, Lewis County, Washington, which property is known as and referred to as the Winchester Hills property.
3. In January 2002, the decedent set up a payable on death account (POD account) with Washington Mutual naming his mother, Catherine J. Platte as POD beneficiary of this account. Beneficiary designations on this account after it was set up remained continuously unchanged until the decedent's death.

1  
2 4. On November 2, 2005, the Winchester Hills property was sold for the total net  
3 amount of \$286,764.38. One half of the proceeds would be ~~have been allocated to Robert~~  
4 ~~F. Platte in the sum of \$143,382.19, and one half allocated to Catherine J. Platte in the sum~~ <sup>NEW</sup>  
5 ~~of \$143,382.19.~~ The proceeds were actually divided with \$192,523.06 being transferred to  
6 Lewis County Title Escrow for the purchase of decedent's new home on Vista Road,  
7 Chehalis, to purchase the Vista Road property as an equal co-owner with Kathleen Platte.  
8 The balance of the proceeds were transferred directly to Robert Platte in the amount of  
9 \$94,241.32. None of the proceeds from the sale of the Winchester Hills property were  
10 transferred directly to Catherine J. Platte.

11  
12 5. Kathleen Platte borrowed money secured by a line of credit on her residence in  
13 Friday Harbor, Washington, and with those funds, Kathleen also contributed approximately  
14 \$192,523 towards the purchase of the Vista Road property with Robert F. Platte.

15  
16 6. The purchase of the Vista Road property was closed on November 2, 2005 with  
17 the decedent becoming a one-half owner along with Kathleen Platte.

18  
19 7. Shortly after the closing of the sale of the Winchester Hills property, Robert F.  
20 Platte gave Catherine J. Platte a check for \$50,000 from the account that the sum of  
21 \$94,241, from the closing proceeds, was deposited.

22  
23 8. Robert Platte and Kathleen Platte were married in December, 2005 and the  
24 decedent died on January 27, 2006

25  
26 9. One January 17, 2006, the decedent executed a Last Will and Testament that  
27 made specific devises of \$50,000 each to three separate people and then left the rest and  
28 residue to his wife, Kathleen Platte. The will left nothing to Catherine J. Platte.

29  
30 10. The decedent had three accounts that were held in his name that were payable  
31 on death to Catherine J. Platte. These accounts were established prior to the sale of  
32 Winchester Hills property and prior to the execution of the Last Will and Testament of  
33 Robert F. Platte. These accounts were: 1) the Washington Mutual Platinum Checking  
34 Account #392-076155-4 that had a balance on death of \$78,498.08, 2) Northwest Natural  
35 Gas Account that had a balance on death of \$38,221.23 and 3) Vanguard account that had a  
36 balance on death of \$10,958.09.

37  
38 11. The Washington Mutual Platinum Check Account was opened and Catherine J.  
39 Platte was named as the beneficiary under a payable on death status on January 16, 2002.

40  
41 12. No evidence was presented regarding the date on which the Northwest Natural  
42 Gas account and the Vanguard account were opened. No evidence was presented as to  
43 when Catherine J. Platte was named as the beneficiary under a payable on death status for

1 these two accounts.

2  
3 13. On May 16, 2006, Petitioner Catherine J. Platte filed a creditors claim for  
4 \$93,462 to obtain her half of the net proceeds from the sale of Winchester Hills property,  
5 less the \$50,000 that she received from decedent shortly after the sale.

6  
7 14. There is no evidence that the decedent, prior to his death, intended to revoke  
8 the POD provisions of the Washington Mutual POD account (account #392-076155-4),  
9 the Northwest Natural Gas Account and the Vanguard account.

10  
11 Based on the foregoing Findings of Fact, the Court now makes and enters the  
12 following:

13  
14 **CONCLUSIONS OF LAW**

15  
16 1. The Court has jurisdiction over the subject matter of this action and over the  
17 parties herein.

18  
19 2. The Petitioner Catherine J. Platte has a valid and enforceable debt in the sum of  
20 \$93,462 against the Robert F. Platte estate for her half interest in the proceeds from the sale  
21 of the Winchester Hills property. The lack of documentation reflecting that debt does not  
22 mean that the debt is unenforceable.

23  
24 3. Any obligation that was owed by Robert F. Platte to Catherine J. Platte was  
25 more than satisfied when she received the three payable on death accounts.

26  
27 Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby

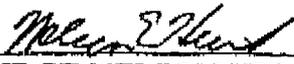
28  
29 **ORDER**

30  
31 ORDERED, ADJUDGED AND DECREED as follows:

32  
33 1. The Creditor's Claim by Catherine J. Platte is denied.

34  
35 2. No decision is made on Kathleen Platte's oral request for a ruling on attorneys  
36 fees since no motion was before the court at the time of this hearing.

37  
38 DATED: February 9, 2007.

39  
40  
41  
42   
43 \_\_\_\_\_  
JUDGE NELSON HUNT

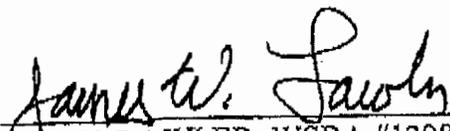
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41

Presented by:



DALE A. McBETH, WSBA #6218  
Attorney for Catherine Platte

Approved as to form:



JAMES LAWLER, WSBA #12986  
Attorney for Kathleen Platte