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COURT OF APPEALS  
DIVISION II

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STATE OF WASHINGTON

No. 46706-2-II BY C  
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COURT OF APPEALS  
OF THE STATE OF WASHINGTON  
DIVISION II

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ELIZABETH ROBBINS,

Respondent,

vs.

SAMUEL VALDEZ,

Appellant.

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**APPELLANT'S REPLY BRIEF**

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David A. Nelson  
Nelson Law Firm, PLLC  
Attorney for Respondents

1717 Olympia Way, Suite 204  
Longview, WA 98632-3046  
(360) 425-9400

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TABLE OF AUTHORITIES

CASES

*In Re: Marriage of Wright*,

179 Wash. App. 257, 319 P.3d 45 (2014)....3

I. The Brunneau Contract for Property at 1554 Altoona Pilar Rock Road Should be Valued at \$245,000.00.

The Petitioner argues that substantial evidence exists to value the property at 1554 Altoona Pilar Rock Road at \$130,000.00. The Petitioner erroneously states the parties agreed to use the assessed value of the property, relying on the Clerk's Papers Page 69. The Petitioner's Brief shows there was no stipulation to assessed values:

The parties stipulate that the court may review tax assessed values provided as evidence without any hearsay or foundation objections. (This does not include a stipulation to the assessed values).

But, the Petitioner focus on the property value is misplaced. Because the property was already sold, the only assets remaining was the sales contract. That had a fixed value of \$245,000.00 (\$250,000.00 sale price less \$5,000.00 down payment).

The court acknowledged the existence of the contract in its ruling. "The land was sold to Hall/Brunneau for \$250,000.00"<sup>1</sup> The Petitioner did not testify to the value of the property, but only what she would "like" to sell it for.

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<sup>1</sup> C.P. 110.

"I only say this – it'd be a shame for the community to lose the, and I feel like they can't afford to buy it anymore at \$250,000.00, so I would like to sell it to them for that price [\$130,000.00]. What the Petitioner would like to do is hardly evidence of value.

The only asset available to the community relating to 1554 Altoona Pilar Rock Road was the contract for sale. At the time of trial, the Brunneaus had paid the Valdez for over two years and made at least \$54,000.00<sup>2</sup> in improvements to the property. It is a fiction to claim the Valdez' community owned the property rather than the contract of sale. At the time of trial, the amount remaining on the contract was \$245,000.00. That is the value that should be allocated to the Petitioner.

II. The Division of Property Was Not Just and Equitable.

The division of community property, requiring a \$111,645.00 offset payment, was not a just and equitable distribution. While a trial court in dissolution proceedings has broad discretion to make a just and equitable distribution

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2 (RP 162).

of property”<sup>3</sup>, that did not occur in this case where the Respondent was required to pay 17% of the value of the community property in cash to the Petitioner. The Petitioner cites In Re Marriage of Wright<sup>4</sup> to support the distribution in this case. But in Wright, the court was also allocating the husband’s future income, an element not at issue in this case. The disparity in distribution is aggravated by the facts that there existed real and personal property sufficient to render the distribution close to equal.

The Respondent requests the court remand this case to the trial court to review and equalize the distribution of property.

### III. The Request for Attorney Fees Should be Denied.

The Petitioner requests attorney fees on appeal. Attorney fees were not awarded below. There has been no showing of need by the Petitioner or the Respondent’s ability to pay. Therefore, the Petitioner’s request for attorney fees should be denied.

### IV. CONCLUSION

The Petitioner’s Response does not address the

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<sup>3</sup> In Re the Marriage of Wright, 179 Wash. App. 257, 319 P.3d 45 (2014).

<sup>4</sup> 179 Wash. App. 257 (2014).

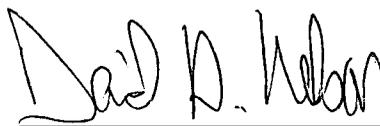
central issue regarding the 1554 Altoona Pilar Rock Road property, that the asset to be valued is the contract and not the property. The contract had a value of \$245,000.00 at trial and that value should be allocated to the Petitioner.

Further, requiring an offset payment of 17% of the entire value of the community property is an abuse of discretion when there exists numerous items of property that could be awarded to Petitioner to equalize the distribution.

The Respondent requests the Court of Appeals remand this case to the lower court to adjust the value of the Brunneau property and make an equitable division.

DATED this 9<sup>th</sup> day of July,  
2015.

NELSON LAW FIRM, PLLC



David A. Nelson, WSBA #19145  
Attorney for Appellant

**DECLARATION OF SERVICE**

I declare under penalty of perjury of the laws of the State of Washington that on the date given below, I caused to be served in the manner indicated a true and accurate copy of the foregoing, upon the following, via UPS overnight mail:

Appellant's Reply Brief

David Ponzoha  
Clerk/administrator  
950 Broadway, Suite 300  
Tacoma, WA 98402-4454

Counsel for Respondent  
Teresa L. Foster  
Morse Bratt  
108 E. Mill Plain Blvd.  
Vancouver, WA 98660

Counsel for Respondent  
Valerie A. Villacin  
Smith Goodfriend, P.S.  
1619 – 8<sup>th</sup> Ave., N.  
Seattle, WA 98109

DATED this 9<sup>th</sup> day of July, 2015.

Nelson Law Firm, PLLC



A handwritten signature in cursive script, appearing to read "Sandra K. Hood", is written over a horizontal line.