

WASHINGTON STATE COURT OF APPEALS DIVISION THREE

CASE SUMMARIES FOR ORAL ARGUMENT

The following summaries are drawn from briefs and lower court judgments. The summaries have not been reviewed for accuracy by the judges and are intended to provide a general idea of facts and issues presented in the cases. The summaries should not be considered official court documents. Facts and issues presented in these summaries should be checked for accuracy against records and briefs, available from the Court, which provide more specific information.

Date of Hearing: Tuesday, January 31, 2012
Location: Spokane, 500 North Cedar

9:00 a.m.

1) **No.: 29674-1-III**

Case Name: Estate of Linda Davila

County: Yakima

Case Summary: The day before Eliseo Figueroa and Linda Davila married, Davila had Figueroa sign a prenuptial agreement written in English. Figueroa could not read or speak English and the agreement was not discussed before it was signed. After Davila died, the court granted Figueroa's summary judgment motion declaring the prenuptial agreement invalid. Davila's estate appeals.

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2) **No.: 29743-8-III**

Case Name: In re Rapid Settlements, Ltd's Application for Approval of Transfer

County: Benton

Case Summary: William Thompson and Nicholas Reihls were entitled to damages following personal injury suits. Each arranged to give the right to some of their future periodic settlement payments from Symetra Assigned Benefit Services Company to Rapid Settlements, Ltd. (RSL) in exchange for present-day lump sum payments. RSL applied for approval of the transfers of settlement payment rights as required by Washington's Structured Settlement Protection Act, chapter 19.205 RCW. Symetra opposed both transfers. The court denied RSL's application for transfer of the Thompson settlement payments, but approved the transfer of the Reihls settlement payments. The court awarded Symetra attorney fees and costs for its successful opposition to the Thompson transfer. Symetra was unable to collect the fees and costs from RSL and asked the court to offset Symetra's required future payments to RSL against RSL's obligation to Symetra. A company named 3B moved to intervene, contending it was the assignee of RSL's right to payment. The trial court found that Symetra's obligation ran only to RSL, and that, at any rate, RSL and 3B were one and the same entity. Accordingly, the trial court granted the set-off. RSL/3B appeals.

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11:00 a.m.

3) **No.: 29875-2-III**

Case Name: Cindy Zapotocky v. Vicky M. Dalton

County: Spokane

Case Summary: Cindy Zapotocky, then-chair of the Republican party of Spokane County, requested a hand recount of a portion of the votes cast in the auditor's race of the November 2010 general election. Vicky Dalton, the incumbent Spokane County auditor who won in the November 2010 election, denied Zapotocky's request. According to Dalton, the recount could not be conducted in the requested manner. Although the Spokane Republican party did not support the legal action and removed Zapotocky as its chair, she continued to seek a writ of mandate to force the recount. The superior court granted Dalton's motion for summary dismissal of the case. Zapotocky appeals.

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4) **No.: 29736-5-III**

Case Name: State of Washington v. Erwin W. Hull

County: Grant

Case Summary: The Grant County sheriff's office received anonymous tips from a marijuana hotline that Erwin Hull had a marijuana grow operation under his house. Several months later, a citizen informant told a detective that he or she had visited the house and toured the underground operation. Based on this and other information, officers obtained a search warrant and found marijuana growing in the underground room. At trial, Hull unsuccessfully sought to assert the affirmative defense that he was an authorized provider for a patient who was prescribed marijuana. He was convicted of manufacturing marijuana and now appeals.

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5) **No.: 29918-0-III**

Case Name: Double H, L.P. v. Washington Department of Ecology

County: Yakima

Case Summary: Double H., L.P. sued the Washington Department of Ecology under the Public Records Act, chapter 42.56 RCW, for wrongfully withholding records related to Ecology’s investigation of the illegal disposal of hazardous waste on Double H’s farm. The superior court concluded that Ecology wrongfully withheld requested records for a total of 495 days. Rather than dividing the records into groups based on production date, the court treated Ecology’s multiple productions of records as a single group for the purpose of calculating the per diem penalty. The court entered judgment against Ecology for \$13,365 and \$88, 660 in attorney fees. Double H appeals.

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