Supreme Court No. 93665-0

SUPREME COURT OF THE STATE OF WASHINGTON

No. 72758-3-I
(Cons. 72759-1-I)
WASHINGTON STATE COURT OF APPEALS, DIVISION ONE

JANELL BOONE, as Personal Representative of THE ESTATE OF RANDAL J. LANGELAND,

Petitioner,

v.

SHARON DROWN,

Respondent

PETITION FOR REVIEW

Corrected

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I. IDENTITY OF PETITIONER

Petitioner Janell Boone, daughter of the deceased Randall Langeland, seeks review of the decision referenced in Section II.

II. COURT OF APPEALS DECISION

Division One decided *In re Estate of Langeland,* ___ Wn. App. ___, 2016 WL 3919687 (2016) ("*Langeland II*") (App. A), after remand from *In re Estate of Langeland,* 177 Wn. App. 315, 312 P.3d 657 (2013), *rev. den.,* 180 Wn.2d 1009 (2014) ("*Langeland I*"). A timely motion for reconsideration was denied on August 12, 2016. App. B. Petitioner seeks review and reversal of *Langeland II* and the trial court's remand decision because they ignore the parties' agreements and actions and create a common law marriage out of the committed intimate relationship ("CIR") Respondent Sharon Drown had with Boone's father, contrary to long-standing Washington law and policy and to Mr. Langeland's intent and decisions for 18 years.

III. ISSUES PRESENTED FOR REVIEW

1. May Washington courts make a property distribution following the end of a committed intimate relationship that equates with common law marriage, when common law marriages have been prohibited as a matter of settled public policy since Territorial days?
2. This Court carefully established specific rules for distribution of property following committed intimate relationships which distinguish CIRs from marriage. Did the Court of Appeals err in affirming the decision on remand that violated those rules by denying the deceased his separate share of the community-like property at death, contrary to the rules of property distribution for CIRs and to *Olver v. Fowler*?

3. Must the Court of Appeals decision in *Langeland II* and the superior court's remand ruling be vacated because they conflict with this Court's decision in *Olver v. Fowler* and the Court's line of cases on CIRs, and the trial court's initial ruling from the 2011 trial reinstated because it is consistent with those cases and their principles?

4. Does the evidence in this case as reflected in Findings of Fact 7-9 and 18, which includes writings and also 19 years of actions, satisfy the "direct and positive evidence" test for demonstrating a change in, or agreement on, the separate nature of the earnings and property acquired during this CIR, as then-Justice Madsen's concurrence stated could serve to rebut an initial presumption of property's character in *Estate of Borghi* consistent with *Deschamps' Estate*?[1]

5. May Washington's trial or appellate courts create a common law marriage equivalent and thereby frustrate the clearly stated and acted-on intent of a person determined to not engage in marriage but to live in a CIR in which both parties, on a daily basis for 18 years, by actions and written agreements, agreed that their earnings were to be treated as separate, not community-like?

6. Even assuming all the contested Estate property was subject to division despite the rule of *Olver v. Fowler* that the Estate should receive the deceased's 50% share as separate property, must the case be remanded because it is undisputed the trial court did not have or consider all the assets of the CIR when making its division since it is undisputed the extensive financial assets listed in Respondent's name in Ex. 27 in answer to interrogatory 8 were not valued or addressed by the trial court, making any "equitable division" of all the community-like property acquired during the CIR ***in***equitable for failing to include Respondent's portion?

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[1] *In re Estate of Borghi*, 167 Wn.2d 480, 491-92, 219 P.3d 932 (2009); *In re Deschamps' Estate,* 77 Wash. 514, 137 Pac. 1009 (1914).

IV. STATEMENT OF THE CASE

A. Overview.

Petitioner Janell Boone is the daughter and sole heir following her father's death intestate; if she could not receive, her children–Randy Langeland's two grandchildren—would. There are family interests at stake. Randy Langeland never married nor entered into a registered domestic partnership with Respondent Sharon Drown who, therefore, has no intestate right to any of Randy's property. Nevertheless, Drown has sought from the beginning to seize Randy's entire estate to the extent she could, even claiming an "intestate share" in her creditor's claim.

In a decision that contravenes Washington State and Territorial policy, Division One has sanctioned granting Drown the right consistently denied unmarried persons since Territorial days and throughout Washington's history – the right of a deceased spouse to succeed to all of her partner's property while also keeping all of her own. Whatever the Court may think of the disputants, this result is contrary to longstanding Washington law on unmarried couples and their property division at the end of their relationship – here by death. This Court has consistently been a bulwark against tearing down these established rules, even for a sympathetic case. It is asked to be so again in this case.

B. Procedural Posture.

1. Creditor's claim in probate and 2011 trial.

This case began with the May 2009 filing of Drown's creditor's claim five months after Randy Langeland's death. CP 522-23, App. C. Drown asserted a claim "likely to exceed[] $500,000," which was the outside reach of all of Randy Langeland's assets assuming the maximum amount of separate property being in his estate. Though admitting she was not married to Langeland, Drown nevertheless asserted she was "an intestate heir of the estate" despite the settled Washington law that a surviving partner in a CIR is ***not*** an heir of the deceased.[2] Drown stated her intent to obtain ***every penny*** in Mr. Langeland's probate proceeding by one mechanism or another, not leaving a cent for his surviving family members: his mother Agnes; his only child and heir at law, Janell; and his grandchildren, Jacob and Kristin, then 17 and 13 respectively.

After discovery and an effort by Drown to have a jury trial in the probate matter, the case went to trial in May 2011. The trial court found substantially for Janell, including the following findings of fact and conclusion of law related to the nature of the property acquired during the CIR:

> 7. Decedent and Sharon Drown maintained separate bank accounts at all times.

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[2] *Langeland I*, 177 Wn.App. at 330 fn. 43, citing *Peffley-Warner v. Bowen*, 113 Wn.2d 243, 253, 778 P.2d 1022 (1989).

8. Decedent and Sharon Drown did not comingle assets, except for 3 checks totaling $6,650 described in Exhibit 29 which Sharon Drown deposited in decedent's account by accident.

9. Decedent and Sharon Drown maintained the separate character of all property except property which was intentionally purchased jointly as described in the Estate Inventory and Appraisement.

# # #

18. The parties received their earnings in their own name; they scrupulously deposited their own earnings into their own accounts titled in their own names; they carefully did not jointly acquire any assets of significance; they meticulously divided, to the penny, all expenses equally; and decedent did not add Sharon Drown to any of his bank accounts; and only allowed her to acquire an interest in the residence by making payments with interest as provided in Exhibit 30. Decedent did not marry Sharon Drown nor did he execute a will in her favor.

CP 1288-90, App. G. The trial court then concluded as follows:

Conclusions of Law

# # #

8. Any claim that decedent intended or did jointly acquire assets with Sharon Drown that were titled in his own name through the use of his own income or assets exclusively is substantially rebutted by his careful and meticulous conduct described in Finding 18.

CP 1291, App. G-5. The trial court disallowed Drown's creditor's claim and denied her challenge to the inventory of the Estate. *Id.*

2. *Langeland I.*

Drown appealed, resulting in *Langeland I.* The focus of the appeal was the alleged prejudice to Drown of the trial court giving

effect to a presumption of correctness to the Estate inventory and that it incorrectly shifted the burden to Drown to prove that the property acquired during the CIR was community-like rather than separate. *See Langeland I*, 177 Wn. App. at 326-27. Division I held that "the presumption that property acquired during an intimate committed relationship is jointly owned prevails over the presumption of correctness for an estate inventory," and that the "trial court's failure to apply this presumption prejudiced Drown." *Id.* at 327. *Lanageland I* then segued into a discussion of property division in the CIR context and held that since the trial court "received no evidence tracing any of these three [principle] assets to funds owned by Langeland before his relationship with Drown began or acquired by gift or inheritance afterward," Janell had failed to overcome the presumption of joint property as to the three main assets. *Id.* But given the now-changed legal landscape, *Langeland I* did not explicitly address whether the extensive direct and positive evidence of the parties' treating their earned income as separate during the CIR, reflected both in writings and in their actions as detailed *infra*, either did or could overcome that presumption. Nor did it rule that it could not.

> Even if the trial court mischaracterizes property as community or separate, this court may uphold a division of property, so long as it is fair and equitable. Remand is required only where (1) the trial court's reasoning indicates that its characterization of the property significantly influenced distribution of property and (2) it is not clear that had the court

> properly characterized the property, it would have divided it in the same way. Here, the findings of fact and conclusions of law show that the trial court's belief that Drown had no equitable interest in the contested probate assets clearly influenced its decision to award those assets to Boone. Therefore, we reverse the trial court's division of probate assets and remand for further proceeding consistent with this opinion. To provide the trial court with full discretion to make an equitable division, we also vacate its award of attorney fees to Boone.

Langeland I, 177 Wn. App. at 328-29 (footnotes omitted).

The trial, however, was a ***probate*** proceeding and had proceeded as such, ***not*** as a property division in the context of a CIR.

Unlike the circumstances in *Olver v. Fowler,* 161 Wn.2d 655, 168 P.3d 348 (2007), where both members of the CIR had died and all their property was before the probate court, here only Randy Langeland had died and only his property was before the court. This made any attempt at making a "fair and equitable" division of community-like property impossible as a matter of law since ***all*** such property must be before the court to make a proper division, and the substantial property held in Drown's name and acquired during the CIR (*see* Drown's answer to interrogatory 8, part of Ex. 27, App. D-1 hereto) was ***not*** before the court. *See* CP 1692-93 (Boone's objection to Drown's proposed findings on remand, arguing that a second trial would be required to make an equitable division).

It was not until the 2013 ruling in *Langland I* that, ***for the first time in the case,*** the issue of whether all assets were jointly acquired was raised; only then, ***after*** the filing of *Langeland I,* was

Boone forced into a position to argue that the assets were in fact not jointly acquired and asked this Court to address whether there were other means to rebut the presumption, such as Langeland's and Drowns writings and conduct.[3] Boone thereafter made every effort to seek consideration of the argument that Drown and Langland had a 19-year working agreement to treat their earnings as separate and to maintain the separate character of the property acquired with it, including the percentage shares of the Bellingham house per their written agreements in Ex. 30 (App. E). This Court denied review and so did not address the contract issue, and the case was remanded.

3. Remand.

Boone asked the trial court to enter amended findings and conclusions in conformance with the existence of the contract. *See* CP 1631-76. The trial court refused to consider the theory, ruling it was bound by the statement in *Langeland I* that all assets in the

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[3] The issue in Boone's petition for review was:

> A. Does the ruling of the Court of Appeals conflict with Supreme Court Precedent by failing to recognize a second means by which individuals in a Committed Intimate Relationship may maintain the separate character of property, besides tracing, to wit, by written and oral agreements acted upon that all property acquired during the relationship will remain the separate property of the individual who acquires it?

2014 Petition for Review at 1, App H at H-4.

Given a pending remand, denial of review does not foreclose later review of issues raised in a petition if they are then germane, as here, since review may be denied in the belief the trial court will correct any problem being complained of by the petitioning party. But if not, that issue can be reviewed in a later petition, as Boone seeks here.

inventory were jointly owned. Instead, it entered Ms. Drown's proposed findings which contained no mention of the contract, pro or con. *See* CP 1696-1709. Boone filed an objection to Drown's proposal before the ruling, then a motion to reconsider, asking for additional hearing on the contract issue and to present evidence of Ms. Drown's jointly held assets in her name for equitable division, CP 1692-93; 1710-25. Reconsideration was denied.

4. ***Langeland II.***

Thus, when this matter returned to Division I in *Langeland II*, the contract issue had not been considered at trial because Ms. Drown had stipulated to what constituted the couple's jointly owned assets in Interrogatory 17. There had been no reason to argue the contract theory where all parties agreed as to what were and were not jointly held assets and the separate nature of their earnings during the CIR. On remand the trial court refused to hear or make any rulings with regard to the contract issue, and it was in that posture that the case returned to Division I.

Division I nevertheless refused to consider whether the community-like property presumption in CIRs can be overcome by anything other than a writing, whether Drown's and Langeland's writings would suffice, or whether the totality of the circumstances of writings and actions would suffice to overcome the presumption. *Langeland II,* 2016 WL at *3-4. Division I was also unmoved by the requirements of *Olver v. Fowler*, which require that the estate

receive the separate property share a deceased member of a CIR before a property division can be done. *Langeland II* at *4.

The net result of *Langeland II* is to give all the probate assets to Drown – the same as she would have received had she been a surviving spouse under Washington's statutes.[4]

C. Substantive Facts.

Randy Langeland and Sharon Drown began living together in a carefully determined way which maintained their separate assets and income while sharing their living expenses with monthly accounting to the penny. They maintained this regimen for their entire relationship of some 18 years, as detailed in prior briefing and in the findings of fact made by the trial court following the 2011 trial. They never married. Langeland never made a will. These facts were established at trial and are best summarized in Janell's prior petition for review:

> Mr. Langeland and Ms. Drown originally met in Chico, California in 1983. RP 68-69. In 1991, while still residing in Chico, Ms. Drown moved into Mr. Langeland's home, and they continued to co-habitate in a Committed Intimate Relationship ("CIR") until the time of Mr. Langeland's death on January 9, 2009. CP 274; RP 52. The existence of the CIR is not in dispute as the Estate stipulated to the existence of such a relationship months before trial. CP 274.
>
> Beginning in 1991, and throughout the duration of their relationship, Mr. Langeland and Ms. Drown were exceedingly

[4] *Langeland II* also ruled that Janell's law firm' removal of funds from the superior court registry in 2011 required restitution. *Langeland II* at *5-8.

careful to split all expenses equally, and never comingled or pooled their separate assets. RP 216-220; Exhibit 23. In order to maintain the complete separation of their assets, they would meticulously determine each other's proportionate share of all the normal household expenses for each week of each of the 216 months that they lived together, including the requirement that Ms. Drown pay her portion of "rent." RP 216-220; RP 177-179; Exhibit 23; Exhibit 27 (interrogatory no. 23).

Throughout the 18 years of their relationship, Ms. Drown's check registers show the high degree of precision they employed to keep their assets separated and to divide to the penny each month's expenses. Exhibit 23. Ms. Drown testified that she would make a list of all of the expenses of the household such as groceries, appliances, meals, and all other expenses. RP 216-220; Exhibit 23. Ms. Drown would then determine whether she or Mr. Langeland had initially paid for each individual such expense out of his or her separate account, and credit either herself or Mr. Langeland half of the value of the item in order to ensure that they split all cost precisely in half. Id. At the end of each month, Ms. Drown would calculate the difference between her contributions to the mutual expenses, and the credits she received for paying for items with her separate assets. *Id.* Ms. Drown would then subtract what she had already paid from what she owed to the community, and write a check to Mr. Langeland to cover the remainder of her share of expenses. Id. In addition, pursuant to a written agreement (Exhibit 30), she would pay "rent" to Mr. Langeland each and every month (see also check register Exhibit 23.) The process was very meticulous and precise, and Ms. Drown and Mr. Langeland followed this same formula each month for the duration of their relationship. *Id.*

This separation of living expenses by Mr. Langeland and Ms. Drown went beyond a simple equal division of all bills. Mr. Langeland and Ms. Drown were also very careful to prevent any co-mingling of assets and made it a point to never share a common bank account. RP 216-220; RP 328. Ms. Drown testified that she and Mr. Langeland maintained separate bank accounts throughout their relationship. RP 328. The only document which was in both of their names was a short term

> home equity line of credit used to pay off Mr. Langeland's boat loan. However, Ms. Drown testified that all of the money to repay that loan came out of Mr. Langeland's separate bank account. RP 328. Mr. Langeland did not name Ms. Drown as co-owner or pay on death beneficiary on any accounts, instead naming his mother or daughter as residual beneficiaries. RP182; Exhibit 1; Exhibit 2. Mr. Langeland did not execute a durable power of attorney naming Ms. Drown as his attorney-in- fact, thus preventing her from having any access to his finances. RP 243-244. And he declined to marry her.

Boone's 2014 Petition for Review in No. 89810-3, pp. 2-4, App. H.

The record reflects that Randy Langeland directed all his assets by beneficiary designations to his family members: his mother, Agnes Langeland, and his only child Janel and through her, to his two grandchildren, Jacob and Kristin. Randy Langeland never added Drown to any of his bank accounts or as a beneficiary to any fund until she filled out the paperwork in 2008 when he was physically incapable of doing so. Finding 18, quoted *supra*, was not challenged and therefore is a verity in this case and states clearly the intent of Randy Langeland and agreement of Sharon Drown to keep their personal earnings separate. *See* CP 1290.

V. REASONS WHY REVIEW SHOULD BE GRANTED

A. Review Should Be Granted Per RAP 13.4(b)(1) and (4) to Confirm Washington's Long-Standing Rule Against Common Law Marriage By Reversing The Court Of Appeals And The Remand Decision Which Created A Common Law Marriage Out of A Committed Intimate Relationship.

Washington does not now and has never recognized common

law marriage.[5] Our courts have developed the law leading to CIRs precisely to avoid any spousal-equivalency for those situations while also providing for non-spouse-equivalent equitable relief upon their termination. *Olver,* 161 Wn.2d at 664-69. *See Langeland I,* 177 Wn. App. at 324-25, ¶¶17-19; *Langeland II,* ¶¶22-23. Our courts regularly refuse to let any semblance of such marital-equivalency occur, often invoking *Pennington's* summary language.[6]

Obtaining this forbidden spousal equivalency was Ms. Drown's intent from the outset. This is seen from her first filing, in which she asserted a creditor's claim on the basis that she was "an intestate heir entitled to a spousal share of the estate under the laws of intestacy." CP 523. Review should be granted because the result

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[5] *See Peffley-Warner v. Brown,* 113 Wn.2d 243, 249-53, 778 P.2d 1022 (1989) (expressly ruling the surviving partner of a CIR was not a spouse and does not have the intestacy rights of a surviving spouse under Washington law); *In re Marriage of Pennington,* 142 Wn.2d 592, 601, 14 P.3d 764 (2000):

> The use of the term "marital-like" is a mere analogy because defining meretricious relationships as related to marriage would create a *de facto* common-law marriage, which this court has refused to do. *See, e.g., Peffley-Warner*, 113 Wn.2d at 249, 778 P.2d 1022; *Gallagher*, 35 Wn.2d at 514-15, 213 P.2d 621; *see also Connell*, 127 Wn.2d at 348 (stating a "meretricious relationship is not the same as a marriage").

The rejection of common law marriages extending to Territorial days was first announced over 120 years ago, in 1892. *See In re Smith's Estate*, 4 Wash. 702, 703, 30 Pac. 1059 (1892): "We have lately decided, however, in the case of *In re McLaughlin's Estate*, [4 Wash. 570,] 30 Pac. Rep. 651 [1892], that there could be no common-law marriage in this state, and this applies with equal force to the marriage here in controversy, for the territorial statutes then in force upon this subject are similar to the ones now in existence."

[6] *E.g., Walsh v. Reynolds*, 183 Wn. App. 830, 849, n. 20, 335 P.3d 984 (Div. II, 2014); *In re Kelly and Moesslang*, 170 Wn.App. 722, 734, 287 P.3d 12 (Div. III, 2012).

at present, which gives Drown that intestate share, conflicts with Washington's policy against common law marriage.

B. Review Should Be Granted Per RAP 13.4(b)(1) Because It Conflicts With The *Connell v. Francisco* Line Of Cases Which Honor The Washington Rule Against Common Law Marriage And Hold That Separate Property Cannot Be Awarded To The Other Partner At The End Of A CIR; And It Conflicts With *Olver v. Fowler*, Which Forbids Distribution Of The Separate Property Of One Partner To A Committed Intimate Relationship To The Surviving Partner In The Estate Proceedings.

Whatever the type or quantum of jointly acquired property in the 18-year CIR between Randy Langeland Drown, *Olver* squarely holds that on death, Mr. Langeland's "undivided interest in the couple's jointly acquired property" (whatever might be the titles of the particular properties) was not changed or lost when he died because "the death of one or both partners does not extinguish that right; [the appropriate] estate merely steps into [the deceased's] shoes." *Olver*, 161 Wn.2d at 670-71, ¶30. Consequently:

> Applying the law of committed intimate relationships, [for the jointly acquired property], despite title, [the deceased] was entitled to an undivided one-half interest in the jointly acquired property. . . . Because both partners were deceased, the property would be divided evenly between their estates.

Olver, 161 Wn.2d at 670, ¶29. Applying the principles and the result in *Olver* to this case thus requires that, whatever is determined to be the scope of the jointly acquired and jointly owned property of Randy Langeland and Sharon Drown, Langeland's estate is "entitled to an

undivided one-half interest in the jointly acquired property." And since that one-half interest succeeds to the estate immediately, and it then is, necessarily, the late Mr. Langeland's ***separate*** property, under the law of CIRs it cannot be distributed to Ms. Drown, whether equitably or otherwise. The only mechanism by which Drown could properly receive such property is if the late Mr. Langeland had bequeathed her his separate property by will. Since he did not, the courts do not have the authority to invade his separate property now residing in the estate and transfer it to Ms. Drown. Review should be granted because *Langeland II* conflicts with *Olver* and *Connell v. Francisco,* 127 Wn.2d 339, 898 P.2d 831 (1995), and its progeny.

C. Review Should Be Granted Per RAP 13.4(b)(4) To Decide Whether The Writings And Actions of The Parties Meet The Test Of "Direct And Positive Evidence" To Overcome The Presumption These Parties' Earnings During the CIR Were Community-Like, And Because the Supreme Court Should Decide Whether Unmarried Couples Who Have Eschewed The Legal Formalities of Marriage And Registered Domestic Partnerships May Agree To Treat Their Earned Income As Separate Income.

This case raises the issue of whether a party can rebut the presumption that earnings or property acquired during a CIR are community-like by means other than tracing to pre-CIR separate property or to separate inheritances or gifts during the CIR.

After the *Creaseman* presumption that separate or joint ownership is reflected by title was discarded in *In re Marriage of Lindsey*, this Court held in *Connell v. Francisco* that in meretricious,

now CIR, relationships, there is a similar presumption that property acquired during a CIR is presumed to be community-like property, but a presumption which can be rebutted.[7] *Accord, Soltero v. Wimer,* 159 Wn.2d 428, 434 fn. 3, 150 P.3d 552 (2007).

All *Langeland I* really held was that the presumption that the probate inventory is correct did not trump the presumption of community-like property for earnings and property acquired in the course of the CIR. *See Langeland I,* 177 Wn.App. at 327,4123. However, although *Langeland I* did not categorically rule there was only one way to rebut the presumption, the trial court chose to read the decision that way and did not address Boone's arguments there was a contract by writings and actions that rebutted the presumption.

This issue should be reviewed by this Court: what suffices to rebut the community-like presumption in a CIR if not the facts found by the trial court here and the raft of evidence of the parties' actions memorialized in writings, including Ex. 30 (App. E); the 62 pages of monthly accounts in Ex. 23 (App. F), and the entire set of tax returns of both parties always filing singly during their entire relationship, among other actions and writings? *See Deschamps Estate*, 77 Wash.

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[7] *Creaseman v. Boyle,* 31 Wn.2d 345, 196 P.2d 835 (1948); *In re Marriage of Lindsey*, 101 Wn.2d 299, 678 P.2d 328 (1984). This Court emphasized in *Connell* that a core part of a property division in a CIR was to respect the parties by not making "a decision for a couple which they have declined to make for themselves." *Connell,* 127 Wn.2d at 350.

At 518 ("the courts will... ascertain if possible, the true intent and purpose of the parties" based on the "whole record").

In this case the facts and circumstances provide the kind of "direct and positive evidence" of Randy's and Drown's continuing, working agreement to treat or "convert" their monthly earnings during the CIR to separate property held in their separate accounts, which were not accessible to the other without permission and which were used to pay their proportionate share of shared household and other bills. The trial court recognized this in FOF 7-9 and 18, and COL 8. Moreover, these facts, and the trial court's *imprimatur*, have to be considered the kind of "direct and positive evidence" that rebuts the initial community-like presumption that then-Justice Madsen focused on in her concurrence in *In re Estate of Borghi* when she refused to be limited to proof of a change in property character by only a "writing." She explained:

> I agree with the lead opinion that joinder of Bobby Borghi on a fulfillment deed issued during marriage does not, by itself, demonstrate a sufficiently clear intent by Jeanette Borghi to transform her separate property into community property. The separate or community character of property is not determined by the title name under which it is held. In this case there is no evidence explaining why Mr. Borghi's name was included on the deed and no other evidence that Ms. Borghi intended that her separate property become community property.
>
> I write separately because **the lead opinion says that only a writing may serve as evidence in determining whether Ms. Borghi intended to transform her separate real property into a community asset.** Lead opinion at 937, 938.

> Since there is no evidence, written or otherwise, bearing on the question, **I do not believe this case requires us to decide what type of evidence is sufficient to overcome the separate property presumption** and I would not do so.

In re Estate of Borghi, 167 Wn.2d 480, 491-92, 219 P.3d 932 (2009) (emphasis added).

Findings of fact 6-9 & 18 cited *supra* have not been challenged or vacated for lack of substantial evidence. They state the agreed practice over 18 years clearly. CP 1288-90. The trial court concluded that the presumption that the earnings of the parties during their relationship was community-like was overcome. The undisputed evidence is that that they had, lived, and renewed monthly, a continuing express agreement that their earnings were separate, added to prior separate assets from before they began living together, and would remain separate.

While the trial court concluded in COL 8 that the rebuttal of the community-like property presumption was "substantially rebutted," that is a conclusion of law which this Court reviews *de novo*. This Court should determine the standard and kind of proof necessary to rebut the community-like property presumption that arises during a CIR.

D. Review Should Be Granted Per RAP 13.4(b)(4) Because Whether An Appellate Court May Require Restitution After A Successful Appeal in an Amount Greater Than the Benefit Is An Issue of State-Wide Interest And Application That Should Be Made by This Court.

Janell Boone also seeks review of *Langeland II* because its restitution order is contrary to the facts in the record and the circumstances, as detailed in the Helsell Fetterman motion for reconsideration. In particular, she is concerned with an "equitable" restitution order which provides for a larger sum of money than had the funds never been disbursed from the superior court registry in 2011. This is inconsistent with equitable principles of restitution.

VI. CONCLUSION

The reason for CIRs is precisely to let the parties live as ***they*** want, without legal entanglements, or at least, to minimize them. That is one of the policy reasons underlying why there is no lawful common law marriage in Washington. Such persons want ***less*** law and legal entanglements while living and when life is done. They want to do it "their way" in their unique fashion.

Here that unique fashion is detailed in, among many other things, the 62 pages of carefully kept, contemporaneous monthly accounting of Ex. 23 (App G) and the five documents of Ex. 30 (App. F), three signed by Drown, which set out the proportional ownership of the house based on the contributions of their separately maintained income. It was recognized after a trial by FOF 7-9, 18.

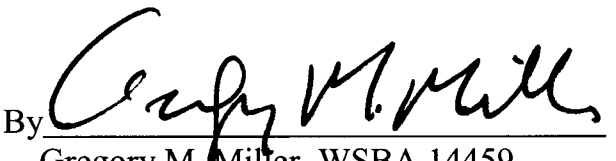
If Randy Langeland had wanted Sharon Drown to have all his property as she seeks here, he could have made a will and so specified. He also could have married her at any time, including during the end days of the hospital. He did neither.

On what lawful basis may the Washington Courts frustrate all the careful decisions and actions made consistent with the law and case decisions to keep personal earnings and property separate? There is no "equitable" basis allowing the court to convert this CIR into a common law marriage. Just because the surviving partner wants it that way – wants all the assets for oneself – when there is zero evidence that Randy Langeland wanted it that way is not a recognized ground in equity to frustrate his careful management of his property to remain separate, with Drown's whole-hearted agreement and acquiescence.

Petitioner Janell Boone respectfully asks this Court to grant review to address these and the issues she raised to the Court of Appeals, and schedule argument at the earliest opportunity.

Respectfully submitted this 14th day of September, 2016.

CARNEY BADLEY SPELLMAN, P.S.

By 

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Counsel for Petitioner Janell Boone

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington that I am an employee at Carney Badley Spellman, P.S., over the age of 18 years, not a party to nor interested in the above-entitled action, and competent to be a witness herein. On the date stated below, I caused to be served a true and correct copy of the foregoing document on the below-listed attorney(s) of record by the method(s) noted:

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FILED
COURT OF APPEALS DIV I
STATE OF WASHINGTON
2016 SEP 14 PM 4:03

DATED this 14th day of September, 2016.

Patti Saiden

Patti Saiden, Legal Assistant

INDEX TO APPENDICES

APPENDIX A

2016 WL 3919687
Only the Westlaw citation is currently available.
Court of Appeals of Washington,
Division 1.

In the Matter of the Estate of Randall J. Langeland, Janell Boone,
Appellant/Cross–Respondent,
v.
Sharon Drown, Respondent/Cross Appellant.

No. 72758–3–I
|
(Consolidated with No. 72759–1–I)
|
FILED: July 18, 2016

Appeal from Whatcom County Superior Court, Docket No: 09–4–00039–9, Honorable Ira J. Uhrig.

Attorneys and Law Firms

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Opinion

Leach, J.

*1 ¶ 1 In this second appeal, Janell Boone and Sharon Drown seek review of different decisions made by the trial court after remand from the first appeal. Boone contends that the trial court should have found that her father and Drown had a separate property contract. Alternatively, Boone claims that the trial court mischaracterized property, exceeded its authority when dividing property, and erred in awarding Drown attorney fees. Drown contends that the trial court should have required Boone's counsel to repay funds delivered to it from the court registry by the court clerk.

¶ 2 Because this court already decided as a matter of law that the property acquired during the Langeland/Drown relationship was joint property subject to equitable division, we reject Boone's arguments about any separate property agreement under the law of this case. The trial court awarded Drown only joint property. Thus, it did not erroneously award her Langeland's separate property. Because Boone did not ask the trial court to include property that Drown acquired or held during the relationship until her motion to reconsider the trial court's order on remand, we decline to consider that challenge now. The trial court reasonably concluded that Boone's motion to reconsider lacked a foundation in fact or law. Thus, it did not abuse its discretion in awarding Drown attorney fees for defending that motion. But the trial court denied Drown restitution for attorney fees that Boone's counsel withdrew from the court registry based on untenable grounds. We reverse the trial court's restitution decision and remand for the trial court to enter judgment for Drown. Finally, we award Drown attorney fees for this appeal, as permitted by RCW 11.96A.150.

FACTS

¶ 3 Sharon Drown and Randall Langeland shared a committed intimate relationship (CIR) from 1991 until Langeland's death in January 2009. The two lived together and shared household duties and expenses. They maintained separate bank accounts. They tracked their monthly expenses, from groceries to health insurance, and paid one another the difference at the end of each month.

¶ 4 Drown and Langeland bought a house in Bellingham in 1999. Langeland paid $148,500 of the $158,500 initial purchase price, and Drown paid the other $10,000. Drown signed a promissory note for $40,000 with seven percent interest in favor of Langeland. She also signed a deed of trust securing the note. The note required monthly payments, which Drown paid until 2008. Drown and Langeland paid equally the house expenses, including property taxes, improvements, and house maintenance. Due to Langeland's declining health, Drown had primary responsibility for upkeep and maintenance.

¶ 5 Langeland formed a software business, J. Randall & Associates, in 1994. Drown performed office work for the company from then until Langeland's death.

¶ 6 Drown and Langeland bought a sailboat together in 1998. To pay it off, in 2002 they took out a $65,000 equity loan secured by the house.[1]

[1] Along with the house (valued at $235,000.00), sailboat (sold for a net $75,250.00), and business (with $19,257.47 in assets), Drown and Langeland acquired the following during their CIR:
- An estate account containing $6,453.03
- A 2007 Toyota valued at $8,000.00
- 2002 Honda valued at $4,500.00
- Household personal property valued at $1,078.00

*2 ¶ 7 Langeland became ill in 1998. From 2003 until his death, he required daily medication and care as his medical condition became more complicated. Drown cared for him. She also maintained the home and sailboat, while continuing to work full time.

¶ 8 Langeland died intestate in January 2009, survived by Drown and his daughter, Janell Boone. Each asserted claims against Langeland's estate. After a bench trial in May 2011, the trial court concluded that Drown owned half of the personal property listed as jointly owned in the estate inventory and was entitled to 24.7 percent of the house's sale proceeds. The court awarded Boone attorney fees from the estate.

¶ 9 Drown appealed. In October 2013, this court reversed in part and remanded. We held that the presumption that property a couple acquires during a CIR is jointly owned prevails over any presumption about the correctness of the estate inventory.[2] We further held that Boone failed, as a matter of law, to rebut the joint property presumption as to three contested assets, the house, sailboat, and proceeds from the software company.[3] We remanded for the trial court to reconsider the proper distribution of joint assets and the issue of attorney fees.[4]

[2] In re Estate of Langeland, 177 Wash.App. 315, 324, 312 P.3d 657 (2013), review denied, 180 Wash.2d 1009, 325 P.3d 914 (2014). Joint property is in most respects treated as analogous to community property for married couples. Connell v. Francisco, 127 Wash.2d 339, 351, 898 P.2d 831 (1995).

[3] Langeland, 177 Wash.App. at 327, 312 P.3d 657.

[4] Langeland, 177 Wash.App. at 331, 312 P.3d 657.

¶ 10 On remand, the trial court entered amended findings of fact and conclusions of law (FFCL). The trial court found, consistent with this court's decision, that the assets Drown and Langeland acquired during the CIR were joint property. It further concluded that the contract regarding the house "was not executed by Drown or made freely, voluntarily and upon independent advice with full knowledge of her rights"; that Drown signed it without "full candor and sincerity" beforehand; and that Drown and Langeland did not follow the contract's terms.

¶ 11 The trial court awarded Drown half of the joint property assets. It also found that equity required it to distribute most of the estate's half of the joint property assets to Drown. This included the other half interest in the house, the company bank account, the estate bank account, a 2007 Toyota, and household personal property. The trial court awarded Boone the estate's half of the proceeds from sale of the sailboat and a 2002 Honda.

¶ 12 Boone challenges the amended FFCL. She asks this court to enforce the alleged agreement between Drown and Langeland to keep their property separate and their agreement about the house. She also asks this court to reverse the trial court's award of $9,187 to Drown for having to defend against Boone's motion to reconsider the amended FFCL.

¶ 13 Although the trial court awarded most of the estate assets to Drown on remand and vacated its $70,000 attorney fee award against her, it declined to order that Boone's counsel, Helsell Fetterman LLP, repay the funds it withdrew from the court registry to pay this award. Drown cross appeals, asking this court to remand for the trial court to enter judgment against Boone and her counsel, Helsell Fetterman.[5]

[5] Excepting the house, deducting the estate's share of the Honda (which Drown apparently kept), and adding the supersedeas funds withdrawn by Helsell Fetterman and costs included in this court's mandate, the property the trial court awarded Drown totaled $67,714.33. Drown asks for this amount in her reply brief.

STANDARD OF REVIEW

*3 ¶ 14 We review the trial court's characterization of property a couple acquired during a CIR de novo.[6] We review the trial court's fact findings for substantial evidence, without weighing the evidence or making our own factual findings.[7]

[6] See In re Marriage of Skarbek, 100 Wash.App. 444,

447, 997 P.2d 447 (2000).

[7] Prostov v. Dep't of Licensing, 186 Wash.App. 795, 819–20, 349 P.3d 874 (2015).

¶ 15 We review the legal basis for awarding attorney fees de novo.[8] We then review the trial court's discretionary decision to award attorney fees and the reasonableness of the amount for abuse of discretion.[9]

[8] Hall v. Feigenbaum, 178 Wash.App. 811, 827, 319 P.3d 61, review denied, 180 Wash.2d 1018, 327 P.3d 54 (2014).

[9] Hall, 178 Wash.App. at 827, 319 P.3d 61.

ANALYSIS

Law of the Case

¶ 16 As a preliminary matter, Drown contends that the law of the case doctrine bars Boone's challenges to the trial court's characterization of the contested assets as joint property. We agree. This court generally applies the law of the case doctrine to preclude successive reviews of issues that a party raised, or could have raised, in an earlier appeal in the same case.[10]

[10] State v. Worl, 129 Wash.2d 416, 424–25, 918 P.2d 905 (1996).

¶ 17 Boone contends that we did not consider, in the first appeal, the issues she raises here. She argues that this court decided only the correct presumption to apply and that Boone did not rebut that presumption by tracing the funds used to purchase the contested assets to Langeland's separate property. She contends that neither the separate property agreement nor the house agreement was at issue at trial or on appeal, so she should be allowed to assert them now.[11]

[11] Arguing against Drown's motion for entry of judgment, Boone's counsel acknowledged that Boone had the motive and opportunity to present the contract issue on the first appeal, "I don't think that the Court of Appeals recognized [the separate property agreement] as an issue. It wasn't really addressed, and, frankly, that's on us." Counsel was incorrect that the issue was not addressed, but his concession is well taken: the contract argument was available to Boone on the first appeal.

¶ 18 We disagree. The law of the case precludes her arguments about the separate property agreement and house agreement. We previously held that "[a]s a matter of law, Boone failed to overcome the joint property presumption with respect to all three contested probate assets"—the business, house, and sailboat.[12] In doing so, we necessarily rejected the arguments Boone advances now, that the separate property agreement prevented Drown and Langeland from accumulating any joint property and that the alleged house agreement gave them separate interests in the house. Thus, we "actually decided"[13] the issues Boone now raises again.

[12] Langeland, 177 Wash.App. at 327, 312 P.3d 657.

[13] Fluke Capital & Mgmt. Servs. Co. v. Richmond, 106 Wash.2d 614, 620, 724 P.2d 356 (1986).

¶ 19 Boone not only raises issues this court already decided, but she also reasserts the same arguments that she asserted in the prior appeal. Drown had challenged the trial court's finding that she and Langeland had a separate property agreement. In response, Boone argued, as she does now, that Drown and Langeland "manifested an intent to maintain the separate character of their property," and that "throughout their relationship, [they] split every expense equally between the two of them." Boone also argued, as she does now, that Drown and Langeland had a contract that established the house as separate property.

*4 ¶ 20 The law of the case doctrine is discretionary, and Boone suggests it would be a "manifest injustice" not to enforce the purported agreements here.[14] But declining to enforce the asserted agreements does not "result in manifest injustice" because the equities heavily favor Drown. Also, Boone's arguments lack merit. First, if we were to reach the merits of Boone's separate property agreement claim, we would find that the record contains insufficient evidence to prove this agreement existed. An agreement to manage property separately is not the same as an agreement to convert property that is presumptively joint into separate property.[15] The evidence Boone

identifies as proof of the alleged agreement proves, at most, an agreement to manage property separately. The record contains no evidence that Drown or Langeland intended or attempted to change the ownership of the property they acquired together.[16] Second, the record belies Boone's assertion that Langeland "carefully negotiated" the purported house agreement. Drown's testimony showed that she did not understand the terms or the purpose of the agreement Boone now asserts. Thus, substantial evidence supports the trial court's findings that that agreement was not executed freely and voluntarily or with full candor and sincerity toward Drown. Additionally, the record contains no evidence that Drown and Langeland intended to convert their jointly owned earnings into separate interests in the house. No injustice results from our refusal to reconsider the alleged agreements here.

14 See Roberson v. Perez, 156 Wash.2d 33, 41–42, 123 P.3d 844 (2005).

15 In re Marriage of Mueller, 140 Wash.App. 498, 506–09, 167 P.3d 568 (2007) (holding that oral agreement "to divide the remainder of [ex-husband's] income after the payment of joint expenses" did not overcome presumption that assets were community property (emphasis omitted)).

16 See Mueller, 140 Wash.App. at 507–08, 167 P.3d 568.

Langeland's "Separate Property"

¶ 21 Boone next contends that the trial court erred in concluding that it had " 'the power to award Langeland's separate property to Drown' " and then awarding that " 'separate property in its entirety to Drown.' "

¶ 22 Washington law "require[s] equitable distribution of property that would have been community property had the partners been married."[17] All the partners' joint property is subject to equitable division, regardless of which partner acquired it or holds title to it.[18] But Washington courts also recognize that because "equity is limited," the trial court may not distribute a partner's separate property.[19] This includes property the partner acquired before the relationship and property acquired "by gift, bequest, devise, or descent" during the relationship.[20]

17 Olver v. Fowler, 161 Wash.2d 655, 668–69, 168 P.3d 348 (2007); see Connell, 127 Wash.2d at 350, 898 P.2d 831.

18 Connell, 127 Wash.2d at 351, 898 P.2d 831.

19 Olver, 161 Wash.2d at 668–69, 168 P.3d 348.

20 Connell, 127 Wash.2d at 351, 898 P.2d 831.

¶ 23 The trial court thus could not award Langeland's separate property to Drown. The trial court's statement that it had the power to award Langeland's separate property in equity is wrong. Boone contends that upon Langeland's death, his interest in joint property became his separate property and was no longer subject to equitable distribution by the court. Our Supreme Court has rejected the argument that the death of one partner extinguishes the other partner's right to equitable distribution of that joint property.[21] The trial court awarded Drown only part of her and Langeland's joint property. It had the power to award that property to Drown in equity, and it did not abuse its discretion in doing so.[22]

21 Olver, 161 Wash.2d at 670–71, 168 P.3d 348.

22 See Connell, 127 Wash.2d at 351, 898 P.2d 831.

Joint Property Held by Drown

¶ 24 Next, Boone asserts that the trial court erred in ordering distribution of estate assets without considering property that Drown acquired during the CIR.

¶ 25 We agree that all of Drown and Langeland's jointly acquired assets were subject to equitable distribution, including those that Drown acquired or held title to.[23] However, Boone prepared the inventory of Langland's assets. This included his interest in joint property. As Boone acknowledges, the estate inventory here did not include Drown's assets. Boone did not challenge the inventory through trial, an appeal, and remand.[24] "Matters

not urged at the trial level may not be urged on appeal."[25] We therefore decline to consider Boone's argument made for the first time in this second appeal.

[23] See Connell, 127 Wash.2d at 351, 898 P.2d 831.

[24] Boone claims that on remand she asked the trial court to consider Drown's jointly held assets before making a distribution. But she did so only in her motion to reconsider after the trial court entered its amended FFCL.

[25] Lewis v. City of Mercer Island, 63 Wash.App. 29, 31, 817 P.2d 408 (1991).

Attorney Fees for Opposing Boone's Motion To Reconsider

*5 ¶ 26 After denying Boone's motion to reconsider its amended FFCL, the trial court ordered Boone to pay Drown $9,187 for attorney fees under RCW 11.96A.150. Boone contends the trial court abused its discretion in doing so.

¶ 27 RCW 11.96A.150(1) gives the trial court discretion to award costs it "determines to be equitable," including attorney fees to any party from another party or the estate.

¶ 28 The trial court explained that Boone's motion asked it "to ignore the binding Court of Appeals decisions in this case." It further explained that Boone's motion contended that the court should not have issued its amended FFCL without an evidentiary hearing, even though she had asked the court to enter her own proposed FFCL without a hearing.

¶ 29 This court's opinion bound the trial court on remand. It followed that opinion with its amended FFCL. Boone's motion for reconsideration merely repeated arguments that were unsuccessful before. The trial court did not abuse its broad discretion in awarding Drown attorney fees under RCW 11.96A.150.

Restitution for Drown

¶ 30 Drown cross appeals. She claims that the trial court erred in denying restitution of the estate funds withdrawn from the court registry and paid to Helsell Fetterman for the now-vacated attorney fee award.

¶ 31 In June 2011, after Drown lost at trial, her counsel paid into the court registry all the estate funds under his control.[26] In August 2011, the trial court heard Boone's motion for $98,035.80 for fees and costs. It awarded $70,000.00, but through a mistake failed to correct the amount in parts of Boone's proposed order that it signed. As a result, the court directed its clerk to pay to Helsell Fetterman $98,035.80 in attorney fees and costs from the court registry, "or as much as is contained therein."[27] Helsell Fetterman, nonetheless, withdrew $101,498.82 from the registry on August 24, 2011.[28] The record provides no explanation why Helsell Fetterman did not return the excess funds to the clerk.

[26] These included $75,240.97 from Drown's client trust account. With an added $23,525.85 from the estate checking account and J. Randall & Associates business account, the court registry contained $98,766.82 of estate funds as of June 9, 2011.

[27] The trial court judge crossed out Helsell Fetterman's proposed amount of attorney fees, $98,035.80, in some places but not in others. Boone's attorney acknowledged in the hearing that the amounts should be changed to $70,000.00. That is the amount the court stated at the hearing that it would award and t he amount it found to be reasonable. Moreover, despite the literal meaning of the phrase "or as much as is contained therein," Boone offers no explanation why Helsell Fetterman would be entitled to the entire contents of the court registry regardless how large that amount was. Drown's reading of the order is more reasonable: had the registry contained less than Helsell Fetterman was awarded, the order would have entitled Helsell Fetterman to the entire amount therein.

[28] Helsell Fetterman did not notify Drown or her counsel before withdrawing the funds or file a satisfaction of judgment afterward.

¶ 32 The trial court also ordered Drown to continue paying $683 per month into the court registry to supersede the judgment that the house belonged to the estate.[29] When this court remanded the case in October 2013, Drown had paid $28,003 into the registry as supersedeas. Because of Helsell Fetterman's withdrawal, however, the registry contained only $25,271. In her cross appeal, Drown asks for the $2,732 difference and an amount equal to the estate funds ultimately awarded to her by the trial court.

[29] The trial court did not order supersedeas for the attorney fees.

*6 ¶ 33 In the first appeal, we vacated the $70,000 fee award against Drown. Accordingly, Drown asked on remand that the trial court order restitution for the amount Helsell Fetterman withdrew.[30] The trial court denied Drown's request. It decided that she was not entitled to restitution under RAP 12.8 because she had not paid any of the $70,000. The trial court further found that the record did not show that Helsell Fetterman lacked authority to withdraw estate assets from the court registry. It explained that Helsell Fetterman was acting pursuant to court order.[31] It further explained, in denying Drown's motion to reconsider, that the fees it authorized the clerk to pay Helsell Fetterman from the estate were to defend the estate against Drown's claims.

[30] In particular, Drown asked the trial court to award her $64,982.33 from Helsell Fetterman and Boone, consistent with this court's mandate and the trial court's FFCL on remand. She asked also that the trial court order Helsell Fetterman and Boone to return $2,732.00 of Drown's supersedeas funds, for a total of $67,714.33. She asked, alternatively, for a $67,714.33 judgment against Boone coupled with an order that Helsell Fetterman return the $101,498.82 to the court registry.

[31] That order "direct[ed] the attorney for the Personal Representative to withdraw the estate assets being held in the court registry and apply those assets to the fees and costs incurred by Helsell Fetterman, LLP, in defense of estate assets."

¶ 34 In addition to the missing supersedeas funds, Drown contends that Helsell Fetterman owes her $61,085.50, the portion of the withdrawn funds she says this court determined belonged to her. In the first appeal, we awarded Drown $3,896.83 for costs under RAP 14.4. Drown contends that the trial court thus erred in denying her a judgment of $67,714.33 plus 12 percent interest.[32]

[32] This amount is the sum of $61,085.50, $3,896.83, and $2,732.00.

¶ 35 This court reviews a trial court's decision about restitution under RAP 12.8 for abuse of discretion.[33] The rules of appellate procedure " 'will be liberally interpreted to promote justice.' "[34] Restitution is an equitable remedy, and the trial court should award it "in appropriate circumstances" when a party "partially or wholly satisfied a trial court decision" that this court then modified or reversed.[35] To identify "appropriate circumstances," Washington courts look to the common law of restitution as the Restatement of Restitution § 74 (Am. Law. Inst. 1937) describes it:[36] " 'A person who has conferred a benefit upon another in compliance with a judgment ... is entitled to restitution if the judgment is reversed or set aside, unless restitution would be inequitable or the parties contract that payment is to be final.' "[37] This rule is subject to an exception where restitution "would not serve the purpose of remedying unjust enrichment."[38]

[33] Ehsani v. McCullough Family P'ship, 160 Wash.2d 586, 589, 159 P.3d 407 (2007).

[34] Sloan v. Horizon Credit Union, 167 Wash.App. 514, 520, 274 P.3d 386 (2012) (quoting RAP 1.2(a)).

[35] RAP 12.8; Ehsani, 160 Wash.2d at 589, 159 P.3d 407.

[36] Ehsani, 160 Wash.2d at 590–91, 159 P.3d 407; State v. A.N.W. Seed Corp., 116 Wash.2d 39, 45–46, 802 P.2d 1353 (1991). In the current version of the Restatement, the relevant section is Restatement (Third) of Restitution and Unjust Enrichment § 18 (Am. Law. Inst. 2011).

[37] Ehsani, 160 Wash.2d at 592, 159 P.3d 407 (quoting Restatement of Restitution § 74).

[38] Ehsani, 160 Wash.2d at 592, 159 P.3d 407.

¶ 36 In In re Marriage of Mason,[39] this court held that an ex-husband was entitled to restitution from his ex-wife's trial attorney after the attorney's fee award was reversed on appeal. The trial court originally ordered the ex-husband to pay the attorney directly, under RCW 26.09.140, and named the attorney as a judgment creditor.[40] Noting that the attorney was a "judgment creditor in his own right" under that judgment, this court held that restitution under RAP 12.8 was appropriate.[41]

39 48 Wash.App. 688, 692–93, 740 P.2d 356 (1987).

40 Mason, 48 Wash.App. at 691, 740 P.2d 356. The dissolution statutes provide, "The court may order that the attorneys' fees be paid directly to the attorney who may enforce the order in his or her name." RCW 26.09.140.

41 Mason, 48 Wash.App. at 692–93, 740 P.2d 356.

*7 ¶ 37 The Supreme Court clarified the scope of Mason in Ehsani v. McCullough Family Partnership,[42] where it held that an attorney was not liable in restitution for fees he had received as proceeds of a judgment that was later reversed. The trial court initially awarded the defendants judgment against the plaintiff, who paid the amount of the judgment into the client trust account of the defendants' attorney. Then, at the defendants' direction, that attorney distributed those funds to the defendants' creditors, including himself. The plaintiff successfully appealed the judgment. On remand, the plaintiff asked the trial court to order the attorney to return the fees as restitution[43] The Supreme Court held that, unlike in Mason, these were not "appropriate circumstances" for restitution under RAP 12.8.[44]

42 160 Wash.2d 586, 588, 159 P.3d 407 (2007).

43 Ehsani, 160 Wash.2d at 589, 159 P.3d 407.

44 Ehsani, 160 Wash.2d at 593–94, 159 P.3d 407.

¶ 38 The Supreme Court acknowledged the general rule that a person who has paid a judgment to another "is entitled to restitution if the judgment is reversed." But the court identified an exception to this rule that applies when restitution "would not serve the purpose of remedying unjust enrichment."[45] The court held this to be the case where a judgment creditor's attorney receives judgment proceeds from his client and retains them as payment for legal services. In this case, the court explained, that attorney " 'received the money as a bona fide purchaser' ... under the terms of a valid, preexisting agreement with the judgment creditor."[46] Thus, the clients (judgment creditors), but not the attorney, were liable in restitution under RAP 12.8.[47] The court explained, "Mason actually stands for the more limited proposition that an attorney paid pursuant to a statutory scheme making him a real party in interest may be liable in restitution for the amount of his fees when the trial court's favorable judgment is subsequently reversed."[48]

45 Ehsani, 160 Wash.2d at 591–92, 159 P.3d 407.

46 Ehsani, 160 Wash.2d at 593, 159 P.3d 407 (quoting RESTATEMENT OF RESTITUTION, § 74, cmt. h), 595.

47 Ehsani, 160 Wash.2d at 595, 159 P.3d 407.

48 Ehsani, 160 Wash.2d at 596, 159 P.3d 407.

¶ 39 This court distinguished Ehsani when it affirmed a restitution award in Arzola v. Name Intelligence, Inc.[49] The trial court had decided that the amounts an employer owed its employees were wages and awarded the employees attorney fees under wage-claim statutes.[50] This court reversed that decision. On remand, the trial court awarded the employer restitution for the attorney fees. This court affirmed that restitution decision. We reasoned that the judgment was not paid directly to the attorney's client trust account, as in Ehsani, but instead "itself awarded attorney fees to the lawyers as part of a statutory scheme."[51] We noted that the trial court erred by awarding fees under the statute. We reasoned that it would be inequitable to make the employer bear the cost of the employees' attorney fees.[52]

49 188 Wash.App. 588, 594, 355 P.3d 286 (2015).

50 Arzola, 188 Wash.App. at 591, 355 P.3d 286; RCW 49.52.

51 Arzola, 188 Wash.App. at 594, 355 P.3d 286.

52 Arzola, 188 Wash.App. at 594, 355 P.3d 286.

¶ 40 Here, the trial court abused its discretion in refusing to order restitution for the vacated attorney fee award. First, Boone and the trial court are incorrect that Drown did not pay any of the $70,000 judgment against her. Whether the funds Helsell Fetterman withdrew came from the court registry or Drown's bank account, the record shows that Boone, Drown, and the trial court all understood the attorney fee award to be a transfer from Drown to Boone.[53] Because the trial court finally determined on remand that Drown owned the majority of the estate assets, most of the money Helsell Fetterman withdrew from the court registry in August 2011 belonged to Drown.

53 For instance, in moving for the fees, Boone claimed she "should be allowed to pay her attorneys the incurred fees and costs out of the Court Registry now, pending deposit of said fees and costs by Sharon Drown into the registry."

*8 ¶ 41 Second, Boone and the trial court are also incorrect that the registry's payment to Helsell Fetterman was an administrative expense of the estate. Helsell Fetterman did not represent the estate at any time when the firm was accruing the awarded fees and costs. The court revoked Boone's letters of administration in February 2009. It appointed Carol Lenington personal representative. She hired separate counsel, Brian Hansen. Boone asserts that a brief exchange of letters with Hansen gave Helsell Fetterman authority to defend the estate. But those letters cannot reasonably be construed to state this: Hansen did not approve of Boone defending against any or all claims against the estate. He said only that the estate did "not object" to Boone's seeking recoupment of an IRA (individual retirement account).[54] Moreover, Hansen demanded that Boone hold the estate harmless for her attorney fees. Both Hansen and Lenington later attested that they did not request, approve, or receive notice that Helsell Fetterman would defend against Drown's claims or otherwise represent the estate. They added that they would not have approved this action had they known about it. Instead, Lenington noted, the only nonadministrator to work for the estate's benefit was Drown.

54 Boone ultimately failed to recoup the IRA benefits from Drown, and the trial court excluded the fees she incurred in that effort from its award.

¶ 41 Thus, the record shows that Boone and Helsell Fetterman did not represent the estate between February 2009 and June 2011. The statutes the trial court cited to support its attorney fee award apply only to expenses for "a personal representative" and its attorney or to "costs of administration." Therefore, the trial court erred in awarding the fees to Helsell Fetterman under RCW 11.48 and 11.76.[55]

55 RCW 11.48.050 provides that an estate's personal representative "shall be allowed all necessary expenses in the care, management, and settlement of the estate." RCW 11.48.210 allows "just and reasonable" compensation for a personal representative and its attorney. RCW 11.76.110 provides for "payment of costs of administration" before payment of any other debts of an estate.

¶ 42 Boone nonetheless contends that Ehsani precludes restitution here. She contends Mason does not apply because Helsell Fetterman did not receive payment directly from Drown under a statutory scheme making the firm a real party in interest.

¶ 43 Again, we disagree. Helsell Fetterman, like the attorney in Mason, received attorney fees through a court order directing that the fees be paid to it under statutes providing for attorney fees to be paid directly to the attorney.[56] This made the firm a "real party in interest" in the Ehsani court's words. The trial court directed the clerk to pay the fees directly to Helsell Fetterman, not to a client trust account as in Ehsani. As in Arzola, the trial court's statutory basis for the fees was wrong.[57]

56 See RCW 11.48.050, 210; RCW 11.76.110.

57 See Arzola, 188 Wash.App. at 594, 355 P.3d 286.

¶ 44 Finally, it would be inequitable to allow Helsell Fetterman to keep Drown's supersedeas funds or the assets the trial court determined belong to Drown.[58] The trial court allowed Helsell Fetterman to withdraw $31,498.82 based on a clerical error, then declined to remedy that error. Helsell Fetterman offers no reasonable justification for keeping these funds. This court vacated the $70,000.00 fee award, which, in any case, the trial court had based on the false premise that Boone and Helsell Fetterman represented the estate. Allowing Helsell Fetterman to keep those funds would deny Drown the practical benefit of her successful appeal and cause her to

pay her unsuccessful opposing party's legal expenses. Drown, who shared her life with Langeland and cared for him during nearly a decade of illness, would receive nothing from the estate except Langeland's half of the house. Restitution is meant to remedy just this type of unfairness.[59]

58 See Arzola, 188 Wash.App. at 593-94, 355 P.3d 286.

59 See Young v. Young, 164 Wash.2d 477, 484, 191 P.3d 1258 (2008) (notions of fairness and justice require recovery when a party would be unjustly enriched).

award Drown attorney fees for this appeal.[61]

60 See Arzola, 188 Wash.App. at 595, 355 P.3d 286 ("An award of prejudgment interest is appropriate where a party retains funds rightly belonging to another party and thereby denies the party the use value of the money."). Although the trial court has discretion to reduce the maximum interest rate, it would abuse that discretion to do so without setting forth adequate reasons. See In re Marriage of Harrington, 85 Wash.App. 613, 631, 935 P.2d 1357 (1997).

61 See RCW 11.96A.150.

CONCLUSION

¶ 45 The law of this case precludes Boone's two main arguments, as this court previously held that she failed to overcome the joint property presumption with respect to the contested assets. Boone's remaining arguments lack merit. We reverse the trial court's denial of Drown's restitution request because the trial court based its conclusion that Drown is not entitled to restitution on untenable grounds. We therefore remand for the trial court to enter judgment for Drown with an interest rate in accord with RCW 4.56.110(4).[60] And considering the same equities that compel restitution for Drown, we

*9 WE CONCUR:

Dwyer, J.

Appelwick, J.

All Citations

--- P.3d ----, 2016 WL 3919687

End of Document

APPENDIX B

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

In the Matter of the Estate of RANDALL J. LANGELAND. JANELL BOONE, Appellant/Cross-Respondent, v. SHARON DROWN, Respondent/Cross Appellant.	No. 72758-3-I (Consolidated with No. 72759-1-I) ORDER DENYING APPELLANT BOONE'S MOTION FOR RECONSIDERATION

The appellant, Janell Boone, having filed a motion for reconsideration herein, and the hearing panel having determined that the motion should be denied; now, therefore, it is hereby

ORDERED that the motion for reconsideration be, and the same is, hereby denied.

Dated this 12th day of August, 2016.

FOR THE COURT:

Leach, J.
Judge

APPENDIX C

SCANNED 3

FILED

2009 MAY 21 PM 3:41

WHATCOM COUNTY
WASHINGTON

BY

IN THE SUPERIOR COURT OF WASHINGTON FOR WHATCOM COUNTY

In Re the Estate of: RANDALL J. LANGELAND, Deceased.	**Case No: 09-4-00039-9** **CREDITOR'S CLAIM (RCW 11.40.070)**

ORIGINAL

52

SHEPHERD ABBOTT CARTER
ATTORNEYS AT LAW
1616 CORNWALL AVENUE, SUITE 100
BELLINGHAM, WASHINGTON 98225
PHONE (360) 647-4567 OR 733-3773
FACSIMILE (360) 647-9060

I – CLAIM

Claimant's Name/Address:	Sharon Drown 3946 Lakemont Road Bellingham, WA 98226
Claimant's Agent's Name/Address:	Shepherd Abbott Carter 1616 Cornwall Avenue, Suite 100 Bellingham, WA 98225
Nature of Agent's Authority:	Attorneys for Claimant Sharon Drown

Facts and circumstances surrounding claim: Sharon Drown was, and had been for over twenty years, in an intimate committed partner/ meretricious relationship with decedent. Sharon Drown believes that she is an intestate heir of the estate. Should the Court rule that she is not an intestate heir, this Creditor's Claim is asserted in the alternative.

Amount of claim: The exact amount is unknown without an accounting from the estate, and will be proved at the time of trial. Claim likely exceeds $500,000.00.

DATED THIS 21st day of May 2009.

Douglas R. Shepherd, WSBA #9514
Of Attorneys for Claimant

////

SHEPHERD ABBOTT CARTER
ATTORNEYS AT LAW
1616 CORNWALL AVENUE, SUITE 100
BELLINGHAM, WASHINGTON 98225
PHONE (360) 647-4567 OR 733-3773
FACSIMILE (360) 647-9060

APPENDIX D

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

INTERROGATORY NO. 8: During the alleged committed intimate relationship, please state all bank or brokerage accounts or other investments in your name.

ANSWER:

- 1991 to Approx. 2000: Wells Fargo Bank in Chico, CA. Closed when we moved to Bellingham.
- Peoples Bank, opened in 2000, Checking Acct. No. 5102014734
- Peoples Bank, Savings Acct. No. 5100015576 [redacted]
- Certificate of Deposit, Account No. 5104016828 [redacted]
- Certificate of Deposit 5104020184
- AIG/Valic Retirement account EMC401A
- Fidelity Retirement Account T087836467
- Fidelity IRA 143-670650
- Great American Life, No. 05348998
- N.T. Enloe Hospital Pension Plan, rolled over into Fidelity IRA listed above.

See documents produced. Discovery continues.

[redacted]

SHEPHERD ABBOTT CARTER
1616 Cornwall Avenue, Ste 100
Bellingham, WA 98225
(360) 733-3773

[redacted]

INTERROGATORY NO. 9: During the alleged committed intimate relationship, please state all bank or brokerage accounts or other investments in decedent's name.

ANSWER:

- Safeco/Symetra Financial TSA #LP1022481
- Reliastar Life, Inc., TSA #CONVTS0027170E1
- Tri-Counties Bank, traditional IRA #2664704 366544655C
- Fidelity Funds, individual cash account #2AT-202681
- Fidelity Roth IRA #144-705608
- Fidelity Traditional IRA #2AT-202690
- Fidelity SEP IRA #2AT-202703
- N.T. Enloe Hospital Pension Plan, rolled over into Fidelity #143-671967
- Peoples Bank CD #5104011142
- Peoples Bank CD #5104017966
- Peoples Bank CD #5104020531
- Peoples Bank Savings Acct. 5100011690
- Peoples Bank Checking Acct. 5104004108
- Peoples Bank Business Savings
- Peoples Bank IRA CD #5105000854

See documents produced. Discovery continues.

[redacted]

INTERROGATORY NO. 10: During the alleged committed intimate relationship, please state all bank or brokerage accounts or other investments in both your name and decedent's name

ANSWER:

Peoples Bank Home Equity Loan #5712265, REF 7607190, Loan #5714140-1 for $65,000.00.

SHEPHERD ABBOTT CARTER
1616 Cornwall Avenue, Ste 100
Bellingham, WA 98225
(360) 733-3773

APPENDIX E

J.R. Quickstep!™ Software for Occupational Health

Outcomes Analysis & Reporting
Case Management/Decision Support
Marketing/Contact Management
Billing & Accounting
Electronic Patient Charts

Ph. (530) 345-DATA (3282), Fax: (530 342-5567, email: jra@maxinet.com, Web Site: www.maxinet.com/jra

Date: 12/01/1999

To: Deborah Lee , Chicago Title & Escrow, Bellingham, WA

From: Randy Langland Ph. 360-588-8124 Cell Ph: 530-514-3212

Subject: Requests for entering Sharon Drown on the deed of title for the property situated at 3946 Lakemont, Bellingham, Washington as 31.7 % owner/interest in said property and request for promissory note and deed of trust.

Dear Ms. Lee;

Please consider this letter as authorization to perform the following services;

1. Enter Sharon Ann Drown, a single woman, on the deed as having 31.7 % interest in the value of the property.

2. Create a deed of trust and promissory note reflecting the 31.7% owner/interest being acquired by means of a $10,000.00 down payment and a note of 40,000.00 payable over 15 years at 7% interest with a payment amount of $359.54 per month.

   - Payee will be allowed to pay more than the monthly payment
   - Payment is due on the first of the month and late by the 15th of the month
   - Late fee is 5% of the payment amount.

   The Note will be managed by Meridian Contract Services (contact Gwen Newman)

Your cooperation and help is appreciated.

Please call with any questions. Ph. 360-588-8124, Cell: 530-514-3212

12/1/99
Randall Langeland Date

12-1-99
Sharon Drown Date

EXHIBIT 2
12-2-10 SD

DROWN PRODUCTION - 0021

(A)

Copy

NWMLS Form No. 34
Addendum/Amendment to P & S
Rev. 6/02

ADDENDUM/AMENDMENT TO PURCHASE AND SALE AGREEMENT

The following is part of the Purchase and Sale Agreement dated 12-1-, 19 99

between Green Briar CONSTRUCTION ("Seller")

and RANDY LANG-LAND ("Buyer")

concerning: 3946 LAKEMONT ("the Property").

IT IS AGREED BETWEEN THE SELLER AND BUYER AS FOLLOWS: SHARON DROWN has 31.2% INTEREST IN 3964 LAKEMONT. To be represented IN Down payment + Promisary Not

AGENT (COMPANY) MULTI-T BY: Tracy Lehman

ALL OTHER TERMS AND CONDITIONS of said Agreement remain unchanged.

Initials: BUYER: _____ Date: 12/1/99 SELLER: _____ Date: _____

BUYER: Sharon Drown Date: 12/1/99 SELLER: _____ Date: _____

WHITE—Selling Agent's Copy GREEN—Broker Copy CANARY—Purchaser's 2nd Copy PINK—Seller's Copy GOLD—Purchaser's 1st Copy

12/01/1999 15:55 3683845251 TOTAL DATA SERVICE PAGE 01

DROWN PRODUCTION - 0020

(B)

EXHIBIT 3 12-2-10 Drown

PENGAD 800-631-6989

App. E-2

READ AND APPROVED

DATE

CHICAGO TITLE
INSURANCE COMPANY
P. O. BOX 1115
1616 CORNWALL AVE., SUITE 115
BELLINGHAM, WA 98225

PROMISSORY NOTE
(interest included - due date)

$40,000.00, December 1, 1999

FOR VALUE RECEIVED, SHARON DROWN, AN UNMARRIED INDIVIDUAL promise(s) to pay to RANDY LANGLAND[redacted] or order, at MERIDIAN CONTRACT SERVICES, OAK HARBOR, WA the sum of FORTY THOUSAND DOLLARS ($40,000.00) with interest from 2nd day of DECEMBER, 1999, on unpaid principal at the rate of SEVEN AND 00/100 (7.00%) percent, per annum; principal and interest payable in installments of THREE HUNDRED FIFTY NINE AND 54/100 DOLLARS ($359.54) or more on the 2ND day of each month, beginning on the 2nd day of January, 2000, and continuing until the 2nd day of December, 2014, on which day the unpaid balance of principal with unpaid interest due thereon shall be due and payable.

Each payment shall be credited first on interest then due and the remainder on principal; and interest shall thereupon cease upon the principal so credited. Should default be made in payment of any installment when due, the whole sum of principal and interest shall become immediately due at the option of the holder of this note.

THE FIRST PAYMENT SHALL BE ADJUSTED TO INCLUDE ANY INTEREST ACCRUED. IF HOLDER, OR HOLDER'S COLLECTION AGENT, RECEIVES ANY MONTHLY PAYMENT MORE THAN 15 DAYS AFTER ITS DUE DATE, THEN A LATE PAYMENT OF 5% OF MONTHLY PAYMENT SHALL BE ADDED TO THAT MONTH'S NORMAL PAYMENT.

Principal and interest payable in lawful money of the United States.

If action be instituted on this Note, Maker(s) agree(s) to pay such sum as the Court may fix as attorney's fees.

This note is secured by a DEED OF TRUST of even date.

SHARON DROWN

ACCEPTED AND APPROVED:

RANDY LANGLAND

LPB NO. 142467-DL

DROWN PRODUCTION - 0008

App. E-3

1991200301
Page: 1 of 1
12/02/1999 3:15 PM
DEED $8.00
Whatcom County, WA
Request of: CHICAGO TITLE INSURANCE

AFTER RECORDING MAIL TO:

RANDY LANGLAND
2279 FERN AVENUE
CHICO, CA 95926

EXHIBIT 1
PENGAD 800-631-6989
12-21-00 Drown

Filed for Record at Request of:
CHICAGO TITLE INSURANCE COMPANY
P. O. BOX 1115
1616 CORNWALL AVE., SUITE 115
BELLINGHAM, WA 98225

147147

STATUTORY WARRANTY DEED

The **GRANTOR(S) GREENBRIAR CONSTRUCTION CORPORATION, A WASHINGTON CORPORATION** for and in consideration of TEN DOLLARS and other valuable consideration in hand paid, conveys and warrants to **RANDY LANGLAND, AN UNMARRIED INDIVIDUAL AS TO AN UNDIVIDED 68.3% INTEREST AND SHARON DROWN, AN UNMARRIED INDIVIDUAL AS TO AN UNDIVIDED 31.7% INTEREST** the following described real estate, situated in the County of WHATCOM, State of Washington:

LOT 8, PLAT OF LAKEMONT, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 21 OF PLATS, PAGES 9 AND 10, RECORDS OF WHATCOM COUNTY, WASHINGTON.
SITUATE IN WHATCOM COUNTY, WASHINGTON.

Assessor's Property Tax Parcel/Account Number: 390315 045747

SUBJECT TO:
EASEMENT AS CONTAINED ON THE FACE OF THE PLAT; RESERVATIONS OF RECORD UNDER AUDITOR'S FILE NO. 542192; COVENANTS, CONDITIONS, RESTRICTIONS, ASSESSMENTS AND EASEMENTS OF RECORD UNDER AUDITOR'S FILE NOS. 950308073 AND 960614011; RESTRICTIONS CONTAINED ON SAID PLAT; COVENANT TO BIND PROPERTIES OF RECORD UNDER AUDITOR'S FILE NO. 950106116; BENEFICIAL EASEMENT AGREEMENT UNDER AUDITOR'S FILE NO. 911007033, 911007005, 911007006 AND 9611120022; AGREEMENTS UNDER AUDITOR'S FILE NOS. 1595319, 9909110[illegible], 9503[illegible], 9511[illegible], 9512[illegible]; BOUNDARY LINE AGREEMENT UNDER AUDITOR'S FILE NOS. 9511[illegible] AND 9611[illegible]; PUBLIC DRAINAGE RIGHTS.

Dated this [illegible] day of December, 1999

GREENBRIAR CONSTRUCTION

By: _____
DAVID EDELSTEIN, PRESIDENT

STATE OF [illegible]
ss.

I certify that I know or have satisfactory evidence that DAVID EDELSTEIN is the person who appeared before me, and said person acknowledged that he did sign this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the PRESIDENT of GREENBRIAR CONSTRUCTION to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated _____

DROWN PRODUCTION - 0017

D

ALTA Owner's Policy
(10-17-92)
SCHEDULE A

Policy Number:	147147
Date of Policy:	December 2, 1999 at 3:15 P.M.
Amount of Insurance:	$158,500.00
Premium:	$260.00

1. Name of Insured:

   RANDY LANGLAND, AN UNMARRIED INDIVIDUAL AS TO AN UNDIVIDED 68.3% INTEREST AND SHARON DROWN, AN UNMARRIED INDIVIDUAL AS TO AN UNDIVIDED 31.7% INTEREST

2. The estate or interest in the land which is covered by this Policy is:
   FEE SIMPLE

3. Title to the estate or interest in the land is vested in:

   RANDY LANGLAND, AN UNMARRIED INDIVIDUAL AS TO AN UNDIVIDED 68.3% INTEREST AND SHARON DROWN, AN UNMARRIED INDIVIDUAL AS TO AN UNDIVIDED 31.7% INTEREST

Countersigned:

Adoline G. Brown
Authorized Signatory

This Policy valid only if Schedule B is attached

APPENDIX F

Moving into New House
12-3-99

23

48 — January 2000 — 49

Dec	House	360 00			Jan	House Rent	360 00	
Cascade	Nat. Gas (See Jan)				Dec, Jan, Feb	Sanitary Service	31 20	
	L Boat Elect.	36 67				Water/Sewer	See Next month	
Dec	GTE Phone	12 21				Cascade Gas 6.71+45.29	(52.00)	
	Sewer + Water	21 62				Phone US West	28 23	
	Total	435 50				GTE (Jan)	12 84	
							484 27	
						Moving Expense		
						$ 4534.35		
						÷ 2		
						$ 2267.17 I paid all of this. 453.35		
	½ Food		142 46					
	Home Depot Rugs (mastercard Dec)		56 53			10,000.00 House Down payment		
	U Haul (Dec mc)		14 38			- 2267.17 Randys portion moving Expense		
						$ 7,732.83 ← I owe Randy		
					1-8-00	Check # 4644	Paid in Full	
	Barnes Noble Christmas		166 77					
			380.14			∅ Food		
	Toys R US/Jakks telescope		81 35			U haul chiro		14 00
Life Jacket	Boaters World mc		32 29		(Dec.)	Pet carrier		24 14
						Home Depot Rugs —		43 50 24
						Radioshack Batterys		1.60 15
	Total 493.78					Total 490.53		

PENGAD 800-631-6989

EXHIBIT 15 12-21-99 Draon

DROWN PRODUCTION

App. F-1

FEB	House Payment	360	00		March	House Payment	360	00
	Cascade Gas	44	37			Cascade Gas	33	93
	us west / AT+T	20	00			US West	30	10
(Feb)	[illegible] GTE	7	88			AT + T / GTE (march)	7	88
(Feb)	Puget Sound Energy	36	81			Sewer Water (see next month)		
	[redacted]				April →	Puget Sound Energy	27	36
	Water sewer	63	00			Garage sink	126	12
	(12-22 to 2-25)					Cabinets Garage	1	36
Visa	Home Depot towel Bars	90	00			Home Depot	15	56
		622	06			door for storage shed	53	93
							656	24
						½ Food	177	56
	3 day Blinds					Garage Cabinets		
	(Jan MC Statement)			321	23			
Mailing	Clients Candy			79	00	Home Depot	[illegible]	
	Office MAX			27	00		34	93
½	water + Sewer			11	62	AT + T phone bill →	69	53
	City Of Billingham					Check # 4663		
	Through 12-22					530-345-3282		
	½ Food			168	63			
	PG E last bill ½			11	90	office max	17	65
				619	28	(For MC Statement)		
							299	67

52 2000

Apr. 1	House Payment	366	55
(mon)	US West/AT+T	30	90
	Cascade Nat. Gas	31	48
	½ House TAX	427	45 pd
	pd. on 4-18-00		
	Check # 4672	463	83
	Sewer + water (2-25 to 4-19)		
½	Storage Shed	1075	00
	Garage Sink Install	108	61
	½ Food	224	33

53

May	House Payment	366	55
	Cascade Gas	21	69
(May)	US West/AT+T	8	97
	Sewer + Water (Sept. thru Mar.)		
(may)	Property taxes	21	77
	Spring	21	97
	Driveway	39	34
½	Miscellaneous	164	01
		653	29
½	Food	175	00
½	Garage window	245	00
	Shower check # 4677		
	Bumper Sticker	42	50

54 2000 55

June	House Payment	360 00
	Sewer + Water	23 38
	Cascade Gas	18 27
	~~Sanitary Service~~	~~17 00~~
(May)	US West / AT+T	29 99
	Verizon Boat Ø	
	— Home Depot —	
	Shelf	
Visa	ladder hook, bike hook	$64 25
	screws, shelf bracket	
		530 89

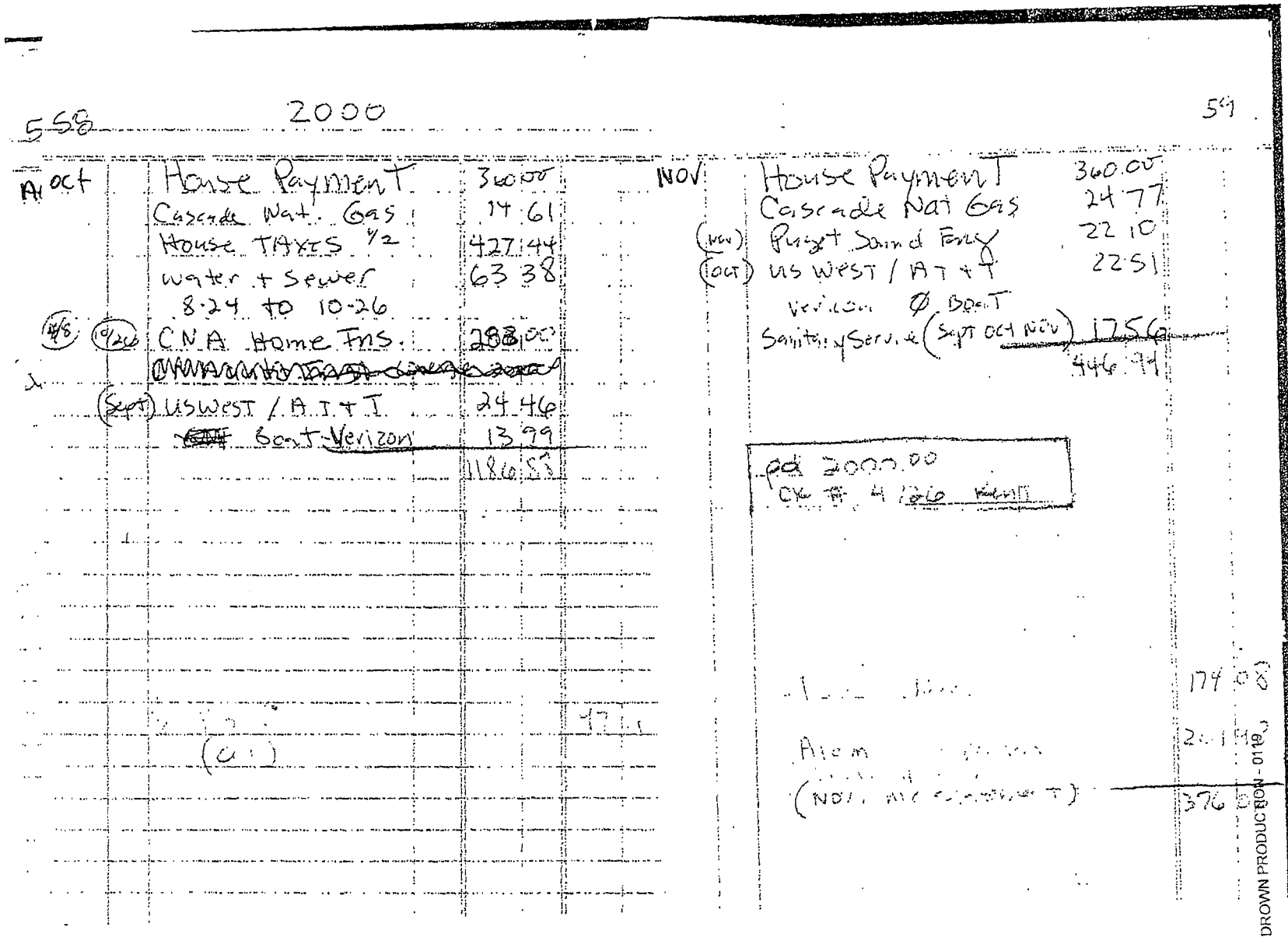
July	House Payment	360 00
	Cascade Nat Gas	12 44
	Sewer + water	~~23 38~~
	4-19 to 6-21	
(July)	Puget Sound Eng.	18 32
(June)	US West / AT+T	20 62
	Verizon Boat Ø	
	TWA Airline Ticket	230 00
	Hartford CT.	
	Randys Visa 7-28-00	
		641 38

$3,000 was paid to Randy check #9709

8853

56 2000 57

Aug			Sept		
	House Payment	360 00		House Payment	360 00
	Cascade Nat. Gas	10 45		Cascade Nat Gas	13 56
	Water + Sewer	69 79		~~Sanitary Service~~	~~17 56~~
	6.21 to 8.24			Sept/Oct./Nov.	
(July)	US west / AT+T	18 42	(Sept)	[illegible]	19 58
	Verizon Boat Ø		(Aug)	US west / AT+T	21 32
July/Aug	Sanitary Service	17 56		Verizon Ø Boat	
					471 96
	½ Food (aug)			½ [illegible] (Sept)	150 47



5SS 2000 5SS

Oct

	House Payment	360.00
	Cascade Nat. Gas	14.61
	House TAXES 1/2	427.44
	water + Sewer 8-24 to 10-26	63.38
4/8 9/26	C N A Home Fns.	288.00
	~~[illegible]~~	
Sept	UsWest / A.T.+T.	24.46
	~~Cont~~ Cont-Verizon	13.99
		1186.88

(a)

Nov

	House Payment	360.00
	Cascade Nat Gas	24.77
(Nov)	Puget Sound Energy	22.10
(Oct)	US WEST / AT+T	22.51
	Verizon Ø Cont	
	Sanitary Service (Sept Oct Nov)	12.56
		446.94

pd 2000.00
CK # 4186 Kent

174.00 (x)

Alarm [illegible]

(Nov. Mtg [illegible])

376.00

DROWN PRODUCTION - 0119

App. F-6

Sharon's Checkbook Reviewed thru 2000
Sharon's - MC Statement thru 2001
Randy's Visa statement thru 200
Randy's checkbook 2000

5.60

JAN. 2001

61

Dec		House Payment	360 00	
	(Nov)	US West / AT&T	19 69	
		Verizon Ø Boat		
		Water Sewer	63 38	
		10-26 — 12-20		
		Cascade Nat Gas	39 13	
		Bellingham Herald	13 50	
			495 70	
		[illegible] (Dec)		151 [illegible]
		US [illegible]		54 [illegible]
		(Jan 2001 MC)		206 [illegible]

JAN		House Payment	360 00
	(Dec)	US West / AT&T	20 12
	Jan	Cascade Nat Gas	47 89
	(Jan)	Puget Sound Energy	27 06
Jan	1/14	Bellingham Herald	13 50
	1/14	CNA House cars Ins.	695 00
		Coverage thru 010602	
			1136 [illegible]
		1/2 [illegible]	

[illegible] thru [illegible]

[illegible] 1 [illegible]

pd 1,500.00 on 3-12-01

DROWN PRODUCTION - 0120

62 2001

FEB	House Payment	360.00
	Cascade Nat Gas	~~55.32~~
Jan.	US West / AT+T	19.07
	Sanitary Service Dec / Jan / Feb	17.54
		452.43

½ Food 142.35

310.08 I owe

63 2001

March	House Payment	360.00
	Cascade Nat. Gas	46.31
(main)	Puget Sound Energy	24.73
main	Water + Sewer	69.77
	12-21 – 2-23	
feb	US West / AT+T	17.07
	Slip fee	50.00
		567.88

½ Food 173.42

567.88

394.46 I owe

64 2001

APRIL	House Payment	360	00
	Cascade Nat. Gas	41	34
April	B-ham Herald	20	25
may/april/may	Sanitary Service	17	54
	1/2 House TAX	420	87
	★ pd with check # 1014		
March	US West / AT+T	21	36
	Slip Fee	50	00
	★ Paid Randy	510	49
	$1500.00		
	Check # 1015		
	on 4-20-01		
½	Food		116 35
	510.49		
	- 116.35		
	394.14	I owe	

2001 65

MAY	House payment	360	00	
may	puget Sound Energy	11	62	
	Cascade Nat. Gas	30	94	
may	US west / AT+T	22	71	
	Slip Fee	50	00	
		475	27	
½	Food			96.64
	475.27			
	- 96.64			
	378.63			

66 2001 67

JUNE			
	House Payment		360 00
	Cascade Nat Gas		22 35
2-23-425	Water + Sewer		70 88
may	US West / AT+T		17 99
	Slip Fee		50 00
			521 22
	June Food	1/2	- 152 89
			521.22
			- 152.88
	Owe		$368.33
6/21	pd Randy		1,000.00
	CK #		1027

JULY		
	House Payment	360.00
	puget sound Energy	11 62
June	US West / AT+T	
	Slip fee	50 00
	Qwest	11 15
	Sanitary June July Aug	17 54
	Water/Sewer 4-25/6-22	70 88
	AT+T	13 18
July	Cascade Nat. Gas	19 18
		553 55
	Gas cutting trees 1/2	+ 60 00
		613 55
	July Food 1/2	- 154 63
		613.55
		- 154.63
		458.92 I owe

DROWN PRODUCTION - 0123

App. F-10

1,800.00 Back Rent (Rais 1 to 450.00)
Dec. 99 thru
July 2001

28 2001 69

46	House Payment	360 00	SEPT	House Payment	450 00
	Puget Sound Eng.	9 59		Slip Fee	50 00
	Slip Fee	50 00		Cascade Nat Gas	13 31
	AAA Membership	38 00		Puget Sound Eng.	10 10
	AT+T	20 50		Light	3 05
	Qwest 756-2284	11 24		AT+T	15 50
	Cascade Nat Gas	13 31		Qwest	11 24
	Puget Sound Eng.	10 10			553 20
		512 74			
	Late Fee Credit card	+ 40 07			
		552 81			
★	Need Rent Fee	450.00		½ Food	112 01
	½ Food		156 [illegible]		
	[illegible]		24 [illegible]		
			= 84		
				553.20	
	552.81			- 112.01	
	- 150.00			441.19	I owe

DROWN PRODUCTION - 0124

App. F-11

70 2001 71

CT.				NOV			
	House Rent	450 00			House Rent	450 00	
	Slip Fee	50 00			Slip Fee	50 00	
	Yacht Club	39 00			Puget Sound Eng	11 62	
	House TAX	420 87			City of Bham	70 88	
	Puget Sound Energy	10 35			Bham Herald	6 75	
	Sanitary Service	17 54			Cascade Nat G	58 37	
	Qwest	11 32		Visa Hayes	NWA Thanksgiving	505 50	
	AT&T	15 00			Qwest	10 79	
	Cascade Nat Gas	18 73			AT&T	9 30	
		1032 81				1173 21	
	½ Food		113 19		½ Food		109 97
				mc	NWA Christmas Ticket		312 50
				mc	House paint		11 00
				mc	lawn care		23 45
				mc	Livingroom Blind		80 00
							537 12
	1032 81						
	- 113 19						
	919 62	Pd on	10-12-01		1173.21	Pd on	11/29

72 2001

DEC		
	House Rent	450 00
	puget sound Energy	13 15
	Cascade Nat. Gas	48 08
	Sonicare toothbrush	35 00
	Encompass Ins. Car / ½ house	702 00
	Slip Fee	50 00
	Qwest	10 79
	AT+T	9 85
		1318 87
	½ Food	67 31
	adjust check throw out	
	873.87	1318.87
	- 67.31	- 67.31

73 JAN. 2002

JAN			
	House Rent	450 00	
	Slip Fee	50 00	
	Puget S. Energy	12 64	
	Sanitary Service	18 43	
	Water / Sewer	71 88	
	Family Computer	25 00	
	Cascade Nat Gas	43 47	
	Qwest	10 79	
	AT+T EST.	10 00	
	Northlake Com. Church	5 00	
		697 21	
	½ Food		90 63
	½ Super & Sanitex Christmas		47 00
	697.21		
	- 90.63		

FEB	House Rent	450	00		MAR	House Rent	450	00	
	Slip Fee	50	00			Slip Fee	50	00	
	puget Sound Eng	13	89			puget Sound	12	85	
	Cascade Nat Gas	57	29			Qwest	11	32	
	Qwest	9	78			Cascade Nat Gas	46	70	
	AT+T	10	98			water/Sewer	70	88	
		591	94			AT+T	14	90	
							656	65	
	591.94								
	- 123.01								
	468.93								
	pd on 3-17-02								
	CK # 1075								
	Food 1/2			123	01	Food 1/2		97	93
						656.65			
						- 97.93			
							pd on 3-17-02		
							CK # 1076		

76 April 2002 May 2002 77

[illegible]	House Rent	450	00	House Rent	450	00	
	Slip Fee	50	00	Slip Fee	50	00	
	Puget Sound E.	11	54	Puget S Eng.	12	46	
	Cascade Nat. G	48	08	AT+T	9	48	
	Qwest	11	32	Qwest	13	05	
	AT+T	10	00	[illegible]			
	Sanitary S. March April May	18	88	City of Bham	70	88	
	Street Light	6	50	Cascade Nat Gas	39	78	
		606	32		645	60	
	½ Food			125 79	½ Food		140 71
	606.32				645.60		
	-125.79				-140.71		
	480.53				504.89		
	pd on 4-16-02				pd. on 5-14-02		
					Ck # 1005		

78 June 2002

1J	House Rent	450	00		
	Slip Fee	50	00		
	Puget S. Engy.	11	51		
	Cascade Nat G.	25	50		
	Qwest	14	32		
	AT + T	11	15		
	[illegible]				
	City of B'ham	70	88		
	Wetsuit + Gloves	160	00		
		793	36		
	Mastercard/Boat			17	91
	Mastercard ½ Food			33	22
	½ Food Checkbook			115	07
				166	20

793.36
-166.20
627.16 pd on 6-27-02
Ck # 1098

July 2002 79

	Rent	450	00		
	Slip Fee	50	00		
	Sanitary Service	18	88		
	Puget Sound Engy.	9	38		
	Cascade Nat Gas	15.83	~~25.50~~		
	Qwest	20	57		
	AT + T	13	53		
		562	36		
	½ Food Checkbook			101	96

562.36
-101.96
460.40 pd on 7-17-02
Ck 1107

80 Aug. 2002

House Rent	450	00
Slip Fee	50	00
Puget S. Eng.	9	70
Cascade Nat Gas	15	83
Qwest	21	28
AT + T	5	15
	551	96

½ Food Checkbook 203 67

551.96
- 203.67
348.29 pd on 9-6-02
CK #1112

Sept. 2002 81

House Rent	450	00
Slip Fee	50	00
Water / Sewer	70	88
AAA WA membership	39	00
Puget Sound Eng.	10	12
AT+T	11	20
Qwest	20	96
	652	16

½ Food 161 24
3 more sweaters deducted on checkbook Costco

652.16
- 161.24
490.92 pd on 9-7-02

82 OCT. 2002

	House Rent	450	00
	Slip Fee	50	00
	Cascade Nat. Gas	16	75
	Sanitary Service	18	88
	AT+T	13	15
	QwesT	21	32
	Puget Sound Eng.	9	69
½	House TAXES	470	71
	Cascade Nat Gas #2	24	12
	CYC Member	22	50
	NWA MF.	453	00
		1550	12
	½ Food		330 68

1550.12
- 330.68 pd. on 10-26-02
$1219.44 CK # 1125

83 NOV. 2002

House Rent	450	00
Slip Fee	50	00
Cascade Nat G.	37	75
water / sewer	70	88
AT+T	4	20
QwesT	23	59
Puget S. Eng.	11	59
NWA	65	00
	713	01
½ Food	19	84

713.01
- 19.84 pd. on 11-16-02
$693.17 ← CK # 1131

84 Dec. 2002

	House Rent		450	00		
	Slip Fee		50	00		
	Cascade Nat Gas		39	21		
	Puget S. Energy		122	0		
	Car/House Ins.	Car	548	50		
		House	197	00		
	Quest		21.	10		
	At + T		4	20		
			1,322.	21		
	½ Food				85	72
	Christmas Gifts					
½	Doreen Gift Cert	Barns + Noble			7	50
½	Schneiders "	Barns + Noble			12	50
½	Rihles "	Barns + Noble			12	50
	Randys Gift to me / Clothing Exchange	Christmas			86	00
					204	22
	1.322.21					

Jan. 2003 85

House Rent		450	00	
Slip Fee		50	00	
Cascade Nat. Gas		55	16	
Quest		21	00	
At + T		7	00	
½ Sunday + Gas Dinner		45	18	Randy Visa
Airport parking		46	00	Randy Visa
		674	34	
Gift cert John + Maryse				25
Gift Cert Karen + Davis				25
½ MI Car Rental				83
Shipping Client Candy				91
				225

½ MFA

674.34

- 225.58

448.76

Pd on 2-[illegible]-02

DROWN PRODUCTION

App. F-19

85 Feb. 2003

House Rent	450 00
Slip Fee	50 00
Cascade Nat G.	46 30
Puget S Eng.	13 34
Qwest	21 00
AT+T	6 00
	586 64

586.64
− 209.36
377.28 pd on 2-14-03
CK # 1153

½ Food
Kids Books/pd cash

	77 86
	32 00
	209 36

March 2003 86

House Rent	450 00
Slip Fee	50 00
Cascade Nat Gas	43 64
City of Blaine water sewer	11 33
Street light	7 50
½ House TAX	471 33
Qwest	21 00
AT+T	6 00
	1,060 80

1060.80
− 136 91
923.89 CK # 1166
pd. on 4-4-03

½ Food 136 9

April 2003

House Rent	450	00
Slip Rent	50	00
Puget S. Eng	11	18
Qwest	21	00
AT + T	7	00
Cascade N. Gas	28	58
March April may Sanitary Service	18	31
	586	07

½ Food 138.96

Ck 447.11 pd on 5/2/03
Ck # 1177

586.07
− 138.96
447.11

MAY 2003

House Rent	450	00
Slip Fee	50	00
Cascade Nat Gas	47	63
City of Bham 24	70	88
Qwest	20	88
puget S. Eng	10	95
	649	79

½ Food 85.14

649.79
− 85.14
564.65

pd. on 5-22-03
ck # 1178

89 June 2003 July 2003 90

	House Rent	450	00		House Rent	450	00	
	Slip Rent	50	00		Slip Rent	50	00	
	Puget Sound Eng	9	31		Puget S. Energy	9	78	
	Qwest	21	13		Qwest	21	13	
	AT + T	5	30		AT + T	2	00	
	Cascade Nat Gas	15	29		Cascade Nat. Gas	20	16	
Same July Aug	Sanitary Service	18	31		~~City of Bham~~	~~70~~	~~88~~	
water/sewer	City of Bham 4Q	70	88			553	07	
		640	22					
	½ Food			153 20	½ Food			198 75
	640.22				553.07			
	- 153.20				- 198.75			
	487.02				354.32			
	CK # 1189				CK # 1190			
	pd on 9-3.03				pd on 9-3-03			

91 Aug. 2003

House Rent	450 00
Slip Rent	50 00
Puget S. Eng.	10 04
Qwest	21 28
At+T	2 00
Cascade Nat G.	12 63
water/sewer City of Bham 68	70 88
	616 83

½ Food 213 36

Jarrell kids on Sonja

616.83
- 213.36
403.47

CK # 1191 pd on 9-3-03

92 Sept. 2003

House Rent	450 00
Slip Rent	50 00
Puget Sound Eng	9 43
Qwest	10 61
At+T	5 00
Cascade Nat Gas	13 52
At+T wireless	10 00
	548 56

½ Food 112.6
Car Battery 44 0
Pharmacy 28 0
184 6

548.56
- 184.63
363.93

pd on 10-16-03
Ck # 1200

93 Oct. 2003

House Rent	450	00
Slip Rent	50	00
Puget Sound E.	4	77
Cascade Nat. G.	17	51
Sanitary Service	18	31
Qwest	10	61
AT+T	10	00
½ House Taxes	471	33
paid Separately Ck # 2001	8471	33
Yacht Club	22	50
	583	70

½ Food 179 31

583.70
− 179.31
404.39 Ck # 2006
Racoon 12-01-03

94 NOV. 2003

House Rent	450	00
Slip Rent	50	00
Puget S. Eng	9	79
Puget S. Eng	14	21
City of Bham	7	88
AT+T Wireless	18	00
#7 Airline ticket unitek	312	50 Michigan
PAID		
pd Randy for Visa late fee (Cash)	35	00
AT+T Membership	40	00
Cascade Nat. Gas	48	57
	1068	95

½ Food 88 99
Rx 11/19 27 00
Indoor outdoor Therm ½ 11 00
126 99

1068.95
+ 126.99

95 Dec. 2003 JAN 2004 96

House Rent	450	00
Slip Rent	50	00
AT+T wireless	12	50
Qwest	11	00
AT+T	11	00
Cascade N. Gas	74	62
Puget S. Eng	16	09
Car + ½ House Encompass Auto	846	50
	1471	71

½ Groceries	93	39
½ Salmon	50	00
Cost of Shredder ½	43	05
Cost of Princeton Computer	720	13
	906	52

1471.71
− 906.52
= 564.19 Ck # 2016

House Rent	450	00
Slip Rent	50	00
AT+T wireless	13	70
Quest	11	60
AT+T	11	00
Puget S. Eng	16	79
Cascade Nat G	96	59
Sanitary Servic	18	29
City of Blaine	70	88
	738	85

½ Groceries	79	21
B Client candy Shipping pd. in Dec. MC	61	90
~~½ Shipping Fish~~	~~20~~	~~00~~
Jacob/Kristin Christmas	47	40
½ Hotel Super 8	45	44
	233	95

738.85
− 233.95
= 504.90 Ck # 2021
added on 2-9-04

DROWN PUBLICATION 0138

97 FEB 2004

Rent House	450 00
Slip Rent	50 00
AT+T wireless	13 70
Qwest	12 39
AT+T	11 00
Puget S. Eng	16 00 Est.
Cascade Nat Gas	67 90
Comcast	16 54
	637 53
½ Groceries	128 67

637.53
- 128.67
508.86 pd on 2-5-04
ck # 2024

98 MARCH 2004

Rent House	450 00
Slip Rent	50 00
AT+T wireless	12 69
Qwest	10 91
AT+T	14 61
Puget S. Eng.	16 55
Cascade Nat. Gas	65 21
Comcast	16 54
City Bham	70 88
	707 39
Levoxa (mo)	33 66
½ Groceries	114 42
	148 08

707.39
- 148.08
559.31 pd on 3-16-04
ck # 2029

99 APRIL 2004

House Rent	450	00
Slip Rent	50	00
Puget S. Energy	16	32
At+T wireless	35	00
Qwest	10	91
At + T	10	00
~~Puget S. Eng.~~		
Cascade Nat Gas	61	17
½ House Taxes	465	09
Sanitary Service	18	28
	1116	77

1116.77
− 550.01
566.76 CK # 2037 pd 4-3-04

LL Bean/Christmas gifts	25	00
½ Food	198	00
Car TABS	37	00
Kids Easter Candy	10	00
4-3-04 Pharmacy	20	44
March MC pharmacy	359	50
Statement Refund −	100	00
	259	50

MAY 2004

100

House Rent	450	00
Slip Rent	50	00
Puget S Eng.	13	69
AT+T wireless	12	77
Qwest	~~10 99~~ 11	96
A + + T	~~10 00~~ 10	00
Cascade Nat Gas	~~44.14~~ 44.	14
~~Sanitary Service~~	~~70 88~~	
City of Anacortes	70	88
	663	44

½ Food	146	00
MC (May) Rx	54	62
	200	62

663.44
− 200.62
462.82 CK # 2048 pd on 6-2-04

101

JUNE 2004

House Rent	450 00
Slip	50 00
Puget S. Eng.	13 52
Cascade Nat. G.	24 86
Comcast	16 55
AT+T wireless	12 69
AT + T	10 08
Qwest	12 03
	587 65

½ Food	113 92
MC Time Ex	72 51
	186 43

587.65
+ 186.43 CK 2052
401.22

102

JULY 2004

House Rent	450 00
Slip	50 00
Puget S. Eng.	11 31
comcast	16 55
City of B-ham	70 88
Sanitary Sew.	18 28
Cascade Nat Gas	17 69
puget S- Eng.	11 24
Qwest	9 30
	655 25

½ Food	175 25

655.25
− 175.25
480.00 CK # 2057

pd. on 7-2-04

DROWN-PRODUCTION-0141

103 AUG. 2004

House Rent	450	00
Slip Fee	50	00
Cascade Nat G	12	76
Puget S. Energy	9	30
AAA membership	40	00
AT+T	10	00
Qwest	12	07
AT+T wireless	12	73
Comcast	16	55
	601	41
	+ 12	00
	613	41

½ Food		205	39

601.41 613.41
− 205.39 = 205.39
396.02 Ck # 2059 12.00

SEPT. 2004 104

House Rent	450	00
Slip Fee	50	00
Cascade N Gas	15	00
Puget S. Eng	9	06
City of Bham	70	88
AT+T	10	00
AT+T wireless	9	14
Qwest	15	09
Comcast	16	55
	644	72

½ Food		152	76
9/9 Costco Fragrance/provisions		64	90
		217	66

644.72
− 217.66
Ck # 2068

DROWN PRODUCTION 0142

105: OCT. 2004

	House Rent	450 00
	Slip	50 00
	Puget S. Energy	11 75
	Cascade N. Gas	29 35
1/2	House TAX	465 09
1/2	CYC Membership	22 50
	Comcast	16 54
	Qwest	11 96
	AT+T	10 00
	AT+T wireless	13 40
	Sanitary Service	18 28
		1,098 87
1/2	Food	189 99

1,098.87
- 189.99 CK 2004
908.88 net on 10th bill

NOV. 2004

106

	House Rent	450 00
	Slip	50 00
	Puget S. Eng.	15 43
	Cascade Nat Gas	47 74
	Comcast	16 54
	Qwest	11 96
	AT+T	10 00
1/2	AT+T wireless	13 14
	City of Ahtanum	70 88
		685 69
1/2	Food	153 54
mc	Christmas Tickets	148 20 Spokane
Joannes	Blankets Jarrell Bros	22 00
		323 74

685.69
- 323.74
361.95 net on 11th bill CK 2010

I will be paying the Hotel Fee in Spokane

DROWN PRODUCTION - 0143

101 DEC. 2004 / JAN 05 108

House Rent	450	00
Slip	50	00
Puget S. Energy	18	37
Comcast	16	55
~~Encompass-Household~~	~~[illegible]~~	00
Cascade Nat Gas	79	80
Qwest	11	96
AT+T	10	00
light house mission	13	43
	1532	11
1532.11		
- 455.98		
1,076.13 CK # 2083		
Blinds 1/2	324	60
Christmas		
1/2 Gift Cert 25.00		
~~Barnes & Noble~~ ~~Felony & Misdem~~	12	50
" Dean Lamon	12	50
" John + mange	25	00
" Kenon Bimb	25	00
Shipping Client + Candy	57	41
extra Client Candy	33	97
Client Candy	50	00

House Rent	450	00
Slip	50	00
Comcast	16	55
Qwest	11	96
AT+T	10	00
Puget S. Energy	19	02
Cascade Nat Gas	94	92
~~Encompass~~		
Sanitary Service	18	72
City of Bham	70	88
$60.00 12 Seat difference Bat/Cat Reg House Rate	60	00
	801	55
1/2 Faced	143	09
1/2 Consumer Reports	13	00
	156	09
$801.55		
- 156.09		
$ 645.45 CK # 2089		

887.00 Encompass ad on 3-4-05
+ 600.00 pen w difference
1487.00 Hotel (Treasurer) Randy does not
- 887.00 have to pay 100.
600.00

109

FEB 05

House Rent	450 00
Slip	50 00
Comcast	16 55
Puget S. Energy	15 68
Qwest	12 20
AT+T	10 00
Cascade Wat G.	62 35
City of Bham	65 32
	682 10

½ Food 137 87

682.10
+ 137.87
= 819.97

MARCH 05

110

House Rent	450 00
½ Slip Fee	50 00
Comcast	16 55
Puget S Eng.	16 70
Qwest	12 20
AT+T	10 00
Cascade Wat G.	60 91
	706 36

Valentines olive garden 28.00

½ Food 140.28

168 28

706.36
- 168.28
= 538.08

111 Apr. 1: 05

House Rent	450 00
SWP	140 00
Comcast	16 58
Sanitary Sew	18 19
P. Sound Energy	14 44
Cascade Nat G	58 52
½ House TAX	448 67
	1146 37

½ Food	168 21
Walgreens Rx	18 00
Car Registration	33 00
	219 21

1146.37
− 219.21
$927.16

Ck — 2098
mail on 4-28-05

MAY . 05 112

House Rent	450 00
SWP	140 00
Comcast	16 55
← see A+T X2	20 00
← see Quest X2	24 40
City of Bham	64 19
Puget S. Ens.	12 95
~~Circuit City TAX~~	~~37 90~~
	728 09

½ Food	140 77
Hogsland Rx	26 14
Circuit City Thmb TAX	37 90
	204 81

728.09
− 204.81
523.28 ~~Ck #~~ on 6-3-05

115 [redacted] JUNE .05

	House Rent	450 00
	Slip	140 00
	Comcast	16 55
	AT+T	10 00
	Quest	12 20
	Puget S. Eng.	12 19
See check book	~~Boat rent~~	~~94 29~~
MC	Cascade N. Gas	63 43
		704 37
	½ Food	109 26
½	Boat Fenders	43 80
½	Pillowcase covers	9 74
		162 80

704.37
− 162.80
541.57 ck 2111 6.27.05

JULY .05 114

	House Rent	450 00
	Slip	140 00
	Comcast	16 55
	AT+T	10 00
	Quest	12 13
½	Neighborhood light	9 74
	City of Bham	62 05
	Sanitary Servic	18 19
	Puget S. Energy	12 19
	Cascade Nat. Gas	17 33
		748 18
	Pillow cases	108.00
	½ Food	96 97
	[redacted]	[redacted]
	½ Uhaul	15 00
		111 97

748.18
− 111.97
636.21

Rec on 8-3-05
Ck # 2124

115 Aug. 05

House Rent	450 00
Slip	145 00
Comcast (pd my checkbook)	
A+T	10 00
Quest	12 20
Puget S. Eng.	10 11
Cascade Nat G	13 02
	640 33
½ Food	134 72
A+B machine	106 15
	240 87

[redacted]

640.33
−240.87
399.46

pd on 8-30-05
ck # 225

116 SEPT 05

House Rent	450 00
Slip	145 00
A+T	10 00
Quest	12 00
City of Bham	64 19
Cascade Nat Gas	16 85
Puget S. Energy	21 78
Sanitary Service	22 61
~~AAA membership~~ cancelled check	~~41 50~~
	783 93
Carblanket MIC	16 00
½ Food	186 00
	202 00

783.93
−202.00
581.93

~~pd on 10-6-05~~

Randy pd me ½ dinghy + cover
$633.22 ck 1899

Paid Check For Dinghy
+ Cover $633.22
Ck # 1899

OCT 05

House Rent	450 00
Slip	145 00
A + T	19 35
Qwest	12 00
2 of 3 House TAXES	448 60
½ Whatcom Gutter	46 57
Bonus member	7 00
Cascad Nat G.	63 43
Puget S. Energy	11 40
	1203 41

½ Food 143 12

1203.41
− 143.12
1060.29 CK # 2135
pd 10-29-05

NOV. 05

House Rent	450 00
Slip	145 00
A + T	10 00
Qwest	12 16
Water / Sewer	64 90
Puget S. Energy	13 90
Cascade Nat. Gas	35 11
	731 07

½ Food 104 96

731.07
− 104.96
626.11

pd on 11-21-05 Ck 2139

119 Dec. 05

	House Rent	450 00
	Slip	145 00
	At+T	10 00
	Qwest	12 00
½	Boat us ins.	314 00
	Cascade Nat Gas	80 47
	Puget S. Energy	16 76
½	Penco Home Ins.	147 00
		1175 23
	1175.23	
	−378.26	
	796.97 ck 2146	pd 12-7-05
½	Food	146 09
	Christmas Gifts and Bonus Money	
½	Jenn Levita	12.50
	John Marge	25 00
	Karen Rumbo	25 00
½	Dan Lower	12 50
	Kids Blankets	32 00
	Calendars	12 00
B	Client Gifts	24 00
	Shipping	28 60
	Agnes- Kmart	50 22
	Agnes- Shipping	10 35

120 Jan. 06

	House Rent	450 00
	Slip	145 00
	At+T	10 00
	Qwest	12 00
	Sanitary Serv.	19 12
	Penn Quinto	409 50
	Puget S. Energy	15 66
	Cascade Nat Gas	62 96
	city of Bham	62 76
		1,187 00
½	Food	183 90
½	mark B-day	8 00
	Continued mgr. ATT	100 69
	Gas	30 00
		322 59
	1187.00	
	− 322.59	
	864.41 pd	1-3-06
		ck 2155

App. F-37

121 FEB 06

House Rent	450 00
Slip	145 00
At & T	15 00
Qwest	15 00
Cascade Nat G	73 23
Puget S. Energy	15 39
	713 62

½ Food	156 25
magnifier	10 83
½ Consumer Reports	13 00
Costco Gas Randy	30 00
	210 08

713.62
- 210.08
503.54 CK # 2158

122 March 06

House Rent	450 00
Slip	145 00
At & T	15 00
Qwest	15 00
Cascade Nat G	75 64
Puget S. Eng	16 76
City of Bham	64 19
	781 59

½ Food	173 76
Mailing LLBean + Hester	18 63
	192 39

781.59
- 192.39
589.20
CK # 2163

App. F-38

123 April 06

House Rent	450 00
Slip	150 00
½ of ½ House TAX	597 47
Puget S. Energy	11 61
Sanitary Service	19 73
Qwest	15 00
AT+T	15 00
Cascade Nat G	70 00 Estimate
	1328.81

428 Costco lawn mower 329.00 / Returned cash back

½ Food 182 00

1328.81
- 182.00
1146.81

CK # 2167

MAY 06 124

House Rent		450 00
Slip		150 00
Qwest		15 00
AT+T		15 00
Cascade Nat Gas		44 25
½ Cyc Membership		25 00
Randy's Car Transport		67 50
~~Puget~~ S. Energy		10 81
water/sewer City of Bham		64 90
		842 46
½ Food		147 32
Shannon NW prop		86 40
Shannon ½ Lawn mower Bellingham mower		200 00
		433.72

842.46
- 433.72
408.74 CK # 2173

125 06 126

June	
House Rent	450 00
½ Boat Slip	150 00
puget sound	10 00
Cascade Nat Gas	32 18
At+T	15 00
Quest	15 00
	672 18
½ Food	126 50
½ Truck pillows	34 00
½ Truck mats	9 50

672.18
- 126.50
- 34.00
- 9.50
502.18

pd on 7-4-06
CK 2196

July 06	
House Rent	450 00
½ Boat Slip	150 00
At+T	15 00
Quest	15 00
City of Dham	63 48
Cascade N. Gas	19 51
Sanitary Service	19 79
puget S. Energy	9 69
½ Premco Truck Ins	145 22
	887 69
½ Food	72 79

887.69
- 72.79
814.90

pd. 7-25-06
CK 2179

127

Aug

~~Aug~~ House Rent	450 00
½ Boat Slip	150 00
AT+T	15 00
QwesT	15 00
Cascade Nat G	11 66
Puget S. Energy	10 97
	652 63

½ Food	149 96
Randys Shoe Repair	24 88
	174 84

652.63
- 174.84
477.79 CK 2187

Dep 1

128

House Rent	450 00
½ Boat Slip	150 00
AT+T	15 00
QwesT	15 00
Puget S. Eng.	11 87
City of Bham	64 90
Cascade N. Gas	16 49
Boat us	9 50
	732 76

B. ½ office max phone 108.39
½ AAA membership 27 00
½ Book 122 09
257 48

732.76
- 257.48
475.28 pd on 9-28-06
CK 2194

127

	House Rent	450 00
½	Boat Slip	150 00
	AT&T	15 00
	Qwest	15 00
	Sanitary Service	19 79
	Cascade Nat Gas	28 56
	Puget S. Energy	12 59
½	House Taxes (6 months)	597 47
		1,288.41

½ Food 100 63

1,288.41
− 100.63
1,187.78 Ck # 2200
to Randy on 10-22-06

Sold "92" Camry on 10-6
$2,850.00. Proceeds went
[illegible]

	House Rent	450 00
½	Boat Slip	150 00
	AT&T	15 00
	Qwest	15 00
	Puget S. Energy	15 30
	Cascade Nat Gas	62 36
	City of Bham	64 19
½	MDA donation	12 50
½	Corinthian Yacht Club	22 50
		806.85

½ Food 192 84
½ treadmill pmt 163 00
Portland Cash 80 00
Lowes Tree Trimmers 35 72
471.56

806.85
− 471.56
335.29 Ck # 2209

App. F-42

171 DEC 06 JAN 07 172

	House Rent	450	00		House Rent	450	00
	½ Boat Slip	150	00		½ Boat Slip	150	00
	AT+T	15	00		AT+T	15	00
	Qwest	15	00		Qwest	15	00
	Cascade Nat G.	88	92		Cascade Nat Gas	87	11
	Puget S. Energy	19	66	Streetlight	Puget S. Energy	10	65
½	Car Ins.	463	50		Sanitary Serv.	19	90
½	House Ins.	153	00		Puget S. Energy	19	58
½	Boat Ins.	322	00		City of Bham	65	61
½	Dean Lauran	12	50			832	85
½	Doreein Sanders	7	50				
½	Jeny Leeton	12	50				
½	Camera/Christmas	180	00				
	1,889.88	1889	88				
	- 391.66						
	1,498.22 CK 2219				½ Food	132	54
	½ Food	172	81				
	B-day Coat	106	89				
	Client Candy	24	00				
	Lightbulbs	5	00		832.85		
	mailing Candy	28	96		- 132.54		
	Kristin Slippers	10	00		700.31 CK		
	Jaccin Ball	12	00				
	RX	30	00				
		391	66				

Feb. 01

	House Rent	450 00
	½ Boat Slip	150 00
	At & T	15 00
	Qwest	15 00
	Puget S Energy	16 86
	Cascade N Gas	90 72
		737 58
	½ chains for car	27 10
		764 68
	HMA Med. Ins.	234 65
½	Food	243 21
25%	Amtrak/parking	149 95
	Consumer Report	13 00
		640 81

764.68
- 640.81

123.87

CK 2232

March 01 134

	House Rent	450 00	
	½ Boat Slip	150 00	
	At & T	20 00	
	Qwest	20 00	
	Puget S. Energy	17 17	
	Cascade Nat G.	69 75	
	City of Bham	66 28	
		793 20	
	HMA Ins.		234 65
½	Kalispell Hotel	[illegible]	131 78
	½ Food		160.64
			[illegible]
			527 07

~~793.20~~ 793.20
~~- 292.42~~ - 527.07
~~500.78~~ 266.13

CK 2233

DROWN PRODUCTION - 0157

App. F-44

135 April 07

House Rent	450	00
½ Boat Slip	150	00
AT+T	15	00
Qwest	17	24
Puget S. Eng.	14	93
Cascade N. Gas	61	05
½ Honda OAKLAND	See Purchase Price	
½ tow bar	53	33
½ Birch Tree Removal	200	00
½ of ½ house TAX	561	98
Sanitary Service	19	96
	1543	49

HMA Ins	234	65
½ Food	221	53
½ Rockchip Repair	16	26
	472	44

1543.49
- 472.44
1,071.05 ck # 2238
pd on 4-24-07

136 MAY 07

House Rent	450	00
½ Boat Slip	150	00
AT+T	21	08
Qwest	18	18
Puget S. Energy	13	98
Cascade N. Gas	47	37
City of Sham	66	50
½ Remco Honda Ins.	39	57
	806	68

HMA Insurance	234	65
½ Food	161	85
½ Lowes (May inc)	178	11
	574	61

806.68
- 574.61
232.07 pd on 6-15-07
ck 2242

App. F-45

137 June 07

House Rent	450 00
½ Boat Slip	150 00
AT+T	23 58
Qwest	18 86
Puget S. Ens	13 64
Cascade Nat Gs	38 05
[illegible]	4c
	694 13

694.13
- 839.38
(- 145.25)

HMA Ins	234 65
Rite Aid Rx Thyroid	44 99
½ Fence	374 86
½ Food	184 88
	839 38

OK

July 07 138

House Rent	450 00
½ Boat Slip	150 00
AT+T	24 44
Qwest	20 09
Sanitary Serv	22 17
Cascade Nat Gas	25 62
Puget S Energy	13 50
City of Bham	68 79
	774 52

774.52
- 704.17
70.35

HMA Insurance	234 65
½ Food	110 85
½ Landscape (MC June)	358 67
	704 17

OK

App. F-46

139 Aug 07

House Rent	450	00	
½ Boat Slip	150	00	
At + T	23	00	
Qwest	20	00	
Cascade Nat Gas	15	05	
Puget S Eng	12	75	
	670	80	
½ MJ Mexicco	21	08	
½ Iowa	18	97	
total	710	85	
½ Food	153	50	
HMA Ins.	234	65	
½ MC Misc (July)	175	89	
Paid m. Exch Boat wheel	~~315~~	~~39~~	157.20
aug. mc Randy Rx + underware	65	56	
	~~1259~~	93	
	787	30	
1670.80			
+ 787.30			
(WC-50)	710.85		
	~~787.30~~		
	(76.45)		

Sept	07
House Rent	450.00
½ Boat slip	150.00
AT&T	23.00
Qwest	20.00
City of Bham	70.32
tree Service	125.00
Cascade N. Gas	21.27
	859.59

HMA Fns.	243.65
½ Food	192.10
Mc misc (aug.)	65.56
½ bike carrier	62.33
	563.64

859.59
563.64
nac as OK

Oct.

	07
ouse Rent	450 00
Boat Slip	150.00
+ + T	23 00
lwest	20.00
anitary Serv.	19.96
YC	22.50
scade N. GAS	39.30
get S. Eng.	16.69
	741.45

Sept

mc misc	60.05
Food	82.12
MA Ins.	234.65
	376.82

741.45
- 376.82
364.63

paid 509.23
ck # 2266
for June July aug
Sept oct.

NOV. [redacted]

House Rent	450.00
½ Boat Slip	150.00
At + T	23.00
Qwest	20.00
Cascade N. GAS	59.57
Puget S. Enrg.	12.47
½ Sailrite	725.48
½ Tradewinds	30.24
City of B-ham	68.79
½ Tradewinds	42.12
½ Tradewinds 34.02 should be calculated.	1581.67
½ Food	102.96
HMA Ins	234.65
½ pressure washer	86.70
½ Crocks	65.03
[redacted] ½ Sailrite Binder	40.33
	529.6

1581.67
- 529.67

CK #2276

Dec. Mom. 07

ouse Rent	450.00
Boat Slip	150.00
l + T	21.24
west	18.83
nset Sound E.	22.93
scade Nat. G.	71.02
ity of Bham	65.73
Car GPS	189.70
walmart dishes	18.00
	1007.45

½ Food			175.66
HMA Ins.			234.65
nlayna	25.00	Barnett Nobel Shawns CC	12.50
n Marge	25.00		25.00 Didn't Get
ylerton	25.00		12.50
~~walmart dishes~~			10.00
~~auto Shack Battery~~			
			470.31

207.45
70.31

337.14 Shawns check # 2278

DROWN PRODUCTION - 0164

JAN 08

House Rent	450.00
½ Boat slip	150.00
AT + T	21.24
Qwest	19.42
Puget S. Energy	23.33
Cascade NAT GAS	78.18
Sanitary Service	20.02
	762.19

16219 utilities

½ Food	169.50
½ 3 heaters	79.67
HMA Ins	234.65
	483.8

762.19
- 483.87
278.32 Shanons ck 278.32 CK#:

Pemco Insurance / Boat US

We split home Ins two ck's 174.50 eac

We split Auto Ins two ck's 458.62 ea.

We split Boat Ins two ck's 312.50 e

(6)

Feb 08

House Rent	450.00
½ Boat Slip	150.00
At + T	23.64
Qwest	18.79
Puget S Energy	51.30
Cascade N. Gas	82.27
½ Street light	10.82
	766.82

166.82 utilities

HMA Ins.	234.65
½ Food	190.00
	424.65

766.82 Covers Feb & march
- 242.65

SB4.17 Ck # 2290
Randy gave back to me
For all Expenses.

C

March 08

House Rent	450.00
½ Boat Slip	150.00
AT+T	23.64
Qwest	19.37
Puget S Energy	26.97
Cascade Nat. Gas	58.75
City of Bham	71.46
800.19	total 800.19
1299 44	
(499.25)	200.19 until.

Walker	21.64
HMA Insurance	234.6
½ Food	148.2
½ Karen Steve Gift card	25.00
Walmart Prilosec	27.08
Walgreens Rx 10.00 / 12.34	22.34
Bath Bench misc	48.64
Bath cushion	9.57
Cup holder + urinal	16.0
~~Toilet seat~~	23.1
Wheel chair	378.
Rail + brackets	½ 8.5
Sears Glasses	336.
total	1.299.

April 08

House Rent	450.00
½ Boat Slip	150.00
AT&T	75.29
Qwest	
Puget Sound Energy	31.93
Cascade Nat Gas	58.24
Sanitary Service	20.45
Comcast	121.72
Whatcom House TAX	532.84
KVOW	37.50
City of Bham	68.49
	1,476.46

343.62 Util.

½ Food 171.48

(Forgot to charge Jim A)

1476.46
- 171.48
1,304.98 ★ Bank moved money for me to Randy's checking on 5-8-08

(9)

May 08

House Rent	450.00
½ Boat slip	150.00
Puget S. Eng.	22.28
Cascade Nat @.	52.62
Comcast (44.40 + 15.00)	59.40
	734.30

~~1343.0 4 W t.~~

734.30
- 518.27

216.03 pd on 4.27.08
CK 2299

HMA Ins.	234.65
½ Food	166.85
priv sec walgreens	28.99
½ Sonicare toothbrush	51.48
Sears PJ's	27.09
½ Ant Spray	9.21
	518.27

Randy gave me $100.00 Cash. * see Shelly

(10)

June 2008

House Rent	450.00
½ boat slip	150.00
Comcast / phone / TV	104.00
Puget S Energy	25.00
Cascade N. Gas	29.10
	758.10

158.10 util.

758.10
- 449.90
308.20 CK

HMA Ins.	234.65
6-1-08 Walmart ATM Check / Prisons	31.43
½ Food	183.82
	449.90

(11)

July 2008

House Rent	450.00
½ Boat Slip	150.00
Comcast	104.00
Puget S. Energy	17.34
Cascade N. Gas	17.85
City of Bhamm	71.00
Sanitary Service	21.13
232.33 4ti1.	831.33

831.33
- 807.10
24.23 CK 2304

907.10
100.00 cash from Amy
807.10

HMA Ins.	234.65
½ Food	150.14
MC- Randys phone Best Buy	180.10
Jitterbug 1 year	144.06
Rx	10.00
½ Exercise Bike	146.34
Jitterbug Setup Fee	41.81
	907.10

Aug 2008

House Rent	450.00
1/2 Boat Slip	150.00
Comcast	46.58
Puget Energy	16.95
Cascade N. Gas	18.87
Comcast Cable	15.00
~~Comcast~~ city Ohm	92.69
Boat us Membership	11.50
~~us postal~~ ~~fidelity~~ ~~class~~ ~~stamps~~	781.59

~~81.59 WH~~

IMA Ins	234.65
1/2 Food	258.36
Jitterbug (Shannons MC)	3.65
	496.66

781.59
-496.66
284.93 ck 2310
pd on 10-2-08

(13)

Sept 2008

House Rent	450.00
1/2 Boat slip	150.00
Comcast	44.65
Comcast Cable TV	15.00
Puget S. Energy	19.73
Cascade N. Gas	15.29
1/2 House Taxes	532.84
	1,227.51

94.62 yb'l

HMA Ins	234.65
1/2 Car Licensing	21.87
1/2 Fees &	178.22
error ~~AAA membership~~	27.50
US Postal Fidelity checks stamps	12.45
* See Next page	474.69

1227.51
- 474.69

~~752.82~~ Ck # 2363 pd on 10/4

(14)

Oct. 2008

House Rent	450.00
½ Boat Slip	150.00
Comcast	44.40
Comcast Cable TV	16.49
Puget S. Energy	25.30
Cascade N. Gas	29.09
Sanitary Service	21.60
½ Corinthian Yacht club	22.50
* correction From pg 13	759.38
+ AHH Membership	27.50
	786.88

186.88 util.

HMA Ins.	234.65
½ Food / Rx	168.52
	403.17

786.88
- 403.17
383.71 CK #2317
pd on 11-1-08

DROWN PRODUCTION - 0174

(15)

NOV. 2008

House Rent	450.00
½ Boat Slip	150.00
Comcast	44.40
Comcast Cable TV	16.49
Puget S. Energy	31.20
Cascade IV Gas	53.70
City of Bham	70.17
	815.96
Shannons CC Walgreens	- 75.76
	740.20
152.25 Util	63.46
	752.25

HMA Ins.	234.65
½ Food	123.64
	358.29

752.25
- 358.29
393.96 Ck # 2321 pd on 11.23.08

APPENDIX G

SCANNED

Honorable Judge Ira J. Uhrig

FILED

MAY 26 2011

WHATCOM COUNTY CLERK

By:

IN THE SUPERIOR COURT OF WASHINGTON FOR WHATCOM COUNTY

In Re the Estate of: RANDALL J. LANGELAND, Deceased.	No: 09-4-00039-9 FINDINGS OF FACT AND CONCLUSIONS OF LAW

THIS MATTER having come on duly and regularly for trial from May 10, 2011 to May 12, 2011 before the Honorable Ira J. Uhrig, Judge of the Superior Court, on the issues of (1) the status of estate assets as either jointly or individually acquired and the respective interests of the parties in said assets; (2) a determination of the Estate and Ms. Drown's interests in the property located at 3946 Lakemont Street, Bellingham, WA; (3) whether the alleged inter vivos gift of the IRA from Mr. Langeland to Ms. Drown was a valid transfer; and (4) whether the estate should properly deny Ms. Drown's creditor's claim in the amount of $500,000+, Petitioner Janell Boone having been represented by her attorneys of record, Michael L. Olver and Kameron L. Kirkevold of Helsell Fetterman LLP, and Respondent Sharon Drown having been represented by her attorney of record, Douglas R. Shepherd of the Law Offices of Douglas R. Shepherd, and the Court having reviewed all of the pleadings and exhibits herein, and the Court having heard the testimony of all witnesses and all arguments of counsel, and the Court being otherwise fully advised in the premises, the Court

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Seattle, WA 98154-1154
206.292.1144 WWW.HELSELL.COM

does now hereby make and enter the following findings of fact and conclusions of law. Insofar as any finding of fact may constitute a conclusion of law, and insofar as any conclusion of law may constitute a finding of fact, then each shall be incorporated into and are hereby incorporated under the appropriate categories of findings of fact or conclusions of law.

FINDINGS OF FACT

1. Decedent, Randall J. Langeland, died January 9, 2009, leaving no Last Will and Testament.

2. Decedent was survived by Petitioner, Janelle Boone; two grandchildren; Jacob Gandel, 18; and Kristin Boone, 14; and his mother Agnes Langeland.

3. At the time of Decedent's death, he was living with Sharon Drown.

4. Decedent and Sharon Drown had been involved in a Committed Intimate Relationship for many years.

5. Decedent and Sharon Drown shared work on household domestic duties.

6. Decedent and Sharon Drown shared equally in all household expenses.

7. Decedent and Sharon Drown maintained separate bank accounts at all times.

8. Decedent and Sharon Drown did not comingle assets, except for 3 checks totaling $6,650 described in Exhibit 29 which Sharon Drown deposited in decedent's account by accident.

9. Decedent and Sharon Drown maintained the separate character of all property except property which was intentionally purchased jointly as described in the Estate Inventory and Appraisement.

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10. Even if there was a Committed Intimate Relationship, there was no property, other than that specifically set for the Estate Inventory and Appraisement that was jointly acquired to be equitably divided.

11. There was no joint or substantial investment of time or money into any specific asset so as to create any inequities favoring Ms. Drown.

12. Decedent purchased real property located at 3946 Lakemont Street, Bellingham, WA, using his own separate assets.

13. Decedent and Sharon Drown entered into a contract in which Ms. Drown was to acquire an interest in the Bellingham property by making payments in accordance with Exhibit 30 admitted herein.

14. Ms. Drown made payments, including a $10,000 down payment, totaling $17,565.29 in cumulative interest, and $29,144.71 in principal, which equates to a 24.7% ownership interest in the home at the time of Decedent's death.

15. Ms. Drown filled out Exhibit 31 to transfer Mr. Langeland's Fidelity IRA (formerly Enloe Medical Center IRA) on 8-24-08 to a Fidelity account that she created online that named herself as beneficiary. The signatures on Exhibit 31 are ~~not~~ deemed to be those of Mr. Langeland.

16. The accounting of Carolyn Lennington admitted as Exhibit 2, is Approved; the personal representative's fees and attorney's fees set forth therein through 4-28-2011 are approved. Any further fees may be submitted for approval without prejudice and she is hereby discharged.

17. Sharon Drown has advanced numerous unsupported legal theories throughout these proceedings including but not limited to a claim that she is entitled to assets by intestate succession; that she is a spouse; that she has a right to a jury trial; that she should

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be paid for domestic services etc which caused unnecessary attorney's fees and costs to be incurred.

18. The parties received their earnings in their own name; they scrupulously deposited their own earnings into their own accounts titled in their own names; they carefully did not jointly acquire any assets of significance; they meticulously divided, to the penny, all expenses equally; and decedent did not add Sharon Drown to any of his bank accounts; and only allowed her to acquire an interest in the residence by making payments with interest as provided in Exhibit 30. Decedent did not marry Sharon Drown nor did he execute a will in her favor.

CONCLUSIONS OF LAW

1. This court has statutory and plenary authority to grant the relief requested pursuant to Title 11 of the Revised Code of Washington.

2. Sharon Drown is not a statutory heir of the Estate of Randall Langeland, and does not inherit any of the separate assets of Decedent.

3. Sharon Drown holds a one-half interests in personal property described in the Estate inventory as jointly owned property purchased by Ms. Drown and Mr. Langeland.

4. Exhibit 30 signed by Sharon Drown was a valid contract, and through Ms. Drown's partial performance of said contract she has acquired a 24.7% interest in the Estate real property located at 3946 Lakemont Street, Bellingham, WA.

~~5. There is insufficient evidence to support Ms. Drown's claim by clear, cogent, and convincing evidence that decedent gifted to her his Fidelity IRA (formerly Enloe Medical Center IRA) and Ms. Drown is required to return the $56,982.60 to the Estate forthwith.~~ Ms. Drown is entitled to the funds in the Fidelity IRA

6. Ms. Drown is prohibited by Washington State Law from recovering on her

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claim for equitable reimbursement for domestic services, and Ms. Drown's creditor's claim for $500,000+ is disallowed.

7. Ms. Drown should be ~~entitled to an offset against the return of the IRA money of $56,982.60~~ reimbursed by the estate for (a) $3,000 that she paid for decedent's funeral; and (b) $6,650 that she accidentally deposited in decedent's account.

8. Any claim that decedent intended or did jointly acquire assets with Sharon Drown that were titled in his own name through the use of his own income or assets exclusively is substantially rebutted by his careful and meticulous conduct described in Finding 18.

9. The court has discretion to award attorney's fees from any party to any party and concludes that it would be inequitable to require the Estate assets or Janell Boone its sole heir to bear all the costs and fees associated with defending some of the claims advanced herein by Sharon Drown.

NOW THEREFORE, it is hereby ORDERED, ADJUDGED, and DECREED:

1. Ms. Drown's ownership interest in the real property located at 3946 Lakemont Street, Bellingham, WA, is equivalent to 24.7% of the net sale proceeds;

2. ~~Sharon Drown must return $50,782.60 to the Estate by deposit in the court registry within 7 days;~~ The estate shall pay $9,500 to Sharon Drown (which may be offset from the funds in #5, below).

3. Sharon Drown's Creditor's claim is disallowed;

4. Sharon Drown's challenge to the estate inventory is denied and her petition is dismissed.

5. Counsel for Sharon Drown shall immediately pay all estate funds under his control including but not limited to Sharon Drown's May rent of $683 and $75,130.23 in his trust account;

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6. Sharon Drown is ordered to pay the reasonable attorney's fees and costs for Janell Boone in an amount to be determined at a later hearing; and not to include fees or costs related to the Fidelity IRA

7. Janell Boone is hereby re-appointed as successor administrator of the Estate de bonis non without non-intervention powers at this time and the clerk shall issue letters upon the filing of an oath;

8. Carolyn Lennington is Discharged as administrator herein and she shall deposit all funds under her control into the registry of the court except for a holdback of $3,000 to pay future court approved costs of administration and she shall transfer all other estate assets or documents of title in her custody or under her control to Janell Boone upon her qualification as successor administrator.

9. Sharon Drown shall vacate the residence located at 3946 Lakemont Street, Bellingham, WA, within 90 days; Janell Boone is authorized to sell said residence as soon as practicable.

DATED this 26 day of May, 2011.

SUPERIOR COURT JUDGE,
Ira J. Uhrig

Presented by:

HELSELL FETTERMAN, LLP.

By_____
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APPENDIX H

NO. 67255-0-1
(Consolidated with No. 67659-8-1)

COURT OF APPEALS, DIVISION 1
OF THE STATE OF WASHINGTON

In Re The Matter of The Estate of Randle J. Langeland

SHARON DROWN,

Appellant,

vs.

JANELL BOONE as Personal Representative of THE ESTATE OF RANDAL J. LANGELAND,

Respondent/Cross Appellant.

PETITION FOR REVIEW

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Statutes

I. IDENTITY OF PETITIONER

Janell Boone is the petitioner in this Court and was the Respondent in the Court of Appeals.

II. DECISION BELOW

The Court of Appeals' published opinion was filed on October, 28, 2013. Appendix, A-1 to A-18. The court denied a motion for reconsideration on December 5, 2013. Appendix, A-19.

III. ISSUES PRESENTED FOR REVIEW

A. Does the ruling of the Court of Appeals conflict with Supreme Court Precedent by failing to recognize a second means by which individuals in a Committed Intimate Relationship may maintain the separate character of property, besides tracing, to wit, by written and oral agreements acted upon that all property acquired during the relationship will remain the separate property of the individual who acquires it?

B. Does the ruling of the Court of Appeals conflict with prior case law from a different division of the Court of Appeals, to wit *Estates of Palmer*, 145 Wn. App. 249, 187 P.3d 758 (2008) (Div. II), by analyzing the change of an Individual Retirement Account beneficiary designation as a testamentary gift similar to a term life insurance policy purchased with community funds rather than an inter vivos transfer similar to a pay on

death account as in *Palmer*?

IV. STATEMENT OF THE CASE

A. Separation Of Assets

Mr. Langeland and Ms. Drown originally met in Chico, California in 1983. RP 68-69. In 1991, while still residing in Chico, Ms. Drown moved into Mr. Langeland's home, and they continued to co-habitate in a Committed Intimate Relationship ("CIR") until the time of Mr. Langeland's death on January 9, 2009. CP 274; RP 52. The existence of the CIR is not in dispute as the Estate stipulated to the existence of such a relationship months before trial. CP 274.

Beginning in 1991, and throughout the duration of their relationship, Mr. Langeland and Ms. Drown were exceedingly careful to split all expenses equally, and never comingled or pooled their separate assets. RP 216-220; Exhibit 23. In order to maintain the complete separation of their assets, they would meticulously determine each other's proportionate share of all the normal household expenses for each week of each of the 216 months that they lived together, including the requirement that Ms. Drown pay her portion of "rent." RP 216-220; RP 177-179; Exhibit 23; Exhibit 27 (interrogatory no. 23).

Throughout the 18 years of their relationship, Ms. Drown's check registers show the high degree of precision they employed to keep their

assets separated and to divide to the penny each month's expenses. Exhibit 23. Ms. Drown testified that she would make a list of all of the expenses of the household such as groceries, appliances, meals, and all other expenses. RP 216-220; Exhibit 23. Ms. Drown would then determine whether she or Mr. Langeland had initially paid for each individual such expense out of his or her separate account, and credit either herself or Mr. Langeland half of the value of the item in order to ensure that they split all cost precisely in half. *Id.* At the end of each month, Ms. Drown would calculate the difference between her contributions to the mutual expenses, and the credits she received for paying for items with her separate assets. *Id.* Ms. Drown would then subtract what she had already paid from what she owed to the community, and write a check to Mr. Langeland to cover the remainder of her share of expenses. *Id.* In addition, pursuant to a written agreement (Exhibit 30), she would pay "rent" to Mr. Langeland each and every month (see also check register Exhibit 23.) The process was very meticulous and precise, and Ms. Drown and Mr. Langeland followed this same formula each month for the duration of their relationship. *Id.*

This separation of living expenses by Mr. Langeland and Ms. Drown went beyond a simple equal division of all bills. Mr. Langeland and Ms. Drown were also very careful to prevent any co-mingling of

assets and made it a point to never share a common bank account. RP 216-220; RP 328. Ms. Drown testified that she and Mr. Langeland maintained separate bank accounts throughout their relationship. RP 328. The only document which was in both of their names was a short term home equity line of credit used to pay off Mr. Langeland's boat loan. However, Ms. Drown testified that all of the money to repay that loan came out of Mr. Langeland's separate bank account. RP 328. Mr. Langeland did not name Ms. Drown as co-owner or pay on death beneficiary on any accounts, instead naming his mother or daughter as residual beneficiaries. RP182; Exhibit 1; Exhibit 2. Mr. Langeland did not execute a durable power of attorney naming Ms. Drown as his attorney-in-fact, thus preventing her from having any access to his finances. RP 243-244. And he declined to marry her.

B. Disposition Of Separate Property.

1. J. Randle and Associates, Inc.

Mr. Langeland owned a small business known as J. Randall and Associates, Inc. that he ran out of his home. Ex. 1; Ex. 3. When he was able to work full time, tax returns admitted at trial showed business income ranging from $13,059 (2004) to $26,275 (2006) per year. Exhibit 21. The estate inventory, which was not challenged under RCW 11.44.035, valued minor cash and receivables and valued the physical

assets and the good will at zero. No other evidence of value was introduced at trial. This business represented his source of income, which as described above, was kept meticulously separated from Ms. Drown's income. RP 216-220. The court found (FF 18) that Ms. Drown and decedent had conducted their affairs, by agreement (in writing as to the house, Exhibit 30) and by their acts, such that, the court concluded that any claim by Ms. Drown to his (decedent's) own income or assets exclusively is substantially rebutted by his careful and meticulous conduct described in Finding 18. (COL 8).

2. Mr. Langeland's Sailboat.

In 1998 Mr. Langeland purchased a sail boat in Oregon. RP 79. Ms. Drown testified that Mr. Langeland purchased the boat using his own separate assets, and that the boat was registered in his name only. RP 245; RP 79. Notably, he named the boat "Janell" after his only child, Respondent herein. RP 245. Ms. Drown further testified that, after the couple took out a home equity line of credit to pay off the original boat loan, Mr. Langeland repaid the entire home equity line of credit using his own separate assets. RP 328.

3. Bellingham Property.

When the couple moved to Washington in 1999, Mr. Langeland purchased the home located at 3946 Lakemont Street in Bellingham for

$158,500, cash. RP 177-179; Exhibit 30. The couple did not contribute equal assets to the purchase of the property. *Id.* Ms. Drown agreed to contribute $50,000 by a promissory note payable over 15 years to acquire up to a 31.7% interest in the property. Mr. Langeland paid all cash from the sale proceeds of his house in California, which they anticipated would over time be paid down by Ms. Drown to 68.3% interest in the property. *Id.* To fulfill her obligation, Ms. Drown paid $10,000 cash and borrowed the additional $40,000 from Mr. Langeland. *Id.* The loan was memorialized in a promissory note requiring her to pay Mr. Langeland $40,000 over 15 years at 7% interest with a monthly payment of $359.54. *Id.* Exhibit 30. Three documents in Exhibit 30 evidence this contractual intent.

After borrowing the money from Mr. Langeland, Ms. Drown's monthly payments previously classified as "rent," were replaced with her monthly payments on the promissory note. RP 177-179. These payments were made by Ms. Drown out of her separate assets to pay her contractual loan obligation to Mr. Langeland, and did not result in any comingling of assets or acquisition of property rights over and above those specifically allowed by the loan contract. *Id.* Ms. Drown testified that she continued to make payments until December 2008, which was just prior to Mr. Langeland's death. At the time of trial, she had made payments totaling

$17,565.29 in interest and $29,144.71 in principal. RP 325; RP 316; Exhibit 33. As explained by Certified Professional Accountant Bernadette Holiday at trial, Ms. Drown's ownership interest in the home as a result of the payments made pursuant to the Note resulted in a 24.7% ownership interest for Ms. Drown and a 75.3% ownership by the estate at the time of Mr. Langeland's death. RP 316; Ex. 33.

C. Drown Changes The Beneficiary On His IRA

During the last few years of his life, Mr. Langeland's health began to deteriorate due to complex medical problems. RP 54; RP 108. Mr. Langeland suffered from multiple ailments including decreased vision which required him to use a magnifying glass to read. RP 244. According to Ms. Drown, his eyesight was so poor that she would write checks for him because he was not capable of doing so himself. RP 244.

In May of 2008 Mr. Langeland's Enloe Medical Center IRA was transferred to Fidelity by Ms. Drown and she named herself as beneficiary. RP 250-252. Ms. Drown testified that she filled out the form required to transfer the account from Enloe to Fidelity. RP 252. She further testified that she went online to set up the new Fidelity account into which the Enloe funds were transferred. *Id.* Ms. Drown testified that she entered all of the information, including her name as residual beneficiary, into the computer to set up the Fidelity account. *Id.* The

documents purporting to effect the change were full of mistakes and misspellings regarding the names of Mr. Langeland's family members. Exhibit 31. No admissible document or testimony was admitted at trial to prove any involvement by Mr. Langeland in these changes or to prove any intent to make a gift.

However, unrebutted, expert testimony provided by David Sterling, a handwriting expert, demonstrated that Mr. Langeland did not even sign the critical beneficiary change documents which purported to make Ms. Drown the beneficiary of the Fidelity account. RP 385. Mr. Sterling stated the following:

> In my professional opinion, we determined that the signatures were not the signatures of Randal Langeland. The up strokes, the down strokes, the connective strokes, specific letter formations, connected strokes between various letters inside the name Langeland, the final stroke of the small letter "d" in the last name Langeland, various comparisons of capital letters all were inconsistent in size, alignment, formation, length, with other indications that were quite specific as to quality of line, suspect documents signatures represented and displayed a significant amount of tremor, pen pooling, ink transfer to the documents that were highly identifiable and, therefore, it was reduced to a finding that it was highly probable that those indications led to the determination that we have established. RP 385 (emphasis added).

Mr. Langeland did not sign the documents making Ms. Drown the beneficiary of the Fidelity account. The purported signatures were

forgeries, leaving her purported transfers to herself invalid. The Court of Appeals failed to include this asset with the remand for tracing purposes.

D. Procedural History

This is a review of a decision by the honorable Judge Ira J. Uhrig of the Whatcom County Superior Court after a three day trial. Ms. Drown filed various claims that were dismissed before trial. During trial the Court limited her claims against the Estate with regard to the issues of (1) the status of estate assets as either jointly or individually acquired and the respective interests of the parties in said assets; (2) a determination of the Estate and Ms. Drown's interests in the property located at 3946 Lakemont Street, Bellingham, WA; (3) whether the alleged gift of the IRA from Mr. Langeland to Ms. Drown was a valid transfer; and (4) whether the estate should properly deny Ms. Drown's creditor's claim in the amount of $500,000+.

Following trial, the Trial Court made the following Findings of Fact and Conclusions of Law, attached hereto as **Appendix B**, pertinent to this Petition for Review:

> Findings of Fact
>
> 6. Decedent and Sharon Drown shared equally in all household expenses.
>
> 7. Decedent and Sharon Drown maintained separate bank accounts at all times.

8. Decedent and Sharon Drown did not comingle assets, except for 3 checks totaling $6,650 described in Exhibit 29 which Sharon Drown deposited in decedent's account by accident.

9. Decedent and Sharon Drown maintained the separate character of all property except property which was intentionally purchased jointly as described in the Estate Inventory and Appraisement.

18. The parties received their earnings in their own name; they scrupulously deposited their own earnings into their own accounts titled in their own names; they carefully did not jointly acquire any assets of significance; they meticulously divided, to the penny, all expenses equally; and decedent did not add Sharon Drown to any of his bank accounts; and only allowed her to acquire an interest in the residence by making payments with interest as provided in Exhibit 30. Decedent did not marry Sharon Drown nor did he execute a will in her favor.

Conclusions of Law

8. Any claim that decedent intended or did jointly acquire assets with Sharon Drown that were titled in his own name through the use of his own income or assets exclusively is substantially rebutted by his careful and meticulous conduct described in Finding 18.

With regard to the IRA, the trial court made the following Findings of Fact and Conclusions of Law relevant to this Petition for Review:

Findings of Fact

15. Ms. Drown filled out Exhibit 31 [the beneficiary transfer form] to transfer Mr. Langeland's Fidelity IRA (formerly Enloe Medical Center IRA) on 8-24-08 to a Fidelity account that she created online that named herself as beneficiary. The signatures on Exhibit 31 are deemed to be those of Mr. Langeland.

Conclusions of Law

5. Ms. Drown is entitled to the funds in the Fidelity IRA.

The Court of Appeals, in an 18 page published decision upheld much of the trial court rulings, but remanded the case for further proceedings. The Court of Appeals held that the trial court improperly placed the burden on Ms. Drown to prove that the assets were community assets, and that the only way to show the separate character of assets was through tracing of assets, which did not occur at the trial. *Estate of Langeland*, No. 67255-0-1 at pg. 13; *see also Id.* at pg. 15. The Court of Appeals remanded the case for further proceedings to determine the character of property as either jointly owned or separate with the burden on the Estate to show that income and assets acquired during the relationship were not jointly owned "community" assets. *Id.* As will be demonstrated below, such tracing is unnecessary because of the party's written agreement on the house and "oral agreement acted upon" to keep their respective income assets and expenses separate. The Trial Court listed the actions by the couple that manifested their interest. FF 18.

The Trial Court concluded that even if a presumption of community like assets existed it was "substantially rebutted by his [decedent's] careful and meticulous conduct described in Finding 18." COL 8.

The Court of Appeals also erroneously affirmed the trial court decision with regard to the IRA. The Court of Appeals determined that the IRA was analogous to a life insurance policy and applied the ruling in the case of *Francis v. Francis*, 89 Wn.2d 511, 514, 573 P.2d 369 (1978), which held that life insurance policies are not inter vivos transfers of assets, and therefore not held to the higher degree of scrutiny afforded transfers such as pay on death beneficiary designations in the Division II case of *Estates of Palmer*, 145 Wn. App. 249. A Motion for Reconsideration was denied by the Court of Appeals on December 5, 2013.

V. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED

A. The Court Erred by Refusing To Allow Unmarried Persons in a CIR to Make Agreements (Both Written and Orally) Just as Married Persons Might.

The ruling of the Court of Appeals erroneously establishes a legal precedent that individuals in an Committed Intimate Relationship cannot form an agreement to maintain the separate character of their property but must upon death resort to tracing. The Court of Appeals first ruled that Boone and the Estate had the burden of proving that any assets described as Mr. Langeland's separate assets in the Estate inventory were not community assets acquired during the course of his Committed Intimate Relationship with Ms. Drown. The court further held that the only way to

establish the separate character of assets at the conclusion of a Committed Intimate Relationship is through tracing of assets to assets owned or acquired prior to the establishment of the relationship. *Estate of Langeland* at 13.

The Court of Appeals then remanded the case to the trial court for a redetermination of the character of those assets based on the proper burden of proof. *Estate of Langeland* at 15.

The Court of Appeals decision fails to recognize that parties to an committed intimate relationship may maintain the separate character of income and assets acquired during the course of the relationship by agreement between the parties. This is analogous to the right of a married couple to enter into an agreement regarding the status of their property under RCW 26.16.120. While the burden may be on the one attempting to show such an agreement, if such an agreement is proven to exist, income and assets should remain separate in accordance with the terms of the agreement.

The right of parties to Committed Intimate Relationships to enter into such agreements is established by long standing legal authority. The Washington State Supreme Court addressed the issue in *Humphries v. Riveland*, 67 Wn.2d 376, 386, 407 P.2d 967 (1965). In *Humphries*, the court was faced with the issue of determining ownership of property after

the death of one party to a Committed Intimate Relationship. The surviving party asserted that the couple had an agreement regarding the ownership of real and personal property acquired during the relationship, and that she was thereby entitled to receive one half of the decedent's estate. *Id.* at 380. While the court denied the claim because it could find no evidence of such a contract, the Supreme Court ruled in favor of the right of parties to such a relationship to form a contract, stating, "Persons in such relationships have the same right to contract with each other as domestic strangers..." *Id.* at 386. Like married couples or even those who have no personal relationship at all, parties to a Committed Intimate Relationship are permitted to form agreements concerning the disposition and ownership of property acquired during the relationship.

The Supreme Court upheld the existence of an agreement concerning the disposition of property acquired during a Committed Intimate Relationship in another earlier case of *Hynes v. Hynes*, 28 Wn.2d 660, 184 P.2d 68 (1947). In *Hynes*, Jack and Frances Hynes were in a Committed Intimate Relationship and moved to Washington State from Alaska. *Id.* at 669. In Washington, they lived together for several years acquiring both real and personal property. *Id.* At the conclusion of the relationship there was a dispute about the division of the assets acquired during the relationship. *Id.* at 661. The trial court found that the parties

had an oral agreement to own all property acquired during the relationship as jointly owned property. *Id.* at 669. Based on this agreement, the Supreme Court upheld the decision of the trial court, holding that a couple in a Committed Intimate Relationship can form an agreement regarding the ownership of property acquired during marriage. *Id.* at 672.

In determining whether an agreement exists, the court should consider manifestations of intent at various points in time in a couple's life to determine if an agreement exists. *Bay v Estate of Bay*, 125 WnApp. 468, 476, 105 P.3d 434 (2005). In *Bay* a widow vested with a presumption that she should receive a full interstate share, saw that presumption rebutted by just two acts performed by the decedent 13 years apart. Similarly here, any presumption of community income or community assets was rebutted by the thousands of daily acts described in Finding of Fact 18 by the trial judge that lead to Conclusion of Law 8 that the presumption was rebutted.

The Honorable Ira Urhig found that the parties had entered into an agreement to maintain the separate nature of all assets acquired during the relationship. Judge Uhrig applied the correct burden of proof, placing the burden on Boone to show that the division of assets described in the Estate Inventory was correct. In finding number 18, written down in full *supra*, Judge Uhrig describes the agreement between Mr. Langeland and Ms.

Drown. From the very beginning of their 18 year relationship the couple was meticulous in their efforts to maintain the separate character of their assets. They never shared bank accounts; they split every expense equally; and they kept a meticulous record of the maintenance of these separate assets which was presented at trial. In Conclusion of Law number 8, Judge Uhrig states that any claim that there were joint assets is "substantially rebutted" (underline added) by the careful and meticulous conduct described in Finding 18. The reference to "substantially rebutted" shows that Judge Uhrig found that the couple actively prevented the accumulation of jointly held assets.

In rendering its decision on this matter, the Court of Appeals ruling contradicted prior Supreme Court decisions holding that couples in Committed Intimate Relationships could form agreements to control the disposition of property acquired during the relationship. Like a married couple who enters into a marital agreement under RCW 26.16.120 to control the disposition of assets acquired during marriage, Mr. Langeland and Ms. Drown had an agreement which prevented the accumulation of any jointly owned assets. This Supreme Court should accept review of this matter to confirm that parties to an Committed intimate Relationship may enter into an agreement to control the disposition of assets acquired during the relationship.

B. The Decision Of The Court Of Appeals Conflicts With Prior Case Law From Division II Which Required Beneficiary Designation Changes on Pay On Death Accounts To Be Treated As Inter Vivos Transfers Subject To Higher Scrutiny.

In *Estates of Palmer*, Division II of the Court of Appeals held that the change of beneficiary on a pay on death account was an inter vivos transfer of assets that required the recipient to prove valid by evidence which was clear, cogent, and convincing. *Estates of Palmer* involved a dispute between siblings Dawn Golden and Donald Palmer over funds Golden transferred using a durable power of attorney from an account in her mother's name to a joint account with right of survivorship for her mother and herself. *Palmer*, 145 Wn. App. at 253. Golden transferred over four hundred thousand dollars in assets into a bank account which named Golden as the pay on death beneficiary. *Palmer* at 255. The major issue at trial was whether the funds were converted or were authorized by the decedent by a pay on death beneficiary change document. The trial court applied an intervivos gift analysis and based upon the facts held that a conversion had occurred. *Palmer* at 255-56.

On appeal, Golden argued that the trial court should have placed the burden on Palmer to prove the invalidity of the transfer into the JTWROS account rather than herself to prove it was valid. The Court of Appeals rejected this argument at page 261:

> Golden's argument lacks merit. She relies on the presumption of testamentary capacity, which refers to the mental capacity to make a valid will. But this presumption does not apply when an agent claims that certain inter vivos transfers to him from the principal were gifts. Rather, the common law of gifts applies. First the agent must prove by clear, convincing, strong, and satisfactory evidence that the transaction was actually a gift. Second, where the parties were in a confidential relationship (here, a durable power of attorney relationship), the agent also has to prove by clear, cogent, and convincing evidence that she did not exert undue influence on the principal. Golden is incorrect that Palmer had to prove that Sarah did not approve the transfers of her property to Golden.

Palmer, 145 Wn. App. at 261 (emphasis added; internal citations omitted).

The Court of Appeals in the present case, however, declined to adopt the ruling in *Palmer*, instead comparing the beneficiary designation change on the IRA to a life insurance policy, such as the one in *Francis*, 89 Wn.2d 511. An IRA is a form of pay on death account, and the decision of the Division I Court of Appeals in this matter, to treat the IRA as a post death transfer of assets, is in conflict with the decision in *Palmer*. This conflict between the divisions of the court of appeals must be addressed by the Supreme Court in this case to determine who has the burden of proof to show the validity or invalidity of a beneficiary designation change on an IRA.

The Court of Appeals also ignored a long line of cases that

analyzed Joint Tenancy With Right Of Survivorship and Pay On Death cases based upon the intent of the testator to make an inter vivos gift at the time of the event (not like a life insurance policy.) Decision at 16:

Placing another person's name on *a stock certificate* or bank account is analyzed under the "intent to make a gift" analysis in *Stringfellow v. Stringfellow*, 53 Wash.2d 639, 335 P.2d 825 (1959) (stocks); *In re Patton's Estate*, 6 Wn. App 464, 494 P.2d 238 (1972), Rev. Den. 80 Wash 2d 1009 (stocks);

Placing another person's name on *a bank account* is analyzed based upon "intent to make a gift" analysis in *Daly v. Pacific Savings and Loan Assn.*, 154 Wash 249, 251-252, 282 P. 60 (1929) Savings account in title only—no JTWROS. Same: *Wolfe v. Hoefke*, 124 Wash. 495, 214 P.1047 (1923) and *Meyers v. Albert*, 76 Wash 218, 135 P. 1003 (1913).

VI. CONCLUSION

Unmarried seniors; gay partners, and people like Randy and Sharon live their lives according to their own rules and terms of engagement, some in writing, but mostly not.

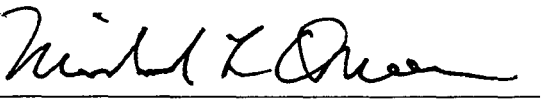
They think that the written agreement and their oral terms of engagement, manifested by every act ever done, will protect them from a de jure common law marriage. If the decision below continues as the law in this division, agreements will have no weight, and presumptions will

only be able to be overcome by tracing.

In addition, all precedent analyzing the ownership of accounts use inter vivos gift principles, so how did the IRA beneficiary change done by Sharon now default to a term life insurance analysis?

There needs to be a consistency in legal analysis so that people can chart their lives, much as Randy tried to do. This court needs to accept this Petition for Review to homogenize the law and protect unmarried persons from a discriminatory analysis.

HELSELL FETTERMAN LLP

By: 

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CERTIFICATE OF SERVICE

I, NIKKI FALLIS, hereby declare and state as follows:

1. I am over the age of majority, competent to testify and make the following statements based upon my own personal knowledge and belief.

2. I am now and at all times herein mentioned employed by the offices of Helsell Fetterman LLP, 1001 4th Avenue, Suite 4200, Seattle, WA 98154.

3. In the matter of Estate of Randle J. Langeland, Sharon Drown, Appellant vs. Janell Boone as Personal Representative of the Estate of Randal J. Langeland, Respondent/Cross Appellant, No. 67255-0-1 (Consolidated with No. 67659-8-1) I did on the date listed below (1) cause to be filed with this Court the Respondent/Cross Appellant's Petition For Review and (2) caused the same to be delivered via email to attorney, Douglas Ross Shepherd, Shepherd & Abbott, attorney for Sharon Drown.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.

DATED: January 6, 2014

Nikki Fallis

NIKKI FALLIS