

No. 36222-8-II

COURT OF APPEALS  
DIVISION II  
OF THE STATE OF WASHINGTON

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In Re ESTATES OF ALFRED S. PALMER AND SARAH L. PALMER

DAWN PALMER GOLDEN,

Appellant

v.

WORLD GOSPEL MISSION, DONALD A. PALMER

Respondents

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**BRIEF OF RESPONDENT DONALD A. PALMER**

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**A. Statement of the Case**

Appellant Dawn Palmer Golden filed an amended petition under the Trust and Estates Dispute Resolution Act which, though not artfully worded, appeared to raise two issues. (CP 1) The first issue contested the validity of that portion of the wills of Alfred and Sarah Palmer that convey an interest that flows to World Gospel Mission, because its representative had acted as a witness to the will. The second issue sought to disqualify World Gospel Mission as a beneficiary of the Alfred S. Palmer and Sarah L. Palmer Trust (hereinafter the "Trust") because it had acted as an attorney in preparing the Trust document.

Donald A. Palmer, the personal representative of the Estates of Alfred and Sarah Palmer, and the trustee of the Trust, did not take any position regarding the motion to disqualify the World Gospel Mission as a beneficiary of the Trust. However, as personal representative he opposed the challenge to the execution of the will, because it constitutes a will contest and was not brought within the time limits of RCW 11.24.010. (CP 117)

The Pierce County Superior Court Commissioner entered an order on January 30, 2007. (CP 56) The first paragraph stated that to the extent the petition is a will contest, it is denied and the petition is dismissed as

barred by RCW 11.24.010. The second paragraph stated that to the extent that the petition is a challenge to the preparation of the Trust by a person held to the standard of an attorney, there is not sufficient evidence to disqualify the World Gospel Mission as a beneficiary of the Trust under RPC 1.8.

Appellant Golden moved to revise only the second paragraph of this order (CP 57), which was denied by Judge Grant (CP 60-61). Appellant Golden has appealed only from the denial of the motion to revise (CP 62), and in appellant's brief does not challenge the first paragraph of the Commissioner's order dismissing the petition to the extent it challenged the execution of the wills of Alfred and Sarah Palmer.

**B. Argument**

Donald A. Palmer, as trustee of the Trust, does not take any position in this appeal regarding the petition to disqualify World Gospel Mission as a beneficiary of the Trust. However, as trustee he disputes the assertion at page six of appellant's brief that the effect of disqualification of World Gospel Mission is to pass its seventy-five percent share of the Trust to the surviving heirs, Donald A. Palmer and Dawn Palmer Golden.

Ms. Golden makes no argument or citation to authority in support of her assertion. Without argument or citation to authority, the appellate

courts will not consider an issue. *Palmer v. Jensen*, 81 Wn. App. 148, 153, 913 P.2d 413, 417 (1996), *remanded on other grounds*, 132 Wn.2d 193, 937 P.2d 597 (1997). Passing treatment of an issue or lack of reasoned argument is insufficient to merit judicial consideration. *Id.*; *Stevens v. Omni Insurance Co.*, \_\_\_ Wn. App. \_\_\_, 159 P.2d 10, 28 (2007).

Further, Ms. Golden's assertion regarding the effect of disqualification of World Gospel Mission as a beneficiary of the Trust is not related to any of the issues identified in her appellant's brief. When an appellant fails to raise an issue in the assignments of error, and fails to present any argument on the issue or provide any legal citation, an appellate court will not consider the merits of that issue. *State v. Olson*, 126 Wn.2d 315, 321, 893 P.2d 629, 633 (1995).

Finally, and most importantly, there is no evidence in the record that any of the other Trust beneficiaries have ever received notice of these proceedings. Any determination of the effect of that disqualification should only be made with notice to the other beneficiaries and an opportunity for them to be heard. They may assert that the disqualification of World Gospel Mission should result in a distribution of its share to the remaining beneficiaries, not intestate heirs.

**C. Conclusion**

If this Court reverses the trial court and disqualifies World Gospel Mission as a beneficiary of the Trust, this Court should decline to make any determination as to the distribution of that disqualified share, but should remand the matter to the trial court for further proceedings.

RESPECTFULLY SUBMITTED this 21<sup>st</sup> day of June, 2007.



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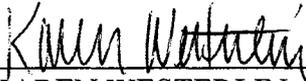
**CERTIFICATE OF SERVICE**

I certify that on the date set out below I mailed a true and correct copy of the foregoing BRIEF OF RESPONDENT DONALD A. PALMER, to:

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