
No. 37026-3-II

The Court of Appeals of the State of Washington

Division II

SANDRA HENDRICKS

Plaintiff/Appellant,

v.

DAN DISON, Personal Representative of the ESTATE OF JOSEPH G. DISON,

Defendant/Respondent,

APPEAL FROM CLARK COUNTY SUPERIOR COURT
THE HONORABLE BARBARA JOHNSON, JUDGE
CLARK COUNTY CAUSE NOS. 04-4-00300-9 AND 04-2-05113-8

BRIEF OF RESPONDENT

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COURT OF APPEALS
STATE OF WASHINGTON
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May 21, 2009

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Petition for Dissolution of Marriage

Response to Petition

First Codicil to Last Will and Testament

Last Will and Testament

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INTRODUCTION

Appellant fails to point to any basis to overturn the judgment. Appellant makes unsupportable assignments of error. Appellant's record citations provide no basis for challenging the judgment. Appellant fails to explain why any ruling was an abuse of discretion. Appellant cites statutory provisions without relating them to the case at hand.

Appellant filed a complaint against the Estate of the decedent, Joseph Dison. At the time of trial, Appellant had, by voluntary dismissal, narrowed her complaint to three claims of for conversion: (1) a 1977 F250 Ford Pickup; (2) proceeds from the sale of a condominium in Salmon Creek Estates (the "Condo"); and (3) certain items of personal property. At the beginning of trial, Appellant dismissed her claim for conversion of the truck.¹

Appellant failed in her effort of proof. As to the Condo, Appellant made a binding admission, under oath, that the Condo was the separate property of the decedent, and that there was no community property due to the short period of the marriage. As to her personal property, overwhelming evidence showed that the Estate did not have possession of

¹ Only after the Estate acquired the title history which showed that prior to Plaintiff's filing her Complaint, in which she demanded \$1,500 for the truck, she had sold the title to the pickup for \$300 "as is." *Judgment Finding of Fact* ¶ 5.

her personal property, and that she herself had removed or abandoned all of her personal property.

The trial court granted judgment in favor of the Estate on all claims and awarded the Estate a portion of the fees and costs necessitated by the protracted litigation. The Estate, to conserve money, did not appeal the limited fee award.

ASSIGNMENTS OF ERROR

A. RESPONSE TO ASSIGNMENTS OF ERROR

The first assignment of error does not make any sense. It neither legally nor factually suffices as a challenge to the trial court's judgment after trial. Appellant filed a lawsuit against the Estate and proceeded to trial on claims for conversion of the Condo proceeds and personal property. The burden of proof is not "adequate cause" on these issues.

The second assignment of error goes to the sound discretion of the trial court in its evidentiary rulings. Apparently, Appellant challenges the trial court's evidentiary ruling excluding from entry into evidence declarations of witnesses who were neither present nor subpoenaed for trial. Appellant does not explain how that ruling was an abuse of discretion.

The third assignment of error is also nonsensical and is not based on the record either before this court or before the trial court. The trial court did not allow into evidence a temporary order.

The fourth assignment of error does not particularly point out what is being challenged by the Appellant. The assignment seems to have no relation to the trial court's judgment or rulings. There were two claims before the trial court: conversion of Condo proceeds and conversion of personal property. The burden of proof is not "adequate cause". In any case, substantial evidence supported the trial court's judgment.

The fifth assignment of error goes to the sound discretion of the trial court in its evidentiary rulings. Apparently, Appellant challenges the exclusion of a document purportedly written by the decedent. The trial court excluded this on objection. Appellant does not give a basis for how that ruling was an abuse of discretion. Moreover, the ruling was well supported by fact and law.

The sixth assignment of error alleges abuse of discretion in awarding fees and costs to the estate. Fees and costs were clearly authorized by law, RCW 11.96A.150. Appellant does not point out how this was an abuse of discretion.

The seventh assignment of error challenges the award of the Condo

proceeds to the Estate. Appellant does not point to any factual or legal error by the trial court but instead is merely the appellant's disagreement with the decision. The ruling was based on substantial evidence.

B. RESPONDENT'S RESPONSE TO ISSUES PRESENTED

Appellant's listed issues appear to have no bearing to the facts or law that applied at the trial on Appellant's Complaint.

Respondent contends the pertinent issues are as follows:

1. Was Appellant's admission that the Condo was the separate property of the decedent binding upon her and/or substantial evidence to support the trial court's award of the condominium proceeds to the estate.

2. Was Appellant's admission that "The parties own no community property, due to the extremely short duration of their marriage" binding upon her and/or substantial evidence to support the trial court's award of the condominium proceeds to the estate.

3. Was Appellant's admission that "All of the property should be characterized as separate property; each party should be awarded their own separate property" binding upon her and/or substantial evidence to support the trial court's award of the condominium proceeds to the estate.

4. Was the testimony of witnesses as to the disposition of

personal property by the Appellant substantial evidence to support the trial court's denial of Appellant's claim to miscellaneous personal property.

STATEMENT OF THE CASE

A. FACTS

The trial court made the following findings of fact which have not been challenged on appeal and are therefore verities on appeal:

Based on the evidence presented at trial, the Court makes the following findings of fact and conclusions of law:

1. On October 1, 2004, Plaintiff, Sandra Hendricks, filed a Complaint against the Personal Representative of the Estate of Joseph Dison asserting personal injury and property conversion claims.

2. On July 6, 2006, Plaintiff by stipulation dismissed her personal injury claim with prejudice with each party to bear its own fees and costs as to the claim.

3. Plaintiff continued forward on Plaintiff's claims for conversion. Specifically, Plaintiff continued to assert up to the day of trial claims for claims for (1) conversion of a 1977 F250 Ford Pickup which Plaintiff claimed to be worth \$1500; (2) conversion of the proceeds from the sale of a condominium in Salmon Creek Estates (the "Condo"); and (3) conversion of items of personal property she listed as Exhibit "A" to the Complaint.

4. On October 11, 2007, the Court held a bench trial on Plaintiff's claims.

5. On the day of trial, at the beginning of Plaintiff's case in chief, Plaintiff notified the Court that it was not proceeding forward on its claim for the 1977 Ford pickup. This was after the Estate had acquired the title history which showed that prior to Plaintiff's filing her Complaint, in which she demanded \$1,500 for the truck, she had sold the title to the pickup for \$300 as is.

6. Plaintiff went forward on her claim for proceeds from the sale of the Condo. During Plaintiff's case, she admitted that she had verified by signature under oath an Answer to a Petition for Dissolution filed by the decedent, in which she stated that he[sic] Condo was the separate property of the decedent, and that the marriage had had no community property.

7. Despite having virtually no proof on the majority of the items claimed, Plaintiff forced the Estate through a protracted litigation, through several attorneys for Plaintiff, and finally a trial. This has seriou[sly] depleted assets of the Estate, reducing significantly the amounts that would otherwise be distributable to the proper heirs of the decedent.

8. Plaintiff also went forward on her claim for conversion of the personal items she had listed in Exhibit A to her Complaint. However, she did not put on any testimony or evidence regarding the overwhelming majority of those items of personal property.

9. After the close of Plaintiff's case, the Estate moved for directed verdict on the issue of the Condominium claims and any proceeds therefrom. The Estate pointed out that in the prior divorce proceeding that the Plaintiff had admitted under oath in a verified Answer to the Petition for Dissolution that the Condominium was the separate property for the decedent and that there had been no community property. The Court noted that the Plaintiff had admitted on the stand that the Answer to the Petition for Dissolution was her Answer and bore her

signature. The Court granted the motion for directed verdict in favor of the Estate.

10. The Estate then put on several witnesses to the point that the Estate did not have or convert the personal property of the Plaintiff, and that no agent of the Estate had done so. The Estate further put on evidence show that Plaintiff had herself removed the claimed assets and they were last seen in her possession.

11. The Estate also had admitted into evidence the Verified Inventory which the Plaintiff had never objected to over the course of two years. The Verified Inventory showed that the Estate did not have any of the items of personal property claimed by the Plaintiff.

12. After the close of evidence, and after giving the Plaintiff the opportunity to put on a rebuttal case, the Court ruled orally that on a preponderance of the evidence, Plaintiff had failed to meet her claims and that judgment was in favor of the Estate.

13. All claims asserted by Plaintiff are denied and judgment is in favor of the Defendant Estate.

14. Plaintiff failed to prove, and otherwise dismissed or waived her claim for conversion of the 1977 Ford pickup and Plaintiff's claim therefore is denied with judgment in favor of the Estate.

15. The Condominium, and proceeds from the sale thereof are the separate property of the decedent and belong to the Estate and Plaintiff's claim therefore is denied with judgment in favor of the Estate.

16. Plaintiff failed to prove a claim for conversion any personal property, including the items of personal property listed in Exhibit A to Plaintiff's Complaint, and Plaintiff's claim therefore is denied with judgment in favor of the Estate.

17. The denial of Plaintiff's claims, which covered the entire assets of the Estate, was a substantial benefit to the Estate.

Final Judgment, CP 83.

At trial, Appellant admitted, under signed oath, in her Response to the Decedent's Petition for Dissolution (which was prepared with the assistance of counsel) that:

"The parties own no community property, due to the extremely short duration of their marriage.

"All of the property should be characterized as separate property; each party should be awarded their own separate property.

"By way of example and without limitation, Petition [decedent] should be awarded the condominium he is purchasing at Salmon Creek Estates...."

Trial Exhibit 31 (Petition at ¶ 1.8) (emphasis added); *Trial Exh. 32* (Response, admitting ¶ 1.8); *Trans. pgs 37, 38* (admitting her response and her signature).

At the time of death, the decedent had a Last Will and Testament, a First Codicil, properly admitted for non-intervention administration, which specifically provided that:

"My Wife and I are estranged, and it is my specific desire, instruction and direction that my Wife receive none of my estate and property upon my death, and that she not be considered one of my heirs, and I specifically devise and

bequeath her nothing.”

Trial Exhibit 2 (Codicil to Last Will and Testament); *see also CP 61-66* (Last Will and Testament). Contrary to Appellant’s arguments, the Codicil and Last Will and Testament clearly disposed of all property of the Estate: “I hereby give, devise and bequeath all the rest, residue and remainder of my estate and property of every kind and nature, wheresoever situate, unto my children, above named, share and here alike.” *CP 63* (page 3 to Last Will and Testament).

B. APPELLANT’S CITATIONS TO THE RECORD

Throughout Appellant’s brief, she cites Clerk’s Paper 13. This is the Wife’s Creditor Claim in the court file. However, at trial the trial court only admitted in a portion of that document. The portion admitted was admitted as Trial Exhibit 9. The trial court only allowed in the first two pages, the pleading, and exhibit A thereto. The Court, on objection, excluded the remaining exhibits to the creditor’s claim. *Trans. pages 33-34*. Appellant does not give any reason why the evidentiary ruling was and error or an abuse of discretion. Appellant simply fails to provide any basis for challenging the trial court’s decision. Indeed, Appellant did not even designate Trial Exhibit 9 for this Court’s review.

Appellant cites to the follow transcript pages. 7, 16, 21, 22, 27, 50, 52, 74-77, 83, 84, 86, 87, 89, 99, 116. None of these pages provide any basis for challenging the court's rulings and judgment:

(a) On page 15-16, the trial court in its sound discretion refused to admit a declaration which was not only clear hearsay without exception, but which further violated the dead man statute and irrelevant.

(b) On pages 21-23, the trial court in its sound discretion refused to admit a declaration which was hearsay without exception and irrelevant.

(c) On page 27, deals with where Ms. Hendricks claimed to be on January 9, 2004. There is nothing which calls into question in any way the court's rulings or judgment.

(d) Pages 74-77 are Appellant's attempt at cross-examining the personal representative of the Estate. There is nothing which calls into question in any way the court's rulings or judgment. To the contrary.

(e) Pages 83-89 deal with Appellant's removal of her own personal property and her attempts at breaking into property of the Estate using bolt cutters. There is nothing which calls into question in any way the court's rulings or judgment.

(f) Page 99 deals with testimony from a nonparty witness about personally seeing the Appellant come to the decedent's home and removing all of her property in a large U-Haul. There is nothing which calls into question in any way the court's rulings or judgment.

(g) Page 116 is a portion of the Court's oral ruling. There is nothing which calls into question in any way the court's y rulings or judgment.

C. SUMMARY OF PROCEEDINGS

On January 9, 2004, a Petition for Dissolution of Marriage between Joseph G. Dison and Sandra Hendricks was filed on behalf of Mr. Dison, the decedent. The Petition, at paragraph 1.8, pleaded, in pertinent part, that "The parties own no community property, due to the extremely short duration of their marriage", "All of the property should be characterized as separate property; each party should be awarded their own separate property," and "By way of example and without limitation, Petition [decedent] should be awarded the condominium he is purchasing at Salmon Creek Estates...." *Trial Exhibit 31* (Petition at ¶ 1.8) (emphasis)

On February 27, 2004, Appellant, by counsel filed a Response to

Petition for Dissolution of Marriage, admitting with out reservation paragraph 1.8 of the Petition. Trial Exhibit 32 (Response to Petition). On the second page of the Response, Appellant declared under penalty of perjury that the admission was true. *Id.* She signed and dated that declaration. *Id.* She was assisted by counsel.

On April 23, 2004, probate was opened for the Estate of Joseph Dison and a petition was filed to probate a will with nonintervention power and orders and letters of administration were issued.

On Jun 16, 2004, Carole Lockett appeared for Ms. Hendricks and filed, on June 25, 2004, a creditor's claim. Ms. Hendricks never filed a petition or homestead exemption.²

On September 9, 2004, the Estate filed its response to the creditor's claim. The Estate filed a verified inventory to which Ms. Hendricks never objected. The inventory did not include any personal property of Ms. Hendricks. It did list the Condo proceeds as property of the Estate.

Ms. Hendricks, through attorneys William Baumgartner and Carole Lockett filed suit on October 1, 2004 alleging negligence and

² Appellant never made a petition for award of homestead, and certainly did not make one within 18 months of date of death. RCW 11.54.010(3)(a) requires a petition for award of homestead to be filed within 18 months of the date of death.

conversion. Defense counsel appeared on January 17, 2005 and served discovery requests on Plaintiff on January 19, 2005.

On May 12, 2005, Defendant filed a motion for summary judgment contending Plaintiff's claims are barred by the Deadman Statute. Plaintiff filed a motion for continuance asking the Court to continue the summary judgment hearing to allow Plaintiff to conduct additional discovery on the material issues. The Court granted Plaintiff's motion. However, Plaintiff did not in fact conduct any further discovery.

On July 6, 2006, after Defendant renewed its summary judgment motion, Plaintiff by stipulation dismissed her claim for negligence with prejudice and Mr. Baumgartner withdrew from representation. Ms. Lockett also withdrew from representation, but then later reappeared on behalf of Plaintiff.

On September 6, 2006, Defendant filed for summary judgment on the remaining claims. The Court denied this without prejudice to re-filing and ordered the probate and civil cases consolidated.

On April 4, 2007, the Court assigned a trial date of June 25, 2007.

On May 14, 2007, Ms. Lockett filed her notice of intent to withdraw from representation. Ms. Hendricks asked for a continuance of the trial date. The Court set trial for October 11, 2007.

On July 20, 2007, James Senescu entered a limited appearance.

On September 13, 2007, Mr. Senescu filed a notice of intent to withdraw.

The trial court held a one day trial on October 11, 2007.

ARGUMENT

A. STANDARD OF REVIEW

Appellant challenges the trial court's evidentiary rulings. This court reviews a trial court's exclusion of evidence for abuse of discretion. Burchfiel v. Boeing Corp., 205 P.3d 145, 153-54 (Wn. App. Div. III 2009) (citing Hizey v. Carpenter, 119 Wn.2d 251, 268, 830 P.2d 646 (1992)). A court abuses its discretion when an order is manifestly unreasonable or based on untenable grounds. State v. Quismundo, 164 Wn.2d 499, 504, 192 P.3d 342 (2008). A discretionary decision 'is based "on untenable grounds" or made "for untenable reasons" if it rests on facts unsupported in the record. Id.

Appellant made numerous assignments of error, but did not assign error to any of the factual findings of the trial court. This court will review only those findings to which appellant assigned error and treats unchallenged findings as verities on appeal. Nordstrom Credit, Inc. v.

Department of Revenue, 120 Wn.2d 935, 941, 845 P.2d 1331 (1993). The party challenging a finding of fact bears the burden of demonstrating the finding is not supported by substantial evidence. Id. at 940.

B. APPELLANT'S STATUTE CITATIONS

Appellant cites numerous statutes that appear to have no bearing, and which do not provide any basis for challenging the judgment.

Appellant cited RCW 11.54.010, .020, .040, and RCW 6.13.030 which all relate to petitions by a surviving spouse for award—which did not occur in this case. Appellant never made a petition for award. The petition was required to be filed:

“before the earliest of: (a) Eighteen months from the date of the decedent's death if within twelve months of the decedent's death either:

(i) A personal representative has been appointed; ...”.

RCW 11.54.010(3)(a)(i) (emphasis added). Those eighteen months passed by November 2005. Appellant did not go to trial or move the trial court on any such petition, despite being represented by various counsel, through the majority of the proceedings.

Appellant may contend that her Complaint is the same thing as a petition for award. The Complaint alleged claims for negligence and

claims for conversion. The Complaint did not title itself as a petition for award. The Complaint did not mention petition for award. The Complaint did not cite RCW 11.54.010. Indeed, the Complaint did not cite Title 11 RCW at all.

Interestingly, moreover, Appellant does not cite RCW 11.54.050 which provides that, even if Appellant had petitioned for award and gone to trial or requested a hearing (things Appellant never did, even when represented by counsel), the award was nevertheless discretionary and can be reduced if the award would reduce the amount that would otherwise go to children of the decedent. RCW 11.54.050(2)(a).

Appellant cites RCW 26.04.010 and RCW 26.09.060. These have no bearing whatsoever.

Appellant cites RCW 11.96A.150 for the argument that she should be entitled to her attorneys fees and costs—despite losing on all claims!

Appellant does not make any meritorious legal or factual challenges to the rulings and judgment of the trial court.

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C. PARTICULAR ISSUES

a. THE CONDO

Appellant challenges the trial court's judgment in favor of the Estate on Appellant's claim for conversion of Condo proceeds. However, Appellant made a binding admission, in writing, verified under oath, in a filed court document, that the Condo was the separate property of the decedent, that there was no community property, and that the decedent was entirely entitled to the Condo as his separate property. *Trial Exhibit 31* (Petition at ¶ 1.8) (emphasis added); *Trial Exh. 32* (Response, admitting ¶ 1.8); *Trans. pgs 37, 38* (admitting her response and her signature). This is clearly substantial evidence. There is no basis for Appellant to challenge the trial court's judgment.

Even without the admission that justified the directed verdict, the Estate was prepared—but the admission and the trial court's ruling saved the Estate the effort—to prove conclusively that the Condo was the separate property of the decedent. Well established law in Washington provides that community or separate character of real property is determined by character of funds used in its purchase. Rustad v. Rustad, 61 Wn. 2d 176, 377 P.2d 414 (1963). See particularly Marriage of Skarbek, 100 Wn.App. 444, 997 P.2d 447 (2000); In re Binge's Estate, 5

Wn.2d 446, 105 P.2d 689 (1940); Worthington v. Crapser, 63 Wn. 380, 115 P. 849 (1911); In re Dewey's Estate, 13 Wn.2d 220, 124 P.2d 805 (1942). In Binge's Estate, the court held that property acquired by the husband subsequent to marriage was his separate property where he purchased it with his separate funds. In Worthington, where the husband purchased land with money received by gift, the property was his separate property despite his procurement of a loan to pay a portion of the purchase price. In Skarbeck, the husband deposited his separate funds into a joint checking account, but the court held that because it was traceable to the separate funds, and had not been more than minimally commingled, it remained separate in character. In In re Dewey's Estate, the court held that real property acquired during the marriage by the husband by his separate funds remained separate property and where part of property is purchased with community funds, and part with separate funds, the property would be considered separate property in relation to the ratio of separate to community funds used.

Below, the Estate was prepared to show—but the trial court's ruling based upon Appellant's binding admission, made with the assistance of counsel, saved the Estate the cost of doing so—that, among other things: the funds to purchase the property came from separate funds,

i.e., from Dison's daughter Lea Griggs as a gift solely to him directly to his separate account; the Condo was purchased in his own name, using those funds; Dison alone assumed liability for the debt of the Condominium; Dison signed the Real Estate Contract as a single person; Dison lived in the Condominium; Appellant never lived in the Condominium; and Dison paid the mortgage and homeowner association fees from his separate checking account—the checks were made out by Daniel Dison.

b. PERSONAL PROPERTY

Appellant challenges the trial court's judgment in favor of the Estate on Appellant's claim for conversion of personal property. Appellant contended that the Estate converted particular items of her personal property. *See Complaint* ¶¶ 5.1- 5.6. "A conversion is a willful interference with a chattel without lawful justification, whereby a person entitled thereto is deprived of the possession of it." Paris Am. Corp. v. McCausland, 52 Wn. App. 434, 443, 759 P.2d 1210 (1988). Nothing in Appellant's appeal brief or citation to the record provided any showing that the Estate converted any of her personal property. To the contrary, substantial evidence at trial showed that she removed or abandoned all of

her personal property and that the Estate did not have her personal property. *Trans. pgs 56-65, 68-72, 82-83, 86-87, 99-101; see also 60* (“I seen them leaving the container with Mrs. Hendricks and a member of her family”); 57 (“I seen Ms. Hendricks take this La-Z-Boy, loveseat, and the furniture”, “She showed up on numerous occasion with a U-Haul to this container that she said that her items were placed in”, “I seen her on numerous occasions show up with a U-Haul...and clean out the contents of this on numerous occasions taking various items”).

c. EVIDENTIARY RULINGS

Appellant challenges the trial court’s evidentiary rulings excluding declarations and other documents. Appellant pointed to nothing which shows any abuse of discretion by the trial court.

d. AWARD OF ATTORNEYS FEES

The Estate won. RCW 11.96A.150 clearly gives the trial court the authority to award the Estate its attorneys fees and costs against a plaintiff who seeks to claim property of the Estate.

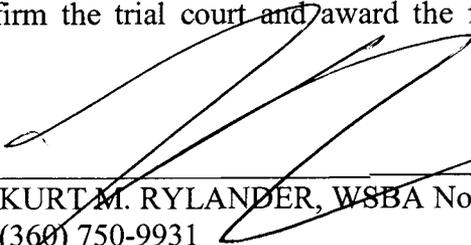
D RESPONDENT'S REQUEST FOR ATTORNEYS FEES AND COSTS

The Estate is entitled to and requests award of its attorneys fees and costs on appeal pursuant to RCW 11.96A.150 and RAP 18.1

CONCLUSION

This Court should affirm the trial court and award the fees and costs requested.

DATED 5/21/09



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APPENDIX
TO
BRIEF OF RESPONDENT

FILED

JAN 09 2004

JoAnne McBride, Clerk, Clark Co.

**SUPERIOR COURT OF WASHINGTON
COUNTY OF CLARK**

In re the Marriage of:

JOSEPH G. DISON

and

SANDRA LEN HENDRICKS

Petitioner,

Respondent.

NO.

04 3 00018 9

**PETITION FOR DISSOLUTION
OF MARRIAGE
(PTDSS)**

I. BASIS

1.1 IDENTIFICATION OF PETITIONER.

Name (first/last) JOSEPH G. DISON, Birth date 12/12/31

Last known residence CLARK County, WA (county and state)

1.2 IDENTIFICATION OF RESPONDENT.

Name (first/last) SANDRA LEN HENDRICKS, Birth date 11/19/56

Last known residence Clark County, WA(county and state)

1.3 CHILDREN OF THE MARRIAGE DEPENDENT UPON EITHER OR BOTH SPOUSES.

Does not apply.

PET FOR DISSO OF MARRIAGE (PTDSS) - Page 1 of 4
WPF DR 01.0100 (7/2003) - RCW 26.09.020

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1 1.4 ALLEGATION REGARDING MARRIAGE.

2 This marriage is irretrievably broken.

3 1.5 DATE AND PLACE OF MARRIAGE.

4 The parties were married on 12-16-03 at Reno, Washoe County, Nevada.

5 1.6 SEPARATION.

6 Husband and Wife are not separated, notwithstanding the fact the Husband demanded
7 the Wife to leave his home (she has refused), so on December 24, 2003 he physically
8 removed her personal belongings from his property. The date of separation should be
deemed to be December 24, 2003.

9 1.7 JURISDICTION.

10 This court has jurisdiction over the marriage.

11 This court has jurisdiction over the respondent because:

12 The respondent is presently residing in Washington.

13 The petitioner and respondent lived in Washington during their marriage and the
14 petitioner continues to reside, or be a member of the armed forces stationed, in
this state.

15 1.8 PROPERTY.

16 There is community or separate property owned by the parties. The court should make a
fair and equitable division of all the property.

17 The parties own no community property, due to the extremely short duration of their
18 marriage.

19 All of the property should be characterized as separate property; each party should be
awarded their own separate property.

20 By way of example and without limitation, Petitioner should be awarded the
21 condominium he is purchasing at Salmon Creek Estates, his motor vehicles, his
22 investments, sports card collection, household goods and furnishings, and
miscellaneous items of personal effects and belongings and other personal property
tangible and intangible acquired by him prior to marriage.

23 By way of example and without limitation, Respondent should be awarded the mobile
24 home and real property owned by her near Dougan Falls in Skamania County, her

1 motor vehicle, her household goods and furnishings, and her miscellaneous items of
2 personal effects and belongings.

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1.9 DEBTS AND LIABILITIES.

The parties have debts and liabilities. The court should make a fair and equitable division of all debts and liabilities.

The petitioner's recommendation for the division of debts and liabilities is set forth below.

The petitioner should be ordered to pay the following debts and liabilities to the following creditors:

Payment for condominium purchased by him.

The respondent should be ordered to pay the following debts and liabilities to the following creditors:

All debts incurred by her prior to marriage.

Each party should pay their debts incurred since separation.

1.10 SPOUSAL MAINTENANCE.

Spousal maintenance should not be ordered.

1.11 CONTINUING RESTRAINING ORDER.

A continuing restraining order should be entered which restrains or enjoins the respondent from assaulting, harassing, molesting or disturbing the peace of the petitioner.

A continuing restraining order should be entered which restrains or enjoins the respondent from going onto the grounds of or entering the home, of the petitioner.

A continuing restraining order should be entered which restrains or enjoins the respondent from knowingly coming within or knowingly remaining within 500 feet (distance) of the home, of the petitioner.

1.12 PREGNANCY.

The wife is not pregnant.

1.13 JURISDICTION OVER THE CHILDREN.

Does not apply because there are no dependent children.

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1.14 CHILD SUPPORT AND PARENTING PLAN FOR DEPENDENT CHILDREN.

The parties have no dependent children.

II. RELIEF REQUESTED

The petitioner REQUESTS the Court to enter a decree of dissolution and to grant the relief below.

Divide the property and liabilities.

Change name of wife to: SANDRA LEN HENDRICKS.

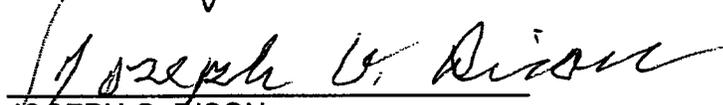
Enter a continuing restraining order.

Dated: 1-9-04


JOHN F. VOMACKA
Attorney for Petitioner
W.S.B.A. #11231

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

Signed at Vancouver, [City] WA [State] on 1-9-04 [Date].


JOSEPH G. DISON
Signature of Petitioner

SCANNED

1 Mark Didrickson, WSB #20349,
2 Attorney for Respondent,
3 400 Columbia Street, #110,
4 Vancouver, WA 98660
5 (360) 694-4727

FILED
FEB 27 2004

JoAnne McBride, Clerk, Clark Co.

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK**

In re the Marriage of:

JOSEPH G. DISON,

Petitioner,

and

SANDRA L. HENDRICKS,

Respondent.

No. 04-3-00018-9

RESPONSE TO PETITION
(DOMESTIC RELATIONS)

TO THE ABOVE-NAMED PETITIONER, and to his attorney, John F. Vomacka:

I. RESPONSE

1.1 ADMISSIONS AND DENIALS.

The allegations of the petition in this matter are ADMITTED or DENIED as follows (check only one for each paragraph):

Paragraph of the Petition

- 1.1 Admitted
- 1.2 Admitted
- 1.3 Admitted
- 1.4 Admitted
- 1.5 Admitted
- 1.6 Denied
- 1.7 Admitted
- 1.8 Admitted
- 1.9 Admitted
- 1.10 Admitted
- 1.11 Admitted in part; Denied in part
- 1.12 Admitted
- 1.13 Admitted
- 1.14 Admitted
- 1.15

1 The allegations of the petition which are denied, are denied
2 for the following reasons:

3 1.6 The parties separated on January 8, 2004.

4 1.11 Any restraining orders should be mutual.

5 1.2 NOTICE OF FURTHER PROCEEDINGS.

6 Notice of all further proceedings in this matter should be
7 sent to the respondent care of the address below.

8 Mark Didrickson,
9 Attorney at Law,
10 400 Columbia Street, Suite 110,
11 Vancouver, WA 98660

12 1.3 OTHER:

- 13 - The wife's name should be restored to Sandra Len
14 Hendricks;
15 - The wife has been diagnosed with Hepatitis C, which she
16 believes she acquired from the husband.

17 II. REQUEST FOR RELIEF.

18 The respondent requests the Court enter a Decree of
19 Dissolution and grant the relief requested below.

- 20 - Dispose of property and liabilities;
21 - Award such other relief as may be just and equitable.

22 Dated: February 23, 2004

23 
24 _____
25 Mark Didrickson, WSB #20349,
26 Attorney for Respondent

27 DECLARATION

28 I declare under penalty of perjury under the laws of
the State of Washington that the foregoing is true and
correct.

Signed at Vancouver, Washington on February 23, 2004



Sandra Hendricks

4
SCANNED

FILED

APR 23 2004

JoAnne McBride, Clerk, Clark Co.

FIRST CODICIL TO THE LAST WILL AND TESTAMENT

OF 04 . 4 00300 9

JOSEPH G. DISON

*JOHN F. VOMACKA
Attorney At Law
12204 SE Mill Plain Blvd., Suite 200
Vancouver, WA 98684*

(360) 892-6680

4

**CODICIL TO THE
LAST WILL AND TESTAMENT OF
JOSEPH G. DISON**

I, **JOSEPH G. DISON**, being of sound and disposing mind and memory hereby declare this to be a CODICIL to my Last Will and Testament which is dated May 30, 2002.

I.

WHEREAS, I hereby revoke Article II. A and do hereby replace said Article II A with the following:

I am a married man; on December 16, 2003 I married SANDRA LEN HENDRICKS. We are now separated, and I have filed an action for Dissolution of Marriage against her in Clark County on January 9, 2004.

We have no children of our marriage, but I have three children, namely: **LEA R. ROBINSON, JONNI J. ALLEN, and DANIEL D. DISON.**

My Wife and I are estranged, and it is my specific desire, instruction and direction that my Wife receive none of my estate and property upon my death, that she not be considered one of my heirs, and I specifically devise and bequeath her nothing.

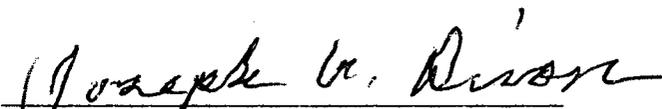
I further request and instruct my personal representative to take all steps necessary to prevent my estranged Wife from receiving a spousal award pursuant to RCW11.54 et. seq., to the degree permitted by law.

II.

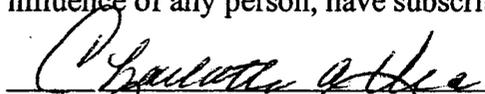
CODICIL TO THE LAST WILL AND
TESTAMENT OF
JOSEPH G. DISON

I hereby confirm and republish my Last Will and Testament dated May 30, 2002,
in all respects other than those herein mentioned.

IN WITNESS WHEREOF, I have hereto set my hand this 16 day of
JANUARY, 2004.


JOSEPH G. DISON

The foregoing instrument, consisting of two (2) pages, was at the date thereof by
JOSEPH G. DISON, the Testator named therein, signed, sealed and published as, and
declared by him to be his First Codicil to his Last Will and Testament in the presence of
us, who at his request and in his presence, and in the presence of each other, and who
being of the opinion that he at the time of executing of this First Codicil, was of sound
and disposing mind and memory, and not acting under duress, menace, fraud or undue
influence of any person, have subscribed our names as witnesses thereto.

 Residing at: Vancouver, WA

 Residing at: Vancouver, WA

6
SCANNED

FILED

APR 23 2004

JoAnne McBride, Clerk, Clark Co.

LAST WILL AND TESTAMENT

OF 04 . 4 00 30 0 9

JOSEPH G. DISON

I, **JOSEPH G. DISON**, of Clark County, Washington, being of legal age and of sound and disposing mind and memory, and not acting under duress, menace, fraud or undue influence of any person whomsoever, do make, publish and declare this to be my **LAST WILL AND TESTAMENT**, hereby revoking all prior Wills and Codicils by me made,

WITNESSETH:

I.

CREDITOR'S CLAIMS

I direct that my Personal Representative, hereinafter named, pay all of my lawful debts and funeral expenses from the residue of my probate estate. My personal representative is relieved from the duty of seeking contribution from non-probate assets for payment of my lawful debts and funeral expenses unless my probate estate is insolvent.

II.

IDENTIFICATION OF FAMILY

A. Family: I am a single man. As a result of my marriage to Rachel Lillie Dison who died on May 10, 2002, I have three children, namely: **LEA R. ROBINSON**, **JONNI J. ALLEN**, and **DANIEL D. DISON**.

B. Terms: I have no other children nor any deceased children who were survived by lineal descendants. The term "children" as hereafter used shall refer to the above-named children. The term "descendants" as used herein shall be construed to mean lawful lineal descendants, that is, descendants by lawful birth or legal adoption. Except as provided below, I intend to make no provision in this Will for any of my children that

**LAST WILL AND TESTAMENT OF
JOSEPH G. DISON - Page 1**

 (Initials)

JACKSON, JACKSON & KURTZ, INC. PS
ATTORNEYS AT LAW
704 East Main, Suite 102
Battle Ground, Washington 98604
(360) 687-7106

3

survive me whether named herein or hereafter born or adopted, or the descendants of any such child that does not survive me.

III.

GIFTS OF REAL PROPERTY

A. My home and real property located at 17611 NE 159th Street, Brush Prairie, Washington, more particularly described below, shall pass in equal shares to LEA R. ROBINSON and JONNI J. ALLEN subject to any indebtedness thereon. :

Tax Serial No. 204721-000

Beginning at a point 30 feet South and 907.72 feet East of the Northwest corner of Section 10, Township 3 North, Range 3 East of the Willamette Meridian, said point of beginning being the Northeast corner of that certain tract conveyed to Carl Bjorklund, it ux, by deed recorded under Auditor's File No. F-66265, Records of Clark County, Washington, and running thence East 165 feet; thence South 330 feet; thence West 165 feet; and thence North 330 feet to the point of beginning.

In the event my daughter, LEA R. ROBINSON shall predecease me, then her share shall pass to her daughter, HOLLY ROBINSON. In the event my daughter, JONNI J. ALLEN shall predecease me, then her share shall pass to her son, JOSEPH GARD.

B. My home and two tracts of real property located in Amboy, Washington, more particularly described below shall pass to DANIEL D. DISON, subject to any indebtedness thereon.

TRACT I

Home and 4.7 acres described as follow:

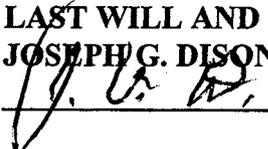
Tax Serial No. 275944-000

The East half of the East half of the South half of Government Lot 2, in Section 19, Township 5 North, Range 3 East of the Willamette Meridian, in Clark County, Washington, together with and subject to an easement for ingress, egress and utilities as more particularly disclosed in instrument recorded under Auditor's File No. G 639238.

SUBJECT TO easements of record.

TRACT II

LAST WILL AND TESTAMENT OF
JOSEPH G. DISON - Page 2

 (Initials)

JACKSON, JACKSON & KURTZ, INC. PS

ATTORNEYS AT LAW

704 East Main, Suite 102

Battle Ground, Washington 98604

(360) 687-7106

5-acre tract of real property located in Amboy, Washington, more particularly described as follows:

Tax Serial No. 275934-000

That portion of Government Lot 2, being the fractional Southwest quarter of the Northwest quarter of Section 19, Township 5 North, Range 3 East of the Willamette Meridian in Clark County, Washington, described as follows:

BEGINNING at a point on the South line of Government Lot 2, which is 660 feet East from the Southwest corner thereof; thence East along said South line 330 feet; thence North, parallel with the West line of said Government Lot 2, a distance of 660 feet, more or less, to the North line of the South half of the South half of the North half of Section 19; thence West along said North line 330 feet; thence South 660 feet, more or less, to the point of beginning.

TOGETHER WITH AND SUBJECT TO an easement as described in that declaration of easement recorded under Auditor's File No. G 639238.

In the event my son, DANIEL DISON shall predecease me, then his share shall pass to his son, MICHAEL DISON.

IV.

BEQUEST OF PERSONAL EFFECTS

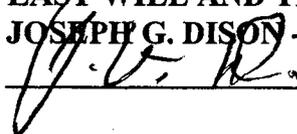
I may now have, or in the future may prepare, sign and date a list of tangible personal property and designate the recipient of each item. It is my intent that such writing qualify as a testamentary disposition of these items in accordance with R.C.W. 11.12.260 as now in effect or as amended in the future. If any such person named is a minor, said property shall be held by the parent or guardian of said minor, in trust, until said minor reaches 18 years of age; said trustee to serve without bond. If a person named in the list to receive property dies before me, the property he or she was to have received will be disposed of under the residue clause of this Will, unless I have made an alternate disposition in the list.

V.

RESIDUE OF ESTATE

I hereby give, devise and bequeath all the rest, residue and remainder of my estate and property of every kind and nature, wheresoever situate, unto my children, above named, share and share alike. In the event my daughter, LEA R. ROBINSON shall predecease me, then her share shall pass to her daughter, HOLLY ROBINSON. In the

LAST WILL AND TESTAMENT OF
JOSEPH G. DISON - Page 3

 (Initials)

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Battle Ground, Washington 98604
(360) 687-7106

event my daughter, JONNI J. ALLEN shall predecease me, then her share shall pass to her son, JOSEPH GARD. In the event my son, DANIEL D. DISON shall predecease me, then his share shall pass to his son, MICHAEL DISON.

VI.

DESIGNATION OF PERSONAL REPRESENTATIVE

I hereby appoint **DANIEL D. DISON**, as Personal Representative of my estate. If he shall fail or cease to act for any reason, I appoint **LEA R. ROBINSON** as Personal Representative. If both **DANIEL D. DISON** and **LEA R. ROBINSON** shall fail or cease to act for any reason, I appoint **JONNI J. ALLEN** as Personal Representative. No Personal Representative named in this Will shall be required to furnish bond in any jurisdiction. I declare this to be a nonintervention Will.

My Personal Representative shall have full power to deal in any lawful way with the property of my estate without notice, approval, or confirmation of any kind, at the time, for the consideration, and on the terms and conditions as my Personal Representative shall deem advisable, whether or not the exercise of the power is necessary for the purpose of paying debts of the estate, costs of administration, or making distribution of the estate. This power shall include, by way of illustration and not of limitation, the power to sell, convey, mortgage, and encumber any assets of my estate, to advance funds and borrow money, to select any part of my estate in satisfaction of any distribution under this Will, and to distribute my estate in kind, in money, or both. In making distributions hereunder, my Personal Representative may allocate particular assets or portions thereof or undivided interests therein to any one or more of the beneficiaries hereunder without regard to the income tax basis of specific property allocated to any beneficiary or any pro rata scheme of distribution.

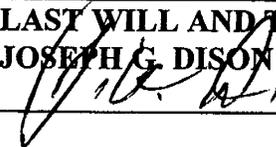
In the event any beneficiary is under the age of twenty-one (21) years, my Personal Representative may elect to distribute the share of said beneficiary to a "Custodian under the Washington Uniform Gifts to Minors Act," as selected by my Personal Representative. My Personal Representative shall not be required to see to the application of payments so made and the receipt of any such person therefore shall be a full discharge for the Personal Representative.

VII.

PAYMENT OF TAXES

I direct that all death taxes payable by reason of my death, including federal and state estate taxes on my assets passing through my probate estate, be paid by my Personal Representative out of the residue of the estate that I dispose of in this Will, without

LAST WILL AND TESTAMENT OF
JOSEPH G. DISON - Page 4

 (Initials)

JACKSON, JACKSON & KURTZ, INC. PS
ATTORNEYS AT LAW
704 East Main, Suite 102
Battle Ground, Washington 98604
(360) 687-7106

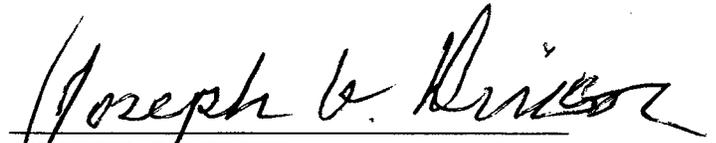
proportional adjustment among residual beneficiaries. My personal representative is relieved from the duty of seeking contribution from non-probate assets for payment of any of my taxes unless my probate estate is insolvent.

VIII.

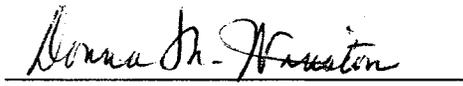
WITNESS AFFIDAVITS

I request that the attesting witnesses to my Will make an Affidavit before a Notary Public stating such facts as they would be required to testify to a court to prove such Will.

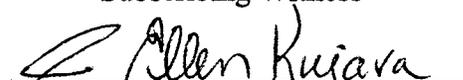
IN TESTIMONY WHEREOF, I have hereunto set my hand and do publish this my **LAST WILL AND TESTAMENT** on this 30th day of May, 2002, in the presence of Donna M. Winston and J. Ellen Kujava, at Battle Ground, Washington, said persons being requested to act as witnesses.



JOSEPH G. DISON



Subscribing Witness



Subscribing Witness

COURT OF APPEALS
DIVISION II

09 MAY 22 AM 11:29

STATE OF WASHINGTON
BY *cm*
DEPUTY

COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION II

SANDRA HENDRICKS,	Appellant,
-v.-	
DANIEL DISON, as Personal Representative of the Estate of Joseph Dison,	Respondent.

Court of Appeals No. 37026-3-II
Superior Court Nos. 04-4-00300-9
and 04-2-05113-8

CERTIFICATE OF SERVICE

I HEREBY CERTIFY under penalty of perjury of the laws of the State of Washington that on the date signed below I served a copy of each of the following documents: Brief of the Respondent, Certificate of Filing, and this Certificate of Service, and by first class mail, postage pre-paid, placed in the US mails during regular business hours, to Appellant:

Sandra Hendricks
P.O. Box 3673
Salem, OR 97302

DATED This 5/21/09.

Wendy M. Fox

WENDY M. FOX, Legal Assistant to
KURT M. RYLANDER, WSBA No. 27819
Of Attorneys for Defendant/Respondent



COURT OF APPEALS
DIVISION II

09 MAY 22 AM 11:29

STATE OF WASHINGTON
BY *Cm*
DEPUTY

COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION II

SANDRA HENDRICKS,

Appellant,

-v.-

DANIEL DISON, as Personal
Representative of the Estate of Joseph
Dison,

Respondent.

Court of Appeals No. 37026-3-II

Superior Court Nos. 04-4-00300-9
and 04-2-05113-8

CERTIFICATE OF FILING BY MAIL UNDER RAP 18.6

I HEREBY CERTIFY under penalty of perjury of the laws of the State of Washington that on the date signed below I filed the following documents: Brief of the Respondent, Certificate of Service, and this Certificate of Filing, by U.S. Express Overnight Mail, postage prepaid, during normal business hours, with the Court of Appeals of the State of Washington, Division II, address as follows:

Clerk of the Court, David Ponzoha
Washington State Court of Appeals, Division Two
950 Broadway, Suite 300
Tacoma, WA 98402-4454

DATED This 5/21/09.

Wendy M. Fox
WENDY M. FOX, Legal Assistant to
KURT M. RYLANDER, WSBA No. 27819
Of Attorneys for Defendant/Respondent