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COURT OF APPEALS  
DIVISION II

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STATE OF WASHINGTON  
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DEPUTY

NO. 37726-8-II

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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION II

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SHERRY JOHNSTON, as Personal Representative of the Estate of  
GRACE D. MATTSON,

Respondents,

vs.

ROD VON HOUCK, as Personal Representative of the Estate of  
GEORGE T. MATTSON; and LARRY McCONNELL and JANE DOE  
McCONNELL, his wife, if any, and their marital community,

Appellants

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BRIEF OF APPELLANTS

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## INTRODUCTION

This appeal follows an action on a rejected creditor's claim via certified mail that proceeded to summary judgment motion for dismissal when the claimant's law suit was not filed within thirty days from the notice of rejection.

The main issues to be decided are (1) whether the Plaintiff commenced her action on the rejected creditor's claim within thirty days following notice of rejection as required by RCW 11.40.100; and (2) whether the pre-mature filing of a lawsuit in advance of receipt of the notice of the rejection of the creditor's claim also tolls the probate period of limitations to allow the claim to proceed?

The superior court ruled as a matter of law that while the plaintiff, Ms. Johnston, as personal representative for the Estate of Grace Mattson, did not follow the statutory procedures concerning her creditor's claim; the court felt that substantial rights were protected such that the Estate of George Mattson had timely notice and opportunity to defend the lawsuit without undue delay. The trial court ruled that the plaintiff's failure to follow the explicit requirements of RCW 11.40.100 was harmless error and no purpose would be achieved by having Ms. Johnston file a second lawsuit.<sup>1</sup> There are no probate cases on point answering these questions.

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<sup>1</sup> Under RCW 11.40.100, a second complaint would have been barred by the expiration of the four month limitations period on creditor's claims as not being filed within 30 days from mailing of the notice of rejection of the creditor's claim.

**A. ASSIGNMENTS OF ERROR**

1. The trial court erred in denying Defendant's motion for summary judgment to dismiss the Plaintiff's lawsuit against the decedent's estate as being prematurely filed before the rejection of the Plaintiff's creditor's claim.

2. The trial court erred in failing to strictly construe the requirements of RCW 11.40.100 as applicable to the Plaintiff in order for the Plaintiff to preserve a lawsuit against the Defendant decedent's estate following rejection of their creditor's claim.

3. The trial court erred in failing to follow the plain language of RCW 11.40.100.

**B. ISSUES PRESENTED FOR REVIEW**

1. Does the Plaintiff's non-compliance with the explicit statutory requirements of RCW 11.40.100 bar the Plaintiff's right to maintain a cause of action against the decedent's estate following thirty days after notice of rejection of the claim?

2. Does RCW 11.40.100 require a claimant to initiate a second suit within thirty days after notification of rejection of a creditor's claim when the claimant had already initiated the lawsuit prior to notification of rejection of the claim?

3. Does the doctrine of “harmless error” disavow the Plaintiff’s compliance with RCW 11.40.100 in order to maintain a cause of action against a decedent’s estate?

### STATEMENT OF FACTS

Grace Mattson and George Mattson were married on May 28, 1959. (CP-6;CP-94) During their marriage, they owned a business in Port Angeles, Washington, known as the “Aircrest Motel”.(CP-6). The parties later decided to sell the motel.(CP-6). On December 7, 1986, the Mattsons entered into an “all inclusive” Promissory Note for the principal amount of \$455,000.00 with Larry W. McConnell, and his parents, for the sale of the Aircrest Motel.(CP-6). On April 26, 1989, Wayne W. McConnell and Marie I. McConnell quit claimed their interest in the Aircrest Motel to their son, Larry W. McConnell. Mr. McConnell was a co-defendant in the underlying action but is not a party to this appeal. (CP-6).

The Mattsons later filed for divorce.(CP-6). On October 30, 1991 Grace Mattson and George Mattson received a Decree of Dissolution of Marriage entered by the Clallam County Superior Court.(CP-6). As part of the property division, the Decree of Dissolution of Marriage stated that “with respect to the contract payments on the sale of the Aircrest Motel, the amount of those monthly payments shall be divided equally between the parties.” (CP-6).<sup>2</sup> In 2001, pursuant to a “Memorandum of

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<sup>2</sup> The monthly contract payment on the underlying first promissory note was in the sum of \$3,268.00 per month. The dissolution decree anticipated that each party would receive \$1,634 of the total monthly payment.

Understanding” signed by Larry McConnell and Grace Mattson and George Mattson, the parties altered the division of the monthly motel payments between them allegedly due to Grace Mattson’s ill health and need for additional income. By virtue of the amended agreement (essentially a 60/40 split) Grace Mattson would receive \$1,940 of the monthly payment amount and George Mattson would \$1,328 as the balance of the monthly payment. (CP-16). Sometime thereafter, Grace Mattson and George Mattson also entered into a management agreement that was conditionally operable in the event of a default by Larry McConnell on his contractual obligations. Through that document, George Mattson believed that the parties had converted the 1986 McConnell promissory note into the status of joint tenants with rights of survivorship.

Following the discharge of the contract collections agent, in 2001, Larry McConnell began making all monthly payments for both Grace Mattson and George Mattson directly to George Mattson.(CP-6). George Mattson would then divide the payments between his ex-wife and himself pursuant to the Memorandum of Understanding in accordance with the agreed upon percentages. (CP-6).

Grace Mattson died on January 31, 2005.(CP-6;CP-143). Following her death, George Mattson refused to continue splitting the McConnell payments with the Estate of Grace D. Mattson.(CP-6).

The evidence in the case established that George Mattson withheld eleven monthly payments in the sum of \$1,940 each from the Estate of

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Grace Mattson between February 1 through December 1 of 2005, for a total of \$21,340. (CP-16).<sup>3</sup> George T. Mattson died on December 11, 2005. As a result of the dispute between the two decedent's estates, the monthly motel payments were placed in a trust account subject to the outcome of litigation or settlement between the parties.(CP-16).

On January 3, 2006, Rod Von Houck was appointed personal representative of Estate of George Mattson under Clallam County Probate No. 05-4-00332-4 (CP 157).

On January 13, 2006, Rod Von Houck had published in the Peninsula Daily News the Notice to Creditors pursuant to the requirements of RCW 11.40.070. (CP 156 and CP 155).

On May 1, 2006, the Plaintiff Sherry Johnston, who is the daughter, sole heir, and executor of the Estate of Grace Mattson, prepared a Summons and Complaint and a Notice of Claim against the personal representative of the Estate of George T. Mattson alleging the failure of George T. Mattson to divide certain promissory note payments to Grace D. Mattson or her estate. (CP 141 and CP143). On May 1, 2006, Sherry Johnston, through her attorney, hand delivered a copy of the Notice of Claim to the law office representing the Estate of George T. Mattson. (CP 25)

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<sup>3</sup> George Mattson apparently withheld those portions of the monthly payments from distribution to the Estate of Grace Mattson based on his belief that the promissory note had been changed by agreement between the parties to the status of "joint tenants with rights of survivorship". However, the terms of the change never came into existence because the motel purchaser, Larry McConnell, never defaulted on a monthly installment payments which was a condition precedent to the change in status of the promissory note.

On May 2, 2006, Rod Von Houck was served the Notice of Claim as personal representative of the Estate of George T. Mattson. (CP 127)

On May 3, 2006, Plaintiff filed the Summons and Complaint against the Estate of George T. Mattson in the Clallam County Superior Court. (CP 141, CP 143).

On May 11, 2006, Rod Von Houck, in his capacity as personal representative, was personally served with a copy of the Summons and Complaint against the Estate of George T. Mattson. (CP 140).

On May 16, 2006, Rod Von Houck, as personal representative the Estate of George Mattson, sent by certified mail the notice of rejection of the Plaintiff's Creditor's Claim to Sherry Johnston. (CP 121; CP 150). The "Notice of Rejection of Claim" contained reference to that portion of RCW 11.40.100 that advised the Plaintiff that a lawsuit must be commenced within thirty (30) days **after notification of rejection** of the creditor's claim. (CP 121; and CP 127---Exhibits "2" and "3").

The U.S. Post Office postmarked the certified letter on May 19, 2006. (CP 105) On May 26, 2006, Sherry Johnston acknowledged receipt of the certified correspondence that contained the notice of rejection of her creditor's claim. (CP 105) The U.S. Postal service then faxed confirmation of the notice of delivery back to the legal representative of the Estate of George T. Mattson.(CP 121)

On June 19, 2006, thirty days expired from the post marked date on the notice of rejection of the Sherry Johnston's creditor's claim. (CP-

105). Sherry Johnston did not initiate a new suit after receiving the rejection of her creditor's claim.

On March 16, 2007, Rod Von Houck brought a summary judgment motion for dismissal challenging the Plaintiff's right to maintain her cause of action against the decedent's estate for non-compliance with RCW 11.40.100. An Order Denying the Motion for Summary Judgment was entered on February 4, 2008, following receipt of the judge's memorandum opinion.

By settlement agreement, the parties resolved the issues pertaining to the division of the future installment payments on the 1986 motel contract reserving for appeal the issue of whether the litigation timely commenced concerning the \$21,340 claim in light of the requirements of RCW 11.40.100 following rejection of the Plaintiff's underlying creditor's claim. (CP 16).

### **SUMMARY OF ARGUMENT**

The defendant Estate of George T. Mattson has contended that the filing of the summons and complaint in advance of the plaintiff's receipt of notice of rejection of the creditor's claim was premature and therefore void. The defendant's personal representative for the Estate of George T. Mattson had brought a Motion for Summary Judgment to challenge the Plaintiff's right to maintain this action in so far as they were entitled to recover the \$21,340 from the defendant's estate. The decedent's personal

representative took the position that non-compliance with the explicit statutory requirements of RCW 11.40.100 barred Plaintiff's right to maintain the cause of action against the Estate of George Mattson.

Defendant's personal representative further contends that the trial court erred by denying the Defendant George Mattson Estate's motion for summary judgment of dismissal. The court's decision should be reversed and a dismissal of the action should be granted.

## ARGUMENT

### I.

#### A. Standard of Review.

Where the material facts are undisputed by the parties; the case would be ripe for summary judgment. *Young v. Estate of Snell*, 134 Wash.2d 267, 271, 948 P.2d 1291 (1997). To determine whether summary judgment dismissal of the creditor's claim is appropriate, all evidence and reasonable inferences are viewed in the light most favorable to the nonmoving party. *Wilson v. Steinbach*, 98 Wash.2d 434, 437, 656 P.2d 1030 (1982). If there is no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law, then summary judgment is appropriate. *CR 56(c)*.

Under the facts of this case, a determination of whether the moving party is entitled to judgment as a matter of law depends on the court's interpretation of RCW 11.40.100. Because this inquiry requires the court

to engage in statutory construction, the standard of review is de novo. *Cockle v. Dep't of Labor Indus.*, 142 Wash.2d 801, 807, 16 P.3d 583 (2001).

**B. The Plaintiff did not commence the action on its rejected creditor's claim within thirty (30) days following receipt of the notification of rejection of the creditor's claim as required RCW 11.40.100.**

RCW 11.40.100 states:

(1) If the personal representative rejects a claim, in whole or in part, the claimant must bring suit against the personal representative within thirty days after notification of rejection or the claim is forever barred. The personal representative shall notify the claimant of the rejection and file an affidavit with the court showing the notification and the date of the notification. The personal representative shall notify the claimant of the rejection by personal service or certified mail addressed to the claimant or the claimant's agent, if applicable, at the address stated in the claim. **The date of service or of the postmark is the date of notification. The notification must advise the claimant that the claimant must bring suit in the proper court against the personal representative within thirty days after notification of rejection or the claim will be forever barred.** (emphasis added).

On May 2, 2006, Rod Von Houck, as personal representative of the Estate of George Mattson was served with a Notice of Claim, signed by Sherry Johnston as personal representative of the Estate of Grace Mattson. (CP 127) The following day, on May 3, 2006, the Summons and Complaint were filed against Mr. Von Houck before notice of rejection of the claim was provided to Mrs. Johnston. (CP 141;CP 143). On May 11, 2006, the personal representative, Rod Von Houck, was served with a

copy of the summons and complaint.(CP 140). Thereafter, Mr. von Houck rejected the claim of the Plaintiff and the notification of rejection was sent by certified mailed and bore the postmark date of May 19, 2006 to Ms. Johnston at her Portland, Oregon address. (CP 121; CP 150).

In its Memorandum Opinion, the trial court queried “Does RCW 11.40.100 require a claimant to initiate a second suit within thirty days after notification of rejection of a claim when the claimant had already initiated suit prior to the rejection of the claim?” The answer to the question should be “yes”.

Case law on ancillary probate issues imply that following the explicit requirements of the probate statutes are required in order to preserve the various rights or obligations of each party involving a decedent’s estate. For example, in 1980, the appellate court addressed the predecessor to RCW 11.40.100(1), former RCW 11.40.030(3). In *Marquam v. Ellis*, 27 Wn.App. 913, 621 P. 2d 190 (1980), the claimant through her attorney served a claim on the administratrix of the decedent’s estate. The administratrix rejected the claim, and sent the notice of rejection by first-class mail to the claimant’s attorney and not to the claimant as required by the statute. The court held that failure to provide notice in the manner strictly provided for by the statute was not sufficient compliance stating “Absent a showing of compliance with RCW 11.40.030, the limitation period of RCW 11.40.060 does not commence to run. The statute, (former) RCW 11.40.030(3) (now recodified as RCW

11.40.100) is clear and precise; notice of rejection by personal service or by certified mail to the claimant is not burdensome.” The sole issue in Marquam was whether the rejection notice sent to the claimant's attorney was sufficient compliance with RCW 11.40.030(3) to trigger the running the limitation period of RCW 11.40.060. *Marquam*, 27 Wn. App. At 914-15. The court stated,

“We answer in the negative. The statutory provisions regarding to whom and in what manner a notice of rejection must be given are for the protection of the claimant (citing to *Mallicott v. Nelson*, 48 Wash.2d 273, 293 P.2d 404 (1956). Absent a showing of compliance with RCW 11.40.030, the limitation period of RCW 11.40.060 does not commence to run.”

In the matter at hand, Plaintiff Johnston’s summons and complaint was prematurely filed on May 3, 2006. (CP 141; CP 143). Notice of rejection of plaintiff’s creditor’s claim was postmarked May 19, 2006, and therefore deemed served on that date. (CP 105). In order to meet the explicit and unambiguous requirements of RCW 11.40.100, the plaintiff’s summons and complaint should have been filed within the 30 day window between May 19<sup>th</sup> through June 19<sup>th</sup> following receipt of notice of the rejection of the creditor’s claim. The policy reasoning behind the statute that suit shall be brought within 30 days after rejection was to facilitate the expeditious handling and settling of decedent’s estates. See *In re Krueger’s Estate*, 145 Wash. 379, 381-383, 260 P. 248 (1927).

A lawsuit filed before the creditor’s claim against a decedent’s estate is rejected does not comply with the plain and explicit requirements RCW 11.40.100. The statutory bright line rule required Sherry Johnston

to file suit following thirty days of the Notice of Rejection of the Creditor's Claim. The defendant decedent's estate was involved in time consuming litigation before any opportunity to either accept or reject the claim. RCW 11.40.080(2) gives the personal representative 30 days from receipt of a claim to either accept or reject the claim.<sup>4</sup> However, in a lawsuit, a summons issued pursuant to CR 4, would require the personal representative of a defendant decedent's estate would have to respond to the action within 20 days after the date of service of the summons or be faced with a potential default judgment against the decedent's estate. Therefore, substantial compliance is not sufficient and should not be considered "harmless error". Harmless error does not apply to overcome the failure to comply with the requirements of RCW 11.40.100 and *McWhorter v. Bush*, 7 Wn. App. 831, 502 P. 2d 1224 (1972) is inapposite. *McWhorter* held only that a creditor commenced the action in the proper court despite filed the action under the probate cause rather than as a separate civil proceeding. Therefore, the court held, any error resulting from the failure to file a separate action was harmless.

Since the Defendant decedent's estate had a mandatory statutory obligation to submit by certified mail the notice of rejection of the creditor's claim in order to trigger the probate statutory 30 day limitation

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<sup>4</sup> RCW 11.40.080(2) provides that "If the personal representative has not allowed or rejected a claim within the later of four months from the date of first publication of the notice to creditors or thirty days from presentation of the claim, the claimant may serve written notice on the personal representative that the claimant will petition the court to have the claim allowed. If the personal representative fails to notify the claimant of the allowance or rejection of the claim within twenty days after the personal representative's receipt of the claimant's notice, the claimant may petition the court for a hearing to determine whether the claim should be allowed or rejected, in whole or in part.

period; the Plaintiff's claimant had a concomitant mandatory duty to file its cause of action within the 30 day tolling period. RCW 11.40.100.

Case law regarding probate administration is clear that if the personal representative does not properly serve the notice of rejection, the statutory tolling period during which to challenge the rejection would not be triggered and therefore no claims would ever be time-barred. There are mutual duties and obligations on both claimants and personal representatives under the probate statutes.

If a statute is unambiguous, it is not subject to judicial construction and the court may not add language. *State v. Chester*, 133 Wn. 2d 15, 21, 940 P. 2d 1374 (1997). Since a personal representative cannot take advantage of its own noncompliance of the statute in order to defeat a creditor's claim, the obverse of the argument should apply equally as well, i.e. that a creditor must file suit within 30 days following notice of rejection of the creditor's claim in order to properly preserve its cause of action.

It is well known that statutes in derogation of the common law are strictly construed. Both parties must comply with their respective duties in order to take advantage of the favorable provisions of the statute. See *Matter of Kruse's Estate*, 19 Wash. App. 242, 574 P. 2d 744 (1978). The underlying function of judicial interpretation of statutes is to effectuate the object or intent of the legislature. *Williamson, Inc. v. Calibre Homes, Inc.*, 147 Wash. 2d 394, 401, 54 P. 3d 1186(2002). When interpreting a statute,

the courts look to the Legislature's intent as reflected in the statutory language. "We presume that the Legislature means exactly what it says and, if a statute is unambiguous, we derive its meaning from the statutory language alone." *Villegas v. McBride*, 112 Wn. App. 689, 50 P. 3d 678 (2002). In *Villegas, supra*, the personal representative contended that Villegas' claim failed to satisfy RCW 11.40.070(1)(c) and (d) because it did not include "[a] statement of the facts or circumstances constituting the basis of the claim' and that amount of the claim differs significantly from the amount she claimed in her lawsuit. Villegas conceded those points but argued that those failures were excused if they were "not substantially misleading". The court held that Villegas' claim failed to satisfy RCW 11.40.070(1)(c) and the "not substantially misleading" exception does not excuse the failure because it does not apply to an omission of required information. The safety valve for creditor claims that fail to satisfy RCW 11.40.070(1) is found in subsection (4), permitting a personal representative to waive formal defects and elect to treat the demand as a claim properly filed under RCW 11.40.

The general rule regarding statutory construction is also very clear. In judicial construction, the court should assume that the legislature means exactly what it says. Plain words do not require construction. The court will not construe unambiguous language. See *Sidis v. Brodie/Dohrmann Inc.*, 117 Wn. 2d 325, 321 815 P. 2d 781 (1991).

By analogy, the content of a notice of tort action against a government entity, which is subject to the substantial compliance standard, the 60-day waiting period between filing a notice of claim and filing a lawsuit based on such claim must be strictly construed, and courts have dismissed complaints filed before the end of the 60-day waiting period. RCW 4.96.020(4). See *Medina v. Pub. Util. Dist. No. 1 of Benton County*, 147 Wash. 2d 303, 310, 53 P. 3d 993 (2002); *Daggs v. City of Seattle*, 110 Wash. 2d 49, 57, 750 P. 2d 626 (1988). *Pirtle v. Spokane Pub. Sch. Dist. No. 81*, 83 Wash. App. 304, 306, 921 P. 2d 1084 (1996) (“On July 13, 1994, her attorney served the notice....On July 29, Ms. Pirtle filed the summons and complaint.”) While the computation methods have been conclusory and inconsistent, the courts have consistently applied the strict compliance standard to the waiting period. Where time requirements are concerned, the courts have held that failure to comply with a statutorily set time limitation cannot be considered substantial compliance with the statute. *Medina Pub. Util. Dist. No. 1 of Benton County*, 147 Wash. 2d at 317, 53 P. 3d 993.

The facts in the case of *Wagg v. Estate of Dunham*, 146 Wash.2d 63, 42 P.3d 968 (2002) established that on May 11, 1999, Wagg filed a personal injury lawsuit against the estate in the superior court.. Wagg mailed a copy of the summons and complaint to Dunham's parents on May 13, 1999, along with a letter advising them that his intent was to preserve the claim against the decedent's insurance company for the May

30, 1996 collision. Wagg served the summons and complaint on Benner, the personal representative, on May 18, 1999. Service was perfected when Benner acknowledged service on June 16, 1999.

In its answer to complaint, filed on June 28, 1999, the estate asserted an affirmative defense (among others) that Wagg was precluded from proceeding with his lawsuit due to his failure to properly serve a creditor's claim. Another affirmative defense claimed the suit was barred by the statute of limitations. In apparent response, Wagg served a creditor's claim on Benner on July 2, 1999. The claim description acknowledged that the "claim is contingent upon the outcome of ... *Wagg v. Dunham*," and that "[a]ny verdict would be recovered from insurance policy proceeds."

On September 15, 1999, the estate moved for summary judgment of dismissal of the personal injury suit. The estate argued that former RCW 11.40.080 (1994) required Wagg to file a creditor's claim *before* filing his lawsuit. Because he filed the suit prior to filing a creditor's claim, the estate claimed Wagg's service of the suit on the estate was premature, the filing was void and ineffective, and therefore, the suit was barred by the statute of limitations.

The trial court granted the estate's summary judgment motion against Wagg. Wagg filed a motion for reconsideration which was denied. Wagg timely appealed denial of the motion to reconsider to Division Three of the Court of Appeals. On review, the Court of Appeals

affirmed dismissal of Wagg's creditor's claim against the estate, but reversed the dismissal of Wagg's personal injury action. The Washington Supreme Court affirmed the Court of Appeals and remanded to the trial court, holding that judgment, if any, on the personal injury suit shall be solely recoverable from insurance proceeds.

### **C. Attorney Fees and Costs**

In the event of a reversal of the trial court decision, under RCW 11.96A.150 and RAP 18.1, the Estate of George Mattson would request an award of attorney's fees and costs on appeal and remand for entry of attorney fees and costs incurred at the trial court level.

RCW 11.96A.150(1) provides that:

Either the superior court or the court on appeal may in its discretion, order costs, including reasonable attorneys' fees, to be awarded to any party:

(a) From any party to the proceedings; (b) from the assets of the estate or trust involved in the proceedings; or (c) from any nonprobate assets that is the subject of the proceedings. The court may order the costs to be paid in such amount and in such manner as the court determines to be equitable. In exercising its discretion under this section, the court may consider any and all factors that it deems to be relevant and appropriate, which factors may but need not include whether the litigation benefits the estate or trust involved.

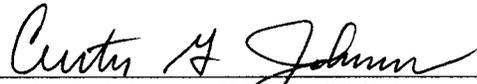
Sherry Johnston did not comply with RCW 11.40.100 and as a consequence has led to these proceedings that have delayed the distribution of the assets to its beneficiaries of George T. Mattson and the closing of the defendant decedent's estate. The appellant requests this court exercise its discretion and allow for attorney's fees.

## CONCLUSION

The Plaintiff's action was not instituted within the 30 day window following notification of rejection of her creditor's claim. Plaintiff's action against the Estate of George T. Mattson's should be dismissed and the superior court order denying the decedent' estate's motion for summary judgment of dismissal should be reversed.

Respectfully submitted this 22<sup>nd</sup> day of August, 2008.

Law Office of Curtis G. Johnson, P.S.



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Curtis G. Johnson, WSBA #8675  
Attorney for Petitioner

FILED  
COURT OF APPEALS  
DIVISION II

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STATE OF WASHINGTON  
BY cm CLERK

IN THE COURT OF APPEALS FOR THE STATE OF WASHINGTON  
DIVISION II

SHERRY JOHNSTON, as Personal  
Representative of the Estate of GRACE D.  
MATTSON,

Respondent,

vs.

ROD VON HOUCK, as Personal  
Representative of the Estate of GEORGE T.  
MATTSON; and LARRY McCONNELL and  
JANE DOE McCONNELL, his wife, if any,  
and their marital community,

Appellant.

NO. 37726-8-II

PROOF OF SERVICE

Comes now, Sharon Rhoads-Warren and certifies and declares as follows:

On the date of August 22, 2008, I placed in the mail of the United States, first class postage prepaid, an envelope addressed to:

Attorney for the Respondent:

James Bendell  
Attorney At Law  
P. O. Box 587  
Port Townsend, WA 98368

containing copies of the following documents:

1. Brief of Appellant (Rod Von Houck as PR for Estate of George Mattson)
2. Supplemental Designation of Clerk's Papers
3. Proof of Service

1 I certify under penalty of perjury under the laws of the State of Washington that the foregoing  
2 statements are true and correct.

3 Dated this 22<sup>nd</sup> day of August, 2008 at Port Angeles, Washington.  
4

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