Case #: 1045131

Court of Appeals Case No. 85931-5

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

In re the Estate of

DARRELL BRYANT

RUSSELL BRYANT and KENNETH BRYANT

Respondents,

v.

ROBERT J. CADRANELL II,

Petitioner.

PETITION FOR REVIEW

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INTRODUCTION

Jurisdiction is the power of a court to act. A court's action that it takes when it does not have the power is ***void***. The consequences are draconian and absolute: a court without jurisdiction has no authority to decide the claim at all or order any type of relief. Moreover, there are different types of jurisdiction. The Court of Appeals conflated void with voidable and fundamentally erred when affirmed a Superior Court Judge's order that declared "***void ab initio***" a different Superior Court Judge's final order in ongoing *in rem* probate proceeding that granted a surviving spouse's motion to appoint Petitioner as her co-administrator of her late husband's estate. The Court of Appeals' unpublished opinion is inconsistent with clearly established Washington State Supreme Court precedent, which is still not well understood amongst the different divisions of the Washington State Court of Appeals.

Beyond conflating jurisdiction, there are unique legal issues that the Court should also decide because they either conflict with this Court's binding precedent or reveal fundamental conflicts in decisions issued by different divisions of the Court of Appeals. There is also a matter of first

impression regarding a recent amendment to the TEDRA statutes that permit noticed to a person's "legal representative" that was construed to mean something other than what it says, and that is a matter of public importance for this Court to determine.

For these reasons, Petitioner requests the Court accept review and authoritatively decide and declare the limited circumstances, if any, when a Superior Court judge with the coordinate power can declare a different Superior Court judge's final order in an ongoing in rem probate proceeding *void ab initio* and undo what the probate judge had already done. This answer is constitutional. It is, therefore, for this Court, and only this Court, to decide. Review should be accepted.

A. IDENTITY OF PETITIONER

Robert Cadranell is the Appellant before the Court of Appeals and the Respondent in the Superior Court TEDRA action,

B. COURT OF APPEALS DECISION

The decision for which review is sought is the Washington State Court of Appeals' Unpublished Opinion in *In re Estate of Darrell Bryant,* Case No. 85931-5-I, Washington Court of Appeals, Division One (February 18, 2025) (the "Opinion"),[1] reconsideration denied (July 29, 2025).[2]

[1] **Appendix** at A-001 through A-013.
[2] **Appendix** at A-014.

C. ISSUES PRESENTED FOR REVIEW

1. Whether the probate judge had the power to grant the surviving spouse's motion to appoint Petitioner to be her co-administrator.

2. Whether

D. STATEMENT OF THE CASE

Darrell R. Bryant died intestate survived by his spouse Marie Fieldhouse (Fieldhouse) and three brothers William R. Bryant (William); Russell Bryant (Russell); and Kenneth Bryant (Ken). Fieldhouse applied to become, and became, the personal representative of Darrell's Estate. Litigation ensued between the decedent's three brothers and Fieldhouse regarding her appointment and her handling of the Estate.

In December 2022, Fieldhouse filed a Motion to Appoint Petitioner, a disinterested attorney with whom she had no pre-existing relationship, to be a second personal representative of the Estate who would co-administer it with her. CP 1290-91. She served her motion on the attorney who was representing all three of the decedent's siblings in TEDRA litigation involving

Fieldhouse and the probate estate. CP 996-97 and CP 1291. That attorney filed a Response (CP 1292) opposing the surviving spouse's motion to appoint Petitioner a personal representative. The probate judge reviewed Fieldhouse's Motion and the Response and then granted Fieldhouse's Motion and appointed Petitioner to serve as a second personal representative of the estate. CP 165-66.

The final order appointing Petitioner was never appealed. CP 1293.

As the 30-day deadline to appeal the order appointing Petitioner was expiring, Petitioner filed and served the decedent's three siblings' legal representatives with a petition to have letters of administration issued. CP 168-69 and CP 735-36. Ken filed a response and the other two siblings did not. CP 174-75; 998:16-20; and 1294, ¶23. The probate judge considered Petitioner' Petition, Ken's response, and the other two siblings' failure to respond and granted the Petition. Letters of Administration were issue in April 2023, but were never

appealed nor was any discretionary review sought. CP 188-90; CP 192.

Instead, two of decedent's three siblings filed an unverified TEDRA Petition to have the appointment order declared void ab initio. CP 1-30 and CP 42-72. The matter was heard by a commissioner who referred the "overlapping issues" to a judge for trial and recommended the TEDRA action and probate actions be consolidated before one judge to avoid inconsistent results. CP 283-86. The two siblings, however, preempted any such consolidation by each of them purporting to disqualify the probate judge and the other judge who was considering the decedent's siblings' TEDRA Petition to declare Fieldhouse's appointment void ab initio and decided it was not void ab initio and declined to set it aside. CP 37-38, CP 41.

Petitioner, even though granted nonintervention powers, proceeded as though he was appointed with intervention powers, and applied to have his fees and his counsel's fees approved by the probate judge for payment. CP 1298. The fee issues were

heard by the probate judge and granted. CP 1299. The attorney representing one of the siblings, however, was later to the hearing. CP 1298, Despite that, the probate judge permitted the attorney to present oral argument prior to entering the order. CP 1298. The attorney appeared at the designated time and presented oral argument. Neither Fieldhouse nor Petitioner attended the hearing. The Court entered its order granting both Petitioner and his attorney entitlement to reasonable attorney fees and then subsequently determined the reasonable amount of fees for each. CP 1299.

During the hiatus between the July 31, 2023, hearing where the probate judge granted Petitioner's and his counsel's fee requests the TEDRA judge declared Petitioner's appointment void ab initio because notice was not sent to the decedent's siblings; rather only to their legal representative. RP 100:17-18 and 101:3-6; CP 896-907. The TEDRA judge awarded some $75,000 in attorney fees against Petitioner and overruled the

probate judge's order granting Petitioner and his counsel entitlement to attorney fees. CP 896-907; CP 1466-75.

Petitioner appealed. The Court of Appeals affirmed, Petitioner now seeks this Court's review.

E. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED

1. The Order Appointing Petition was not Void ab initio.

The Order Appointing Petitioner is not void. " 'Jurisdiction is the power and authority of the court to act.' " *ZDI Gaming, Inc. v. Wash. State Gambling Comm'n,* 173 Wn.2d 608, 617, 268 P.3d 929 (2012) *(internal quotation marks omitted)* (quoting *Dougherty v. Dep't of Labor & Indus.*, 150 Wn.2d 310, 315, 76 P.3d 1183 (2003)). Here, the probate court judge had the power and authority to appoint Petitioner to be a personal representative of the Estate.

The probate judge had subject matter jurisdiction over personal representative appointments. Subject matter jurisdiction is the authority of a court to hear and decide the type of controversy at issue. *Banowsky v. Guy Backstrom, DC*, 193 Wash.2d 724, 731, 445 P.3d 543 (2019). If a tribunal lacks subject matter jurisdiction, the

implication is that it does not have authority to decide the claim at all or order any type of relief. *Id*.

Because the absence of subject matter jurisdiction is a defense that can never be waived, judgments entered by courts acting without subject matter jurisdiction must be vacated even if neither party initially objected to the court's exercise of subject matter jurisdiction and even if the controversy was settled years prior.

In re Marriage of McDermott, 175 Wn. App. 467, 479, 307 P.3d 717 (2013). When a court acts without subject matter jurisdiction the consequences of that action are "draconian and absolute." *Cole v. Harveyland, LLC*, 163 Wash. App. 199, 205, 258 P.3d 70 (2011). The standard of review on questions of whether a court had subject matter jurisdiction is de novo. *McDermott*, 175 Wn. App. at 479, 307 P.3d 717.

The probate court had original jurisdiction to appoint Petitioner to be a personal representative. Original jurisdiction is related to subject matter jurisdiction. Original jurisdiction means an action may be filed in a particular court. *Ledgerwood v. Lansdowne*, 120 Wn.

App. 414, 420, 85 P.3d 950 (2004). Our state constitution enumerates probate matters and vests the superior court with original subject matter jurisdiction over them. Wash. Const., Art IV, §6. Original jurisdiction to grant Fieldhouse's Motion to Appoint Petitioner to be a personal representative was properly with the probate judge.

The probate court did not need personal jurisdiction to render a valid order appointing Petitioner. Probate proceedings are *in rem*. *In re Haukeli's Est.*, 25 Wash. 2d 328, 333, 171 P.2d 199, 201 (1946). They are conclusive against all the world even those over whom the Court has not acquired personal jurisdiction. *Haukeli's Est.*. 25 Wash.2d at 333.

The probate court properly exercised its in rem jurisdiction. In rem jurisdiction is 'far more analogous' to personal jurisdiction than to subject matter jurisdiction." *$401,333.44*, 164 Wn. App. at 249 (quoting *Porsche Cars N. Am., Inc. v. Porsche.net*, 302 F.3d 248, 256 (4th Cir. 2002). The decedent having died a resident of King County, Washington vested the King County Superior Court and, hence, the

probate judge, with in rem jurisdiction over the decedent's property and the ability to administer it. The probate court had the *in rem* jurisdiction and, therefore, the power to appoint Petitioner to be an Estate personal representative.

Moreover, Fieldhouse was not required to provide notice of Petitioner's appointment. To be sure, Washington's Probate Code does not even require a surviving spouse notify the heirs about personal representative appointments. RCW 11.28.131 only requires notice be provided to a surviving spouse if someone other than the surviving spouse seeks to be appointed a personal representative. And if the surviving spouse seeks to have a person, like Petitioner, appointed, then no notice is required to be given. *Id*., *Manning v. Alcott*, 137 Wash. 13, 16, 241 P. 287, 289 (1925) ("As long as the petition is filed by the surviving spouse, *no notice is necessary*, even though the surviving spouse may not seek the appointment as administrator himself, but asks to have some one else so appointed.")

Even if notice was required it was provided. TEDRA was amended to allow notice to be provided to a person's legal representative. RCW 11.96A.110(1). Attorney Elena Garella was Ken's, William's, and Russell's legal representative in TEDRA proceedings they commenced in September 2020 seeking to remove Fieldhouse as personal representative. CP 1524 77. Garella was their legal representative, and she agreed to receive electronic notice on their behalf via the King County Scripts portal, and she was served with notice of the Motion and hearing. CP 996, 1291

Ken waived any personal or in rem jurisdiction argument when he responded to Fieldhouse's Motion without raising it. A challenge on this basis is waived if not timely asserted. A challenge on this basis is waived if not timely asserted. Modumetal, Inc. v. Xtalic Corp., 4 Wash. App. 2d 810, 836, 425 P.3d 871 (2018). Here, Ken filed a response to Fieldhouse's Motion and did not raise personal jurisdiction. He personally participated in the decision and cannot claim lack of notice makes the decision void. CP 1292, after Fieldhouse e-served Garella with the motion to appoint Cadranell and notice of the motion.. 9 Therefore the Bryant brothers had an opportunity to be heard on the issue of whether Cadranell should be granted nonintervention powers.

Not only did Ken raise argument on his behalf, he raised them on behalf of all three siblings. CP 1292. Therefore the Bryant brothers cannot assert lack of notice to void the appointment order. *Matter of Est. of Vatne*, 22 Wn.App.2d 1022 (2022) (UNPUBLISHED). Moreover, defects in service, if any, were cured when notice of appointment was sent on or about June 13, 2023. CP 1316-18 and *In re Estate of Peterson*, 175 Wn. 8 App. 1012 (June 1, 2013) (UNPUBLISHED) (heirs waived notice by appearing in the case and repeatedly seeking affirmative relief from the court).

2. There is a Conflict in the Understanding of Jurisdiction Amongst the Divisions of the Court of Appeals

Division Three has identified the conflict and the conflicts amongst the divisions. It noted a

> string of Court of Appeals cases are inconsistent with the above authorities and have wrongly concluded that default judgments entered by courts, even courts with jurisdiction, are void. *See In re Marriage of Daley*, 77 Wash. App. 29, 31, 888 P.2d 1194 (1994); *Hous. Auth. v. Newbigging*, 105 Wash. App. 178, 190, 19 P.3d 1081 (2001); *Servatron, Inc. v. Intelligent Wireless Prods., Inc.*, 186 Wash. App. 666, 679, 346 P.3d 831 (2015). This

> error appears to have started with *Shreve v. Chamberlin*, 66 Wash. App. 728, 731, 832 P.2d 1355 (1992), which misconstrued our Supreme Court precedent.
>
> Division One of this court recently noted this error and persuasively explains why *Servatron* and *Daley* are inconsistent with Supreme Court precedent. *Rabbage*, 5 Wash. App. 2d at 298-99, 426 P.3d 768. We join Division One and acknowledge this error.
>
> The premise of Mr. Orate's argument—that he was entitled to reargue his motion to vacate because the order allowing relocation was void—is a false premise. The order, even if erroneous, was merely voidable.

Matter of Marriage of Orate, 11 Wash. App. 2d 807, 813, 455 P.3d 1158, 1162 (2020). Seemingly, they have now attempted to solve the conflict within their own division. *See Lamb v. Lamb* 33 Wash.App.2d 2d 609, 563 P.3d 465 (2025) ("we clarify now that only a jurisdictional defect can render an order or judgment void.

Review on this ground, if reversed, should result in reversal of the entire Opinion and Superior Court Order so there is no need to state other bases for review.

> n keeping with *Dike*,. *Accord Gates v. Homesite Ins. Co*., 28 Wash. App. 2d 271, 280, 537 P.3d 1081 (2023). Because there was no evidence in *Servatron* that the court lacked personal jurisdiction over the defendant or subject matter jurisdiction over the controversy, our conclusion that

the default judgment was void was incorrect. *Freedom Found. v. Teamsters Loc. 117 Segregated Fund*, 197 Wash.2d 116, 141, 480 P.3d 1119 (2021) (jurisdiction requires only two elements: personal jurisdiction and subject matter jurisdiction).

Lamb v. Lamb, 33 Wash. App. 2d 609, 614, 563 P.3d 465, 468 (2025)

F. CONCLUSION

For the reasons stated above, review should be accepted, and the Court of Appeals decision reversing the trial court orders should be overturned.

SUBMITTED: August 28, 2025.

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By my signature above, I certify that the foregoing

document contains 2299 words, in compliance with RAP 18.17.

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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

In the Matter of the Estate of DARRELL BRYANT	No. 85931-5-I DIVISION ONE UNPUBLISHED OPINION
RUSSELL BRYANT and KENNETH BRYANT, Respondents, v. ROBERT J. CADRANELL II, Appellant.	

FELDMAN, J. — Robert J. Cadranell II appeals a trial court order awarding attorney fees and costs in favor of Russell and Kenneth Bryant in this action under the Trust and Estate Dispute Resolution Act (TEDRA), chapter 11.96A RCW. Russell and Kenneth filed a TEDRA petition to remove Cadranell as the co-administrator of the Estate of Darrell Bryant (the Estate) due to statutory notice violations.[1] The trial court granted the petition, removed Cadranell as co-

[1] Because they share the same last name, we refer to the Bryant brothers by their first names for clarity.

administrator, and ordered him to pay attorney fees and costs incurred by Russell and Kenneth totaling approximately $73,000. Because the trial court did not abuse its discretion in awarding such fees and costs, we affirm.

I

Darrell Bryant died intestate in 2019. At the time of his death, he was married to Marie Fieldhouse and had three living siblings (Russell, Kenneth, and William) and no children. After Darrell's death, Fieldhouse initiated probate proceedings for the Estate and was appointed as administrator. Russell, Kenneth, and William subsequently filed an action to have Fieldhouse removed as administrator and replace her with a professional fiduciary based on alleged breaches of her fiduciary duties. Soon after, Fieldhouse filed a motion to appoint Cadranell as co-administrator of the Estate. The motion was granted without oral argument.

Russell and Kenneth then filed an amended TEDRA petition requesting that the court remove Cadranell as co-administrator for failure to provide proper notice of his appointment. A trial court commissioner held a hearing on the amended TEDRA petition and entered an order setting the matter for trial. Russell and Kenneth then filed a motion to revise the commissioner's order, arguing, among other alleged errors, the commissioner erred in failing to address the amended petition on the merits and resolve all issues related to Cadranell's appointment as required by TEDRA.[2]

[2] In support of this argument, Russell and Kenneth cited RCW 11.96A.100(8), which states, "Unless requested otherwise by a party in a petition or answer, the initial hearing must be a hearing on the merits to resolve all issues of fact and all issues of law."

As detailed below, the trial court granted the motion for revision and removed Cadranell as co-administrator of the Estate based on numerous statutory notice violations. The court also awarded Russell and Kenneth attorney fees and costs under TEDRA, determined that Cadranell was responsible for 90 percent of the fees and costs, and entered judgment on that portion of the award (totaling approximately $73,000) against Cadranell individually. Cadranell appeals.

II

Preliminarily, Fieldhouse, Russell, and Kenneth argue Cadranell lacks standing to appeal. We disagree.

RAP 3.1 provides "[o]nly an aggrieved party may seek review by the appellate court." An "'aggrieved party is one whose proprietary, pecuniary, or personal rights are substantially affected.'" *Harris v. Griffith*, 2 Wn. App. 2d 638, 646, 413 P.3d 51 (2018) (quoting *In re Guardianship of Lasky*, 54 Wn. App. 841, 848-50, 776 P.2d 695 (1989)). It is well-settled law "[w]hen the administrator has no interest in the probate action other than being the administrator, he or she lacks standing to appeal." *In re Estate of Wood*, 88 Wn. App. 973, 976, 947 P.2d 782 (1997). But where an administrator has interests beyond their appointment alone, they have standing to appeal regarding those interests. For example, in *Lasky*, 54 Wn. App. at 848-50, an attorney was an "aggrieved party" for the purpose of appealing an order imposing sanctions against him but was not an "aggrieved party" for the purpose of appealing an order removing him as the legal guardian of an incompetent adult.

Applying these legal principles here, we reject Fieldhouse, Russell, and Kenneth's standing argument. Although Cadranell's opening brief is sweeping in

scope, he acknowledges on reply he is not challenging the trial court's orders and judgment to the extent they remove him as the Estate's co-administrator and instead seeks to vacate the judgment only to the extent it affects him individually. He also asserts he is "aggrieved by the monetary provisions that detrimentally affect him." While Cadranell does not have standing to seek reinstatement as the co-administrator of the Estate, he has standing to appeal the trial court's order awarding attorney fees and costs and the corresponding judgment against him individually.

III

Turning to the issue on which Cadranell has standing, Cadranell argues the trial court abused its discretion in ordering him to pay attorney fees and costs incurred by Russell and Kenneth in litigating the notice issues relating to his appointment as co-administrator of the Estate. We disagree.

A

TEDRA gives trial courts broad powers in disputes arising out of the administration of an estate "to proceed with such administration and settlement in any manner and way that to the court seems right and proper." RCW 11.96A.020(2). We accord significant deference to trial court decisions in TEDRA proceedings and generally review such decisions for abuse of discretion. *See In re Estate of Fitzgerald*, 172 Wn. App. 437, 448, 294 P.3d 720 (2012). "A trial court abuses its discretion if its decision is based on untenable grounds or is for untenable reasons." *Union Bank, N.A. v. Vanderhoek Assocs., LLC*, 191 Wn. App. 836, 842, 365 P.3d 223 (2015).

Trial courts also have "broad discretion" under TEDRA to award attorney fees and costs. *Sloans v. Berry*, 189 Wn. App. 368, 379, 358 P.3d 426 (2015). "Because of the 'almost limitless sets of factual circumstances that might arise in a probate proceeding,' the legislature 'wisely' left the matter of fees to the trial court," which may properly consider "any and all factors that it deems to be relevant and appropriate." *In re Estate of Boatman*, 17 Wn. App. 2d 418, 428, 435, 488 P.3d 845 (2021) (quoting *In re Estate of Black*, 116 Wn. App. 476, 489, 66 P. 3d 670 (2003), and RCW 11.96A.150(1)[3]). Accordingly, "[w]e will not interfere with the trial court's decision to allow attorney fees in a probate matter, absent a manifest abuse of discretion." *Black*, 116 Wn. App. at 489.

The trial court here exercised this broad authority under TEDRA to remove Cadranell as co-administrator of the Estate based on statutory notice violations and award attorney fees against Cadranell for opposing the petition to remove him based on those violations. Addressing the notice issue, the trial court ruled:

> Mr. Cadranell and Ms. Fieldhouse violated several statutes affecting the estate in the process of having Mr. Cadranell appointed and issued Letters of Administration. The violated statutes include the failure to provide the Bryant heirs with statutorily required advance notice of the Motion to Appoint [Mr. Cadranell] Co-Administrator and Mr. Cadranell's Petition for Letters of Administration (RCW 11.68.041); the failure to state the names, ages, and addresses of the heirs of the deceased in the Motion to Appoint Co-Administrator (RCW 11.28.110); the failure to have either Mr. Cadranell or his attorney sign and verify the Motion to Appoint Co-Administrator (RCW 11.28.110); the failure to note an oral hearing for either the

[3] RCW 11.96A.150(1) states: "(1) Either the superior court or any court on an 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 asset that is the subject of the proceedings. The court may order the costs, including reasonable attorneys' fees, 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." (Emphasis added).

> motion to appoint Mr. Cadranell Administrator or Mr. Cadranell's Petition for Letters of Administration (RCW 11.68.050), and the failure to serve the heirs with notice of Mr. Cadranell's alleged appointment and the pendency of the probate proceedings in compliance with RCW 11.28.237.

Turning to Cadranell's accountability for these statutory notice violations, the trial court further ruled:

> The wholesale failure to comply with the statutes reflects either a lack of due diligence or an attempt to deprive the Bryant heirs of notice and opportunity to be heard. As a putative Administrator, Robert Cadranell's role was that of an "officer of the court and a fiduciary for the heirs." *Hesthagen* [*v. Harby*], 78 Wn.2d [934,] 941[, 481 P.2d 438 (1971)]. "The personal representative stands in a fiduciary relationship to those beneficially interested in the estate." *Estate of Larson*, 103 Wn.2d 517, 521, 694 P.2d 1051 (1985). Mr. Cadranell is held to the rule of strict accountability, *Stewart v. Baldwin*, 86 Wn. 63, 69, 149 P. 662 (1915), and is "obligated to exercise the utmost good faith and diligence" and to use "skill, judgment, and diligence" in the best interests of the heirs. *Hesthagen*, 78 Wn.2d at 942. In addition to being the Administrator, Mr. Cadranell is himself an attorney, and was also represented by an attorney. This Court finds no reason to excuse the violations of the statutes.

The court then concluded, "Petitioners Kenneth and Russell Bryant are awarded their reasonable fees and costs in this matter under RCW 11.96A.150." The amount of the award against Cadranell individually was then determined by separate order.

Significantly, Cadranell does not separately assign error to any trial court finding as required by RAP 10.3(g). Nor does Cadranell argue that he or Fieldhouse strictly complied with the statutory notice provisions listed in the trial court's order (RCW 11.68.041, RCW 11.28.110, RCW 11.68.050, and RCW 11.28.237). To the contrary, Candranell admitted in the trial court "there is no evidence supporting [Fieldhouse's] attorney, Scott Gifford, mailed notice to the Estate's heirs." Despite that concession, Cadranell asserts on appeal a litany of

disparate arguments attacking the trial court proceedings and pertinent rulings. We identify and address those arguments below.[4]

B

1. Cadranell argues the trial court could not properly assess attorney fees against him individually because (a) such fees may be awarded only when the administrator engages in "inexcusable conduct" and (b) the record shows he did not engage in any such conduct. As to point (a), Cadranell cites *Boatman*, which holds "where litigation is necessitated by the inexcusable conduct of the fiduciary, the fiduciary individually must pay those expenses." 17 Wn. App. 2d at 427. As to point (b), Cadranell references a trial court order determining the amount of fees to be awarded to Cadranell and counsel for work performed on behalf of the Estate. While that ruling arguably shows that Cadranell complied with the trial court's directives in *administering* the Estate, it does not address whether his *appointment* as co-administrator inexcusably violated statutory notice requirements—which is the controlling issue here. That latter issue is governed by the trial court ruling that we identify and quote on pages 5-6 above.

2. Cadranell argues he was "deprived of procedural due process" because the trial court found him 90 percent liable for Russell and Kenneth's attorney fees and costs. Contrary to Cadranell's argument that Russell and Kenneth "unilaterally

[4] The court has endeavored to identify Cadranell's arguments despite numerous deficiencies in his appellate briefing. Among other deficiencies, Cadranell did not specify the requested relief until he filed his reply brief (as discussed in section II above), in violation of RAP 10.3(a)(7). He lists 16 assignments of error and then fails to elaborate on many of them in the body of his briefs. He often raises the same or similar arguments in piecemeal fashion in different sections of his briefs. Many of his arguments fail to cite to the record or legal authority. When he does cite legal authority, the cited authority is insufficient to support the corresponding assertion. And for virtually all his arguments, he fails to explain how the trial court erred and what remedy he is seeking.

allocated approximately 90% of the fault to Cadranell," the trial court clearly explains why it found their arguments persuasive in its order awarding fees. After conducting a lodestar analysis and reviewing the fee requests in detail, the trial court identified and entered judgment against Cadranell for the fees and costs it determined were related to his conduct. Cadranell has not established any abuse of discretion in so ruling.

3. Cadranell argues notice of his appointment as co-administrator of the Estate was provided to Russell and Kenneth by alternative means. He cites RCW 11.28.131, but that provision relates to notice to a spouse of the decedent. As Darrell's brothers, not his spouse, Russell and Kenneth never argued the spousal notice statute applied, nor do we so hold. Cadranell also argues Russell's and Kenneth's legal representatives received electronic notice of his co-appointment as RCW 11.96A.110(1) allows. That statute provides:

> [I]n all judicial proceedings under [Title 11] that require notice, the notice must be personally served on or mailed to all parties or the parties' legal or virtual representatives . . . Notwithstanding the foregoing, notice that is provided in an electronic transmission and electronically transmitted complies with this section *if the party receiving notice has previously consented in a record delivered to the party giving notice to receiving notice by electronic transmission*.

RCW 11.96A.110(1) (emphasis added). This argument fails because there is no evidence of consent to electronic notice as RCW 11.96A.110(1) requires.

4. Cadranell cites *In re Estate of Walker*, 10 Wn. App. 925, 931, 521 P.2d 43 (1974), for the proposition that Russell and Kenneth waived their right to statutory notice by participating in the administration of the Estate. That is not what *Walker* holds. As this court noted in *In re Estate of Little*, 127 Wn. App. 915, 923, 113 P.3d 505 (2005), *Walker* "merely shows that when an estate is reopened upon

a petition by individuals who were not given notice, persons who were duly notified and who have already had their rights in the estate adjudicated will not necessarily be entitled to a brand new start." Nowhere does *Walker* foreclose the right of heirs to object to lack of notice of the appointment of a co-administrator where their participation in the estate is to object to that appointment.

5. Cadranell objects to the trial court's jurisdiction, arguing the priority of action doctrine "requires courts of coordinate jurisdiction, power, and authority to allow the first court that has jurisdiction and authority to act before a second court . . . exercises its power." Cadranell does not include citations to the record to identify what alleged error may exist, but his brief implies it was error for multiple judges to hear various matters under different cause numbers associated with the Estate. This argument ignores RCW 11.96A.090, which states:

> (1) A judicial proceeding under this title is a special proceeding under the civil rules of court. The provisions of this title governing such actions control over any inconsistent provision of the civil rules.
>
> (2) A judicial proceeding under this title must be commenced as a new action.
>
> (3) Once commenced, the action may be consolidated with an existing proceeding upon the motion of a party for good cause shown, or by the court on its own motion.
>
> (4) The procedural rules of court apply to judicial proceedings under this title only to the extent that they are consistent with this title, unless otherwise provided by statute or ordered by the court under RCW 11.96A.020 or 11.96A.050, or other applicable rules of court.

To establish that Cadranell should be removed as co-administrator, Russell and Kenneth commenced a new action under 11.96A.090(2). Objecting to granting Cadranell's letters of administration in a new action under a new cause number was not an attempt to interfere with any particular judge's authority but was instead

meant to comply with TEDRA procedure. Thereafter, although the statute permitted a party or the court to propose consolidation, to the extent of our record it was neither requested nor granted. Accordingly, the petition remained under its own cause number for adjudication. Cadranell's jurisdictional argument thus fails.

6. Cadranell asserts a TEDRA petition must be "verified." Two issues plague this argument. First, TEDRA's verification requirements did not apply to Russell and Kenneth's petition because it concerned whether Cadranell's appointment followed statutory notice requirements in appointing him co-administrator under RCW 11.68.041, which contains no provision requiring verification. Second, even if verification was required, the TEDRA petition was verified weeks prior to the trial court's written order regarding the petition. In response to this evidence, Cadranell argues the verification was a "legal nullity" because Russell and Kenneth did not have leave of court to file the amended TEDRA petition that added the verification. Cadranell raises this issue for the first time on appeal. Since the trial court did not have the opportunity to address it, we will not consider it. *See* RAP 2.5(a) ("The appellate court may refuse to review any claim of error which was not raised in the trial court.").

7. Cadranell argues the trial court "was limited to the record before the Commissioner" when it decided both Russell and Kenneth's motion to revise the commissioner's order and their amended TEDRA petition. He cites RCW 2.24.050 and *In re Marriage of Moody*, 137 Wn.2d 979, 976 P.2d 1240 (1999), to support his argument, but does not analyze how either authority applies to this case. An appellant must provide "argument in support of the issues presented for review, together with citations to legal authority." RAP 10.3(a)(6). Here, because

Cadranell does not provide a coherent legal argument explaining why he believes the trial court was limited to the record before the trial court commissioner when the commissioner scheduled the TEDRA petition for trial without addressing the petition on the merits, his argument is waived.

8. Cadranell complains that Russell and Kenneth should not have been permitted to disqualify more than one judge in other cases related to the Estate. We reject this argument because Cadranell did not properly assign error on this basis. "The scope of a given appeal is determined by the notice of appeal . . . ." *Clark County v. W. Wash. Growth Mgmt. Hr'gs Bd.*, 177 Wn.2d 136, 144, 298 P.3d 704 (2013) (citing RAP 5.3(a)). "[T]he notice of appeal must properly designate the decision or part of the decision that the party wants reviewed." *Id.* at 144-45 (citing RAP 5.3(a)(3)). Despite this requirement, the notice of appeal includes only orders associated with the TEDRA action at issue, not orders disqualifying judges in other cause numbers associated with the Estate. This argument is therefore waived.

9. Cadranell argues the "exclusive means to collaterally attack a void judgment is by bringing a CR 60(b)(5) motion." This rule provides relief from a final judgment that is void. Here, however, the probate of the Estate remains open, and CR 60 therefore does not apply. Filing a TEDRA action to dispute Cadranell's appointment as co-administrator was a proper mechanism to seek relief, and the trial court did not abuse its discretion in addressing it. This argument, like the others, thus fails. Contrary to Cadranell's many arguments, the trial court below did not abuse its discretion in awarding attorney fees and costs and entering judgment against him individually.

IV

Lastly, Russell, Kenneth, Cadranell, and Fieldhouse seek attorney fees and costs on appeal. "If attorney fees are allowable at trial, the prevailing party may recover fees on appeal." *Aiken v. Aiken*, 187 Wn.2d 491, 506, 387 P.3d 680 (2017) (citing RAP 18.1). Here, the trial court awarded attorney fees in favor of Russell and Kenneth pursuant to RCW 11.96A.150(1). Because Russell and Kenneth recovered attorney fees below and are the prevailing parties on appeal, we grant their request for attorney fees and costs on appeal subject to compliance with RAP 18.1. Since Cadranell did not prevail on appeal, we deny his request for appellate attorney fees. Nor is Fieldhouse entitled to fees on appeal because her only issue is related to Cadranell's standing, and she did not prevail on that issue. Accordingly, we also deny Fieldhouse's request for appellate attorney fees.

Affirmed.

Feldman, J.

WE CONCUR:

Birk, J.

Hazelrigg, ACJ

FILED
7/29/2025
Court of Appeals
Division I
State of Washington

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

In the Matter of the Estate of DARRELL BRYANT.	No. 85931-5-I ORDER DENYING MOTION FOR RECONSIDERATION
RUSSELL BRYANT and KENNETH BRYANT, Respondents, v. ROBERT J. CADRANELL II, Appellant.	

The appellant, Robert Cadranell, has filed a motion for reconsideration. A majority of the panel has determined that the motion should be denied.

Now, therefore, it is hereby

ORDERED that the motion for reconsideration is denied.

Feldman, J.

Judge

RCW 11.28.131

Hearing on petition—Appointment—Issuance of letters—Notice to surviving spouse or surviving domestic partner.

When a petition for general letters of administration or for letters of administration with the will annexed shall be filed, the matter may be heard forthwith, appointment made and letters of administration issued: PROVIDED, That if there be a surviving spouse or surviving domestic partner and a petition is presented by anyone other than the surviving spouse or surviving domestic partner, or any person designated by the surviving spouse or surviving domestic partner to serve as personal representative on his or her behalf, notice to the surviving spouse or surviving domestic partner shall be given of the time and place of such hearing at least ten days before the hearing, unless the surviving spouse or surviving domestic partner shall waive notice of the hearing in writing filed in the cause.

[2008 c 6 s 914; 1974 ex.s. c 117 s 44.]

RCW 11.28.160

Cancellation of letters of administration.

The court appointing any personal representative shall have authority for any cause deemed sufficient, to cancel and annul such letters and appoint other personal representatives in the place of those removed.

[1965 c 145 s 11.28.160. Prior: 1917 c 156 s 52; RRS s 1422.]

RCW 11.28.237

Notice of appointment as personal representative, pendency of probate—Proof by affidavit.

(1) Within twenty days after appointment, the personal representative of the estate of a decedent shall cause written notice of his or her appointment and the pendency of said probate proceedings, to be served personally or by mail to each heir, legatee and devisee of the estate and each beneficiary or transferee of a nonprobate asset of the decedent whose names and addresses are known to him or her, and proof of such mailing or service shall be made by affidavit and filed in the cause. If a trust is a legatee or devisee of the estate or a beneficiary or transferee of a nonprobate asset of the decedent, then notice to the trustee is sufficient.

(2) If the personal representative does not otherwise give notice to creditors under chapter 11.40 RCW within thirty days after appointment, the personal representative shall cause written notice of his or her appointment and the pendency of the probate proceedings to be mailed to the state of Washington department of social and health services' office of financial recovery, and proof of the mailing shall be made by affidavit and filed in the cause.

[2011 c 327 s 2; 1997 c 252 s 85; 1994 c 221 s 24; 1977 ex.s. c 234 s 6; 1974 ex.s. c 117 s 30; 1969 c 70 s 2; 1965 c 145 s 11.28.237. Prior: 1955 c 205 s 13, part; RCW 11.76.040, part.]

RCW 11.28.250

Revocation of letters—Causes.

Whenever the court has reason to believe that any personal representative has wasted, embezzled, or mismanaged, or is about to waste, or embezzle the property of the estate committed to his or her charge, or has committed, or is about to commit a fraud upon the estate, or is incompetent to act, or is permanently removed from the state, or has wrongfully neglected the estate, or has neglected to perform any acts as such personal representative, or for any other cause or reason which to the court appears necessary, it shall have power and authority, after notice and hearing to revoke such letters. The manner of the notice and of the service of the same and of the time of hearing shall be wholly in the discretion of the court, and if the court for any such reasons revokes such letters the powers of such personal representative shall at once cease, and it shall be the duty of the court to immediately appoint some other personal representative, as in this title provided.

[2010 c 8 s 2020; 1965 c 145 s 11.28.250. Prior: 1917 c 156 s 74; RRS s 1444; prior: Code 1881 s 1414; 1863 p 218 s 112; 1860 p 186 s 114.]

RCW 11.48.210

Compensation—Attorney's fees.

If testator by will makes provision for the compensation of his or her personal representative, that shall be taken as his or her full compensation unless he or she files in the court a written instrument renouncing all claim for the compensation provided by the will before qualifying as personal representative. The personal representative, when no compensation is provided in the will, or when he or she renounces all claim to the compensation provided in the will, shall be allowed such compensation for his or her services as the court shall deem just and reasonable. Additional compensation may be allowed for his or her services as attorney and for other services not required of a personal representative. An attorney performing services for the estate at the instance of the personal representative shall have such compensation therefor out of the estate as the court shall deem just and reasonable. Such compensation may be allowed at the final account; but at any time during administration a personal representative or his or her attorney may apply to the court for an allowance upon the compensation of the personal representative and upon attorney's fees. If the court finds that the personal representative has

failed to discharge his or her duties as such in any respect, it may deny him or her any compensation whatsoever or may reduce the compensation which would otherwise be allowed.

[2010 c 8 s 2043; 1965 c 145 s 11.48.210. Prior: 1917 c 156 s 158; RRS s 1528; prior: Code 1881 s 1541; 1854 p 295 s 164.]

RCW 11.68.041

Petition for nonintervention powers—Notice requirements—Exceptions.

(1) Advance notice of the hearing on a petition for nonintervention powers referred to in RCW 11.68.011 is not required in those circumstances in which the court is required to grant nonintervention powers under RCW 11.68.011(2) (a) and (b).

(2) In all other cases, if the petitioner wishes to obtain nonintervention powers, the personal representative shall give notice of the petitioner's intention to apply to the court for nonintervention powers to all heirs, all beneficiaries of a gift under the decedent's will, and all persons who have requested, and who are entitled to, notice under RCW 11.28.240, except that:

(a) A person is not entitled to notice if the person has, in writing, either waived notice of the hearing or consented to the grant of nonintervention powers; and

(b) An heir who is not also a beneficiary of a gift under a will is not entitled to notice if the will has been probated and the time for contesting the validity of the will has expired.

(3) The notice required by this section must be either personally served or sent by regular mail at least ten days before the date of the hearing, and proof of mailing of the notice must be by affidavit filed in the cause. The notice must contain the decedent's name, the probate cause number, and the name and address of the personal representative, and must state in substance as follows:

(a) The personal representative has petitioned the superior court of the state of Washington for . . . . . county, for the entry of an order granting nonintervention powers and a hearing on that petition will be held on . . . . ., the . . . . . day of . . . . ., ..., at . . . . . o'clock, . . M.;

(b) The petition for an order granting nonintervention powers has been filed with the court;

(c) Following the entry by the court of an order granting nonintervention powers, the personal representative is entitled to administer and close the decedent's estate without further court intervention or supervision; and

(d) A person entitled to notice has the right to appear at the time of the hearing on the petition for an order granting nonintervention powers and to object to the granting of nonintervention powers to the personal representative.

(4) If notice is not required, or all persons entitled to notice have either waived notice of the hearing or consented to the entry of an order granting nonintervention powers as provided in this section, the court may hear the petition for an order granting nonintervention powers at any time.

[2021 c 140 s 4004; 1997 c 252 s 61.]

RCW 11.68.070

Procedure when personal representative recreant to trust or subject to removal.

(1)(a) A party, as defined in RCW 11.96A.030, may petition the court under chapter 11.96A RCW for a determination that a personal representative:

(i) Has breached a fiduciary duty;

(ii) Has exceeded the personal representative's authority;

(iii) Has abused the personal representative's discretion in exercising a power;

(iv) Has otherwise failed to execute the trust faithfully;

(v) Has violated a statute or common law affecting the estate; or

(vi) Is subject to removal for a reason specified in RCW 11.28.250.

(b) The petition submitted under (a) of this subsection must allege facts in support of the claim and must be verified or be supported by an affidavit showing facts in support of the claim.

(2) If the court finds that the personal representative has committed one or more of the acts listed in subsection (1)(a) of this section, the court may order such remedy in law or in equity as it deems appropriate. The remedy may include, but not be limited to, awarding money damages, surcharging the personal representative, directing the personal representative to take a specific action, restricting the powers of the personal representative, removing the personal representative and appointing a successor, and awarding fees and costs under RCW 11.96A.150. If the court restricts the powers of the personal representative, it shall endorse the words "powers restricted" upon the original order granting the personal representative nonintervention powers and upon the letters testamentary or of administration together with the date of the endorsement.

[2021 c 140 s 4009; 2010 c 8 s 2057; 1977 ex.s. c 234 s 23; 1974 ex.s. c 117 s 19.]

RCW 11.96A.080

Persons entitled to judicial proceedings for declaration of rights or legal relations.

(1) Subject to the provisions of RCW 11.96A.260 through 11.96A.320, any party may have a judicial proceeding for the declaration of rights or legal relations with respect to any matter, as defined by RCW 11.96A.030; the resolution of any other case or controversy that arises under the Revised Code of Washington and references judicial proceedings under this title; or the determination of the persons entitled to notice under RCW 11.96A.110 or 11.96A.120.

(2) The provisions of this chapter apply to disputes arising in connection with estates of individuals subject to conservatorship under RCW 11.130.360 unless otherwise covered by chapter 11.130 RCW. The provisions of this chapter shall not supersede, but shall supplement, any otherwise applicable provisions and procedures contained in this title, including without limitation those contained in chapter 11.20, 11.24, 11.28, 11.40, 11.42, or 11.56 RCW. The provisions of this chapter shall not apply to actions for wrongful death under chapter 4.20 RCW.

[2020 c 312 s 714; 1999 c 42 s 301.]

RCW 11.96A.110

Notice in judicial proceedings under this title requiring notice.

(1) Subject to RCW 11.96A.160, in all judicial proceedings under this title that require notice, the notice must be personally served on or mailed to all parties or the parties' legal or virtual representatives and to any other persons to whom notice may be required under applicable law at least twenty days before the hearing on the petition unless a different period is provided by statute or ordered by the court. The date of service shall be determined under the rules of civil procedure. Notwithstanding the foregoing, notice that is provided in an electronic transmission and electronically transmitted complies with this section if the party receiving notice has previously consented in a record delivered to the party giving notice to receiving notice by electronic transmission. Consent to receive notice by electronic transmission may be revoked at any time by a record delivered to the party giving notice. Consent is deemed revoked if the party giving notice is unable to electronically transmit two consecutive notices given in accordance with the consent.

(2) Proof of the service, mailing, or electronic delivery required in this section must be made by affidavit or declaration filed at or before the hearing.

(3) For the purposes of this title, the terms "electronic transmission" and "electronically transmitted" have the same meaning as set forth in RCW 23B.01.400.

[2021 c 140 s 4019; 2011 c 327 s 8; 1999 c 42 s 304.]

RCW 11.96A.140

Waiver of notice.

Notwithstanding any other provision of this title, notice of a hearing does not need to be given to a legally competent person who has waived in writing notice of the hearing in person or by attorney, or who has appeared at the hearing without objecting to the lack of proper notice or personal jurisdiction. The waiver of notice may apply either to a specific hearing or to any and all hearings and proceedings to be held, in which event the waiver of notice is of continuing effect unless subsequently revoked by the filing of a written notice of revocation of the waiver and the mailing of a copy of the notice of revocation of the waiver to the other parties. Unless notice of a hearing is required to be given by publication, if all persons entitled to notice of the hearing waive the notice or appear at the hearing without objecting to the lack of proper notice or personal jurisdiction, the court may hear the matter immediately. A guardian of the estate or a guardian ad litem may make the waivers on behalf of the incapacitated person, and a trustee may make the waivers on behalf of any competent or incapacitated beneficiary of the trust. A consul or other representative of a foreign government, whose appearance has been entered as provided by law on behalf of any person residing in a foreign country, may make the waiver of notice on behalf of the person.

[1999 c 42 s 307.]

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