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SUPREME COURT  
STATE OF WASHINGTON  
Jul 14, 2015, 3:43 pm  
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CLERK

No. 91704-3

RECEIVED BY E-MAIL

SUPREME COURT OF THE STATE OF WASHINGTON

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WILLIAMS PLACE, LLC

Appellant,

v.

STATE OF WASHINGTON,

Respondent.

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**WILLIAMS PLACE, LLC'S REPLY IN SUPPORT OF  
PETITION FOR REVIEW**

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ORIGINAL

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**Cases**

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Nelson v. McGoldrick, 127 Wn.2d 124 (1995) ..... 1

Oregon Mut. Ins. Co. v. Barton, 109 Wn. App. 405 (2001) ..... 2

**Rules**

RAP 13.4(b) ..... 2

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In its Answer to Petition for Review, WSDOT raised two new issues that require being briefly addressed. As explained below, Williams Place did not “abandon” the right to have the issues raised by the Court of Appeals decision reviewed, and it has not “misstated” facts. In reality, WSDOT’s defense to its conduct land-locking Williams Place property has been a moving target. Based on the Court of Appeals decision, WSDOT now incorrectly attempts to force Williams Place to prove what happened or existed prior to 1882, despite the fact that was never an issue at the Trial Court level. WSDOT’s Answer illustrates precisely why the Court of Appeals decision and WSDOT’s position is in error and should be reviewed to protect Williams Place’s property and constitutional rights. It also illustrates the absurdity of a ruling that would force Williams Place to litigate facts from more than 125 years ago, when it is undisputed the route provided access until WSDOT destroyed the bridge at issue.

**A. Williams Place Did Not “Abandon” Any Issue.**

*This court will generally not address a claim of error not raised in the trial court. RAP 2.5(a); Nelson v. McGoldrick, 127 Wn.2d 124, 140, 896 P.2d 1258 (1995). In particular, a claim of waiver or estoppel should be*

*raised at trial. Kleyer v. Harborview Med. Ctr. of Univ. of Wash., 76 Wn. App. 542, 549, 887 P.2d 468 (1995).*

Oregon Mut. Ins. Co. v. Barton, 109 Wn. App. 405, 417-18, 36 P.3d 1065, 1071 (2001).

Unlike Oregon Mutual, Williams Place has petitioned the Court to review the Court of Appeals decision. As a result, the Petition for Review need only establish that the requirements of RAP 13.4(b) have been met. Williams Place properly provided argument to establish that review should be granted. As set forth in the Court of Appeals decision, Williams Place raised the claims referenced by WSDOT in both their pleadings to the Trial Court and the Court of Appeals. Because Williams Place is seeking review of the Court of Appeals decision that includes rulings on these issues, Williams Place has not “abandoned” the issues of equitable estoppel or standing. The Petition for Review makes it clear that the entire Court of Appeals decision should be reviewed, since it wrongfully deprives Williams Place of property interests, implicates constitutional issues, and results in Williams Place being landlocked by WSDOT’s removal of the bridge at issue.

**B. Williams Place Had Access Prior To Garrison Road Existing.**

A review of the record confirms that WSDOT originally took the position that the vacation of a roadway eliminated both the public easement and the private easement. When Williams Place pointed out well-established law to the contrary, WSDOT next claimed that the cases cited were “distinguishable,” because the Garrison Road was not vacated under the non-user statute in effect from 1890-1904. The Court of Appeals adopted this illogical “distinction” which impacts access to property owners depending upon how the vacation of a road occurs. As a result, for the first time, the Court of Appeals made whether or not access existed prior to the public easement being created an issue. Unconcerned with the actual facts, fairness and justice, WSDOT takes issue with Williams Place pointing out that there was access to the Williams Place property on the Garrison Road route prior to Garrison Road becoming a public road. This despite the fact that the undisputed evidence was that from the time Garrison Road became a public roadway in 1882 until WSDOT removed the bridge, it acted as the access to Williams Place.

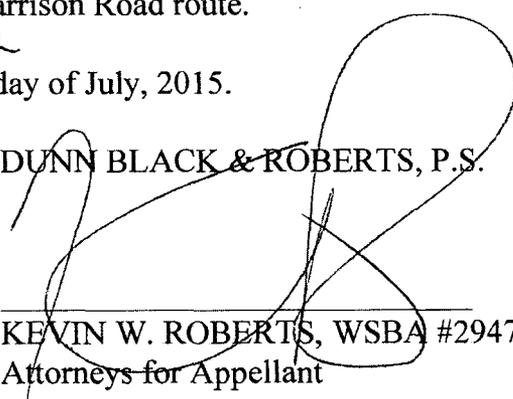
Williams Place has not misstated any facts relative to its property. As set forth in the record, Pinnell purchased the property from the federal government in 1881 by patent. See Williams Place v. State, Washington State Court of Appeals Div. III, p. 3. It was not until 1882 that Garrison Road became a county roadway and was constructed as such. See e.g. CP 87, 174, 304, 449, and 769. Throughout this case, establishing the right as a public roadway was the critical fact, because in the action below, WSDOT took numerous baseless positions including claiming that Williams Place never had a right to cross the Motely property. Obviously, the Garrison Road route and the public easement provided that right. Based upon the Court of Appeals decision, for the first time, what happened prior to 1882 became relevant. There is no evidence that Pinnell purchased a piece of land-locked property in 1881. Indeed, the only logical inference is that Pinnell's property had access across the Garrison Road route in 1881 and that in 1882 that became a public roadway and was constructed as such.

The Court should also take judicial notice of the historical records recognizing that route as a wagon road. See Appendix A.

Under the existing law, Williams Place should not lose its private easement onto the roadway used to access its property for 125 years based on the public easement being vacated. The fact the property was purchased in 1881, prior to Garrison Road becoming a public roadway, and the fact that in the 1880s, the route existed as a wagon trail, confirms that Williams Place's use of the Garrison Road route for more than 125 years for access constituted a property right. Williams Place's access was only eliminated by the actions of WSDOT when it destroyed the bridge located on the Garrison Road route.

DATED this 14<sup>th</sup> day of July, 2015.

DUNN BLACK & ROBERTS, P.S.

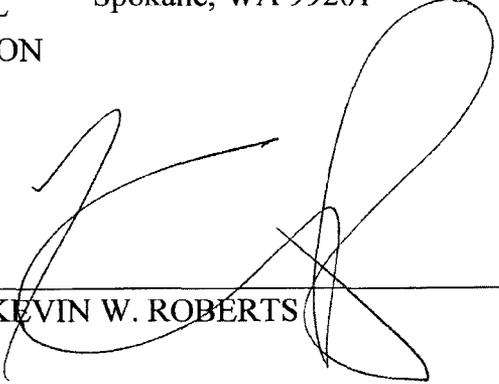
  
\_\_\_\_\_  
KEVIN W. ROBERTS, WSBA #29473  
Attorneys for Appellant

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 14<sup>th</sup> day of July, 2015, I caused to be served a true and correct copy of the foregoing document to the following:

- HAND DELIVERY      Frank Hruban
- U.S. MAIL              Attorney General Office
- OVERNIGHT MAIL      1116 W. Riverside Ave.
- FAX TRANSMISSION    Spokane, WA 99201
- EMAIL

- HAND DELIVERY      David J. Groesbeck
- U.S. MAIL              313 W. Riverside Ave.
- OVERNIGHT MAIL      Spokane, WA 99201
- FAX TRANSMISSION
- EMAIL



\_\_\_\_\_  
KEVIN W. ROBERTS

No. 91704-3

SUPREME COURT OF THE STATE OF WASHINGTON

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WILLIAMS PLACE, LLC

Appellant,

v.

STATE OF WASHINGTON,

Respondent.

---

**AFFIDAVIT OF ALEXANDRIA T. JOHN**

---

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Attorneys for Appellant

APPENDIX A

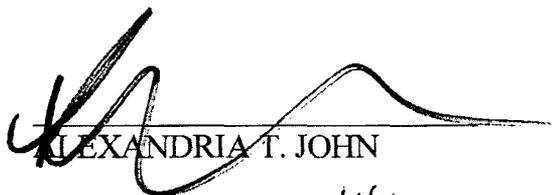


*Company (1910)*. Also attached as **Exhibit B** are true and correct copies of information including a map from that same book obtained online and printed from the Washington State University Digital Collections, described as Anderson Map Company, “Plat of [part of Pullman] Township 14 N, Range 45 & 46 E.W.M. Whitman County, Wash., (1910), *Plat Book of Whitman County, Washington: compiled and published from actual surveys and county records by Anderson Map Company,*” Digital Exhibits, accessed July 13, 2015, <http://content.libraries.wsu.edu/cdm/singleitem/collection/maps/id/334/rec/40>. This map identifies the Garrison Road route as a “wagon road” on the key.

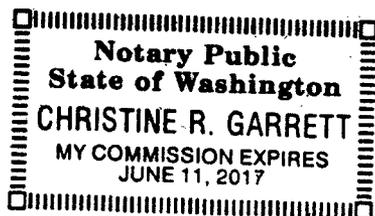
4. The maps included with **Exhibits A** and **B** are ancient records that were maintained in places where, if authentic, such documents would likely be. They were obtained and/or received from the Whitman County Planner’s Office, a reference book maintained at the Spokane County Library, and/or online from the Washington State University Digital Collections. **Exhibit A** is dated 1876 and the map included in **Exhibit B** was obtained from a book originally dated and

published in 1910, and thus both documents have been in existence 20 years or more. ER 901(b)(8).

5. Attached hereto as **Exhibit C** is an enlarged image of the top section of the map included in **Exhibit B** above.

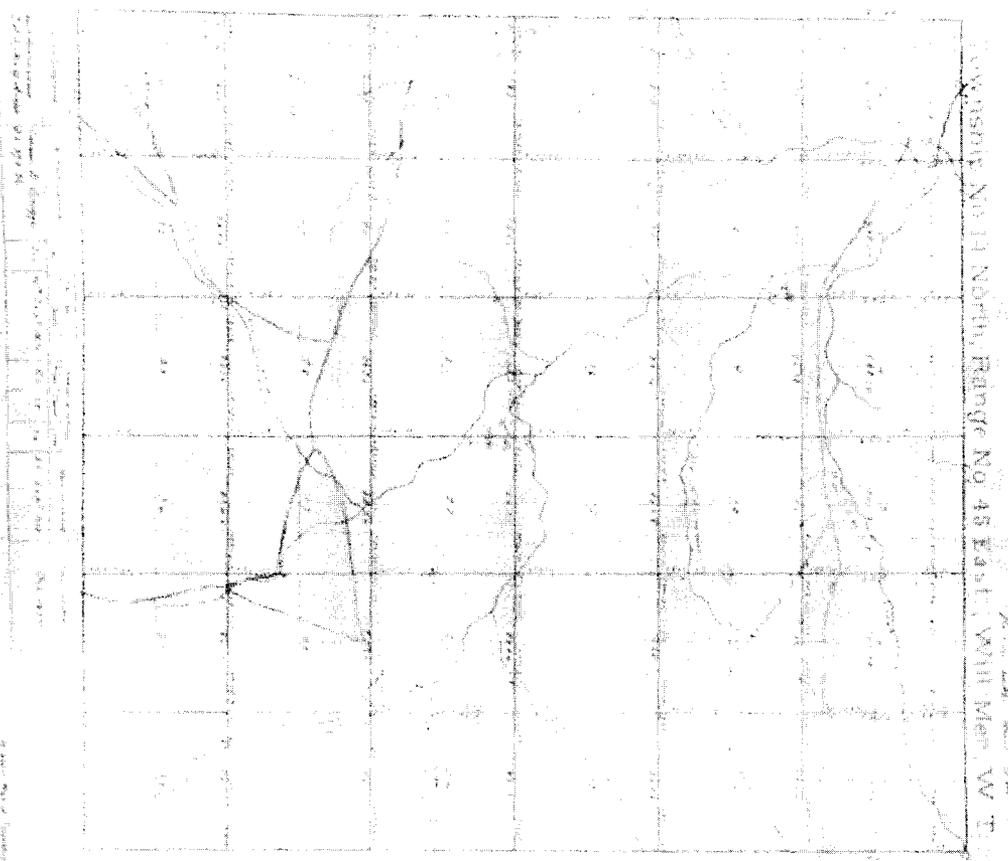
  
ALEXANDRIA T. JOHN

SUBSCRIBED AND SWORN to before me this 14th day of July, 2015.



  
NOTARY PUBLIC for the State  
of Washington, residing at Spokane  
My appointment expires: 6/11/17

14 45-19



I, *John H. ...*  
 Surveyor General  
 do hereby certify that the above is a true and correct copy of the original map on file in my office.

PLAT BOOK  
OF  
**WHITMAN COUNTY**  
**WASHINGTON**

Compiled and Published  
from actual Surveys and the County Records

BY  
**ANDERSON MAP COMPANY**

Map and Atlas Publishers.

208 TRADERS BLDG.—905½ THIRD AVE. COR. MARION

**SEATTLE, WASH.**

**1910**

EXHIBIT B

Results 40 of 96

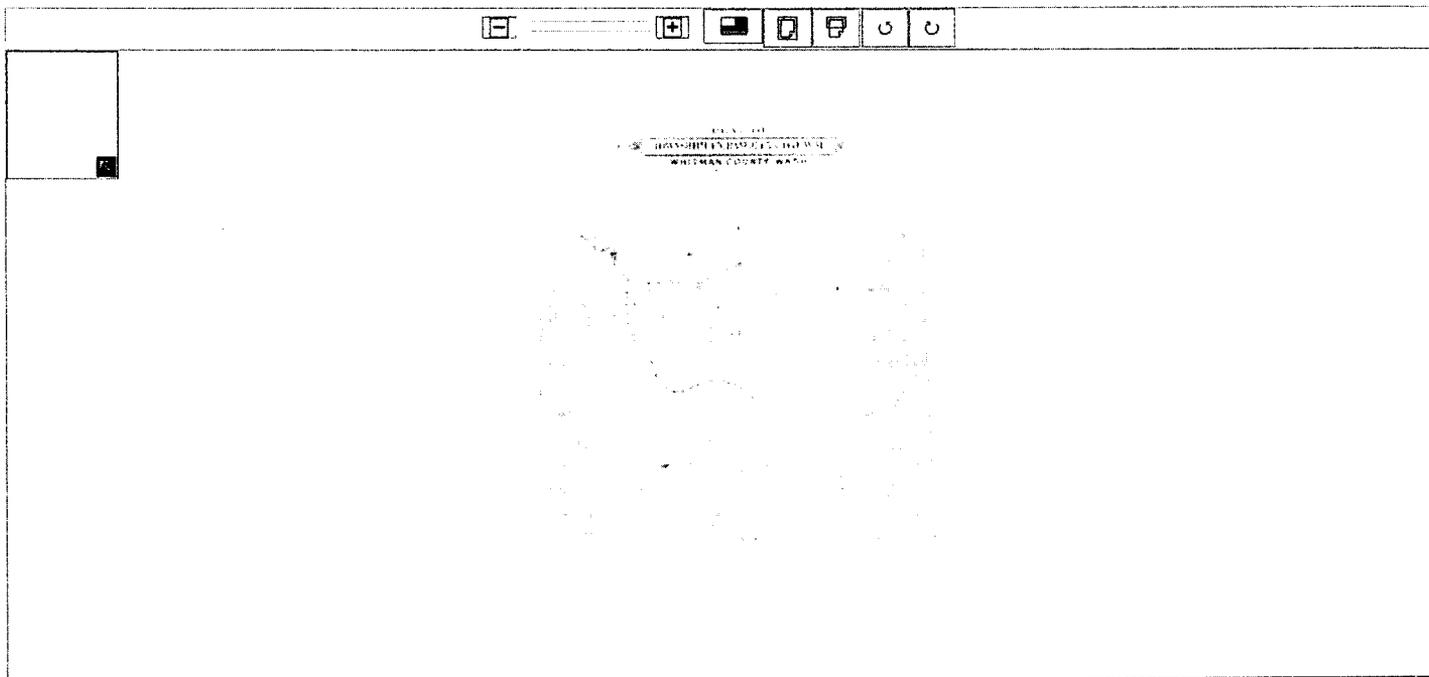
Home [Early Washington Maps](#) [Plat of \[part of Pullman\] Township 14 N, Range 45 & 46 E.W.M. Whitman County, Wash., \(1910\). Plat...](#)

[Reference URL](#)
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**Plat of [part of Pullman] Township 14 N, Range 45 & 46 E.W.M. Whitman County, Wash., (1910). Plat book of Whitman County, Washington compiled and published from actual surveys and the County records by Anderson Map Company**

[View Description](#)

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**Description**

**Rating** Based on 0 rating(s)

**Title** Plat of [part of Pullman] Township 14 N, Range 45 & 46 E.W.M. Whitman County, Wash., (1910). Plat book of Whitman County, Washington compiled and published from actual surveys and the County records by Anderson Map Company

**Creator** Anderson Map Company

**Date,Original** 1910

**Date,Digital** 2000 - 2002

**Publisher** Seattle, Wash. : Anderson Map Company

**Description** 1 map: col., 36 x 34 cm. Plat map of a portion of the Whitman County city of Pullman. Scale 1.5"=1 mile. See the other part of Pullman: <http://content.libraries.wsu.edu/cdm/singleitem/collection/maps/id/333> Some speculation has arisen over the longstanding story regarding Pullman's inception and bestowed name. Prior to 1899 and the publishing of the first historical sketch of the town by resident Judge Thomas Neill, pioneer stories listed D.G. McKenzie as the first white man to settle in the area. After Neill's history, the notion crept into the historical record that it was in fact Mr. Bolin Farr who first settled and then platted ten acres for the townsite. Another discrepancy stated that Pullman was originally named "Three Forks", after the nearby junction of two creeks and with the Palouse River. However, Lawrence Stark, archivist of Manuscripts, Archives and Special Collections at Washington State University's Holland Library, suggests that this is merely the geographical name for the area on which the town of Pullman is situated, and not the original name of the actual town at all. He further disagrees with the likelihood that the town was named after Pullman Car Company President, George Pullman. Some facts regarding the early town are certain however, such as the its incorporation in 1888. The town lay originally on several hills, with today's College Hill then known as "Mechanic's Hill" and Military Hill then known as "College Hill". The original College Hill Addition (1890) is the site of the first college to arrive in Pullman--a military school begun in 1891. Apparently, the military school was academically well regarded, and preferred even over the State land-grant school when it enrolled its first students in 1892. However, the military college burned down in early 1893, and with the growing State College in such close proximity, it seemed pointless to rebuild. The name of "Military Hill" however, keeps the school in memory.

**Subject** Whitman County (Wash.)--Maps  
 Pullman (Wash.)--Maps  
 Farr, Bolin  
 Mckenzie, D.G.  
 Three Forks  
 Palouse River  
 College Hill (Pullman), Military Hill (Pullman), Mechanic's Hill (Pullman)  
 Neill, Judge Thomas  
 Stark, Lawrence R.

**Type** Maps  
Plats

**Location Depicted** United States--Washington (State)--Whitman County

**Rights** Contact Manuscripts, Archives, and Special Collections, for copyright information 509 335-6691

**Holding.Institution** Manuscripts, Archives, and Special Collections, WSU Libraries

**Identifier** WSU 169

**Format.Creation** Original maps were scanned in color at 600 dpi on a Microtek 9600XL scanner and saved as TIFF files. The TIFF files were converted into the MrSID format at a compression ratio of 12 to 1 using LizardTech's Geospatial Encoder 1.4 software. These MrSid files were then uploaded into the CONTENTdm database at the Washington State University Libraries.

**Format.Use** image/jpg2000

**Contributors** Manuscripts, Archives, and Special Collections

**Language** English

**Relation** Plat Book of Whitman County Washington Compiled and Published from actual Surveys and the County Records by Anderson Map Company Seattle, Wash 1910

Tags (0)

Comments (0)

[Back to top](#)





# WHITMAN COUNTY, WASH.

Scale 1/2 Inches = 1 Mile.

*References:*  
 Railroad  
 Water Road  
 Canal  
 Road  
 Arrows with circles indicate the  
 following are the names of places in  
 which a large scale map will be found

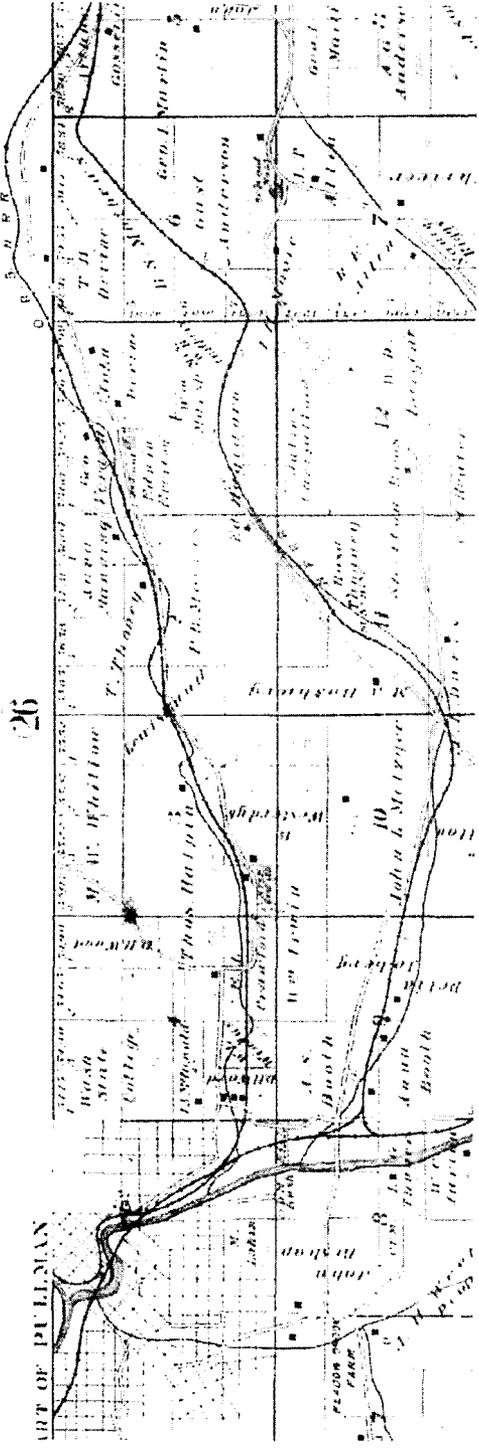


EXHIBIT C

## OFFICE RECEPTIONIST, CLERK

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**To:** Shellie Garrett  
**Cc:** FrankH@ATG.WA.GOV; david@groesbecklaw.com  
**Subject:** RE: Williams Place, LLC v. State of Washington, Case No. 91704-3

Received 7-14-15

Supreme Court Clerk's Office

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

**From:** Shellie Garrett [mailto:[sgarrett@dunnandblack.com](mailto:sgarrett@dunnandblack.com)]  
**Sent:** Tuesday, July 14, 2015 3:42 PM  
**To:** OFFICE RECEPTIONIST, CLERK  
**Cc:** FrankH@ATG.WA.GOV; david@groesbecklaw.com  
**Subject:** Williams Place, LLC v. State of Washington, Case No. 91704-3

Attached for filing is Appellant Williams Place, LLC's Reply in Support of Petition for Review. Williams Place, LLC v. The State of Washington, Case No. 91704-3

Shellie Garrett, on behalf of Kevin W. Roberts, Dunn Black & Roberts, P.S., 111 North Post, Suite 300, Spokane, WA 99201 ([kroberts@dunnandblack.com](mailto:kroberts@dunnandblack.com))



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Website: [www.DunnandBlack.com](http://www.DunnandBlack.com)

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