

FILED

FEB 06 2008

THOMAS R. FALLOQUIST
SPOKANE COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE COUNTY

In the Matter of the Guardianship of

No.: 04-4-00970-9

KITTY S. OAKES,PETITION FOR ORDER TO SHOW
CAUSE TO DETERMINE STATUS OF
HEIRS

Deceased.

I. RELIEF REQUESTED

Pursuant to RCW 11.96A.010 and 11.96A.020, the Personal Representative, THEODORA "THEA" SKOMO, by and through her counsel LYNN ST. LOUIS of the Law Offices of Lynn St. Louis PLLC moves for an Order to Show cause to determine who is an HEIR of the Decedent, KITTY S. OAKES. Establishment of status as an HEIR is necessary so the Personal Representative may determine to whom she should distribute the assets of this intestate estate.

II. FACTS

THEODORA "THEA" A. SKOMO was appointed Guardian of the Person and Guardian of the Estate of the Kitty S. Oakes on December 1, 2004, under Spokane County Cause Number 04-04-00970-9. KITTY S. OAKES died on April 6, 2007. The Petitioner conducted a diligent search, but no Will of the Decedent was found.

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Intestate Probate Transfer from the Guardianship.

On August 1, 2007, the Court approved an Order 1) Transferring the Guardianship Proceeding to Probate Proceeding; 2) Appointing Personal Representative; 3) Adjudicating Estate as Solvent; 4) Granting Nonintervention Powers; and 5) Issuing Letters of Administration. The guardianship matter is now indexed as a probate proceeding using the same number that was assigned to the guardianship. The Petitioner, THEODORA "THEA" A. SKOMO, was appointed Personal Representative and granted nonintervention powers.

At the time of the August 1, 2007 Order, the Petitioner was unaware of any legal children of the Decedent. Further, the Decedent was predeceased by her parents and the Petitioner was not aware of any surviving siblings or issues of siblings. The Petitioner did have knowledge of three persons believed to have lived with the Decedent [during her "marriage" to Billy Tipton] and hired Pinnacle Professional Services, P.S. to locate those persons.

Results of Investigation Regarding Potential Heirs.

Pinnacle Professional Services, P.S. located those three persons. In addition, a fourth person who may be a possible heir, PAMELA MARIE LYONS, was located through a birth certificate found in KITTY S. OAKES' possessions.

Those persons are:

JOHN THOMAS TIPTON
SCOTT LEE (PAUL) TIPTON (JOHNSON, MILLER)
WILLIAM ALAN TIPTON
PAMELA MARIE LYONS

1 An Amended Notice of Pendency of Probate and Declaration of Service was mailed to
 2 JOHN THOMAS TIPTON, SCOTT LEE TIPTON, and WILLIAM ALAN TIPTON on
 3 October 22, 2007. No such Notice was sent to PAMELA MARIE LYONS, as that person has
 4 not been located.

5 JOHN THOMAS TIPTON, SCOTT LEE TIPTON, and WILLIAM ALAN TIPTON
 6 each contacted the office of Petitioner's counsel, requesting advice as to what to do and were
 7 told that they should contact independent legal counsel as our office represented the Personal
 8 Representative of the probate estate, and not the heirs or potential heirs. Attorney MARC R.
 9 ROECKS has appeared for Jonathan Clark (John Thomas Tipton). No attorneys have
 10 appeared for SCOTT LEE TIPTON or WILLIAM ALAN TIPTON. An Idaho attorney, Mark
 11 D. Perison, contacted Petitioner's attorney, stating that he represented Scott Miller (Scott Lee
 12 Johnson a.k.a. Scott L. Tipton). However, no Notice of Appearance has been filed with this
 13 court on Scott Lee Johnson's behalf by attorney Mark D. Perison.

14 Below is a list of documentation for each of the above persons:

15	<u>Name(s)</u>	<u>Documents</u>	<u>Date</u>
16	John Thomas Tipton	Doctor Certificate of Birth	October 19, 1963
17	John Thomas Tipton	Certificate of Registration	October 19, 1963
17	John T. Tipton	Social Security Number	None
18	Scott Lee Johnson	Relinquishment Letter	None
19	Scott L. Tipton	Social Security Number	None
20	William Alan Tipton	St. Anthony's Hospital Pendleton, Oregon Certificate of Birth	November 17, 1969
21	William Alan Tipton	Certificate of Live Birth	November 17, 1969
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23			

1 JOHN THOMAS TIPTON: The birth certificate of JOHN THOMAS TIPTON does
2 not state the identity of his parents. No legal documents concerning adoption of JOHN
3 THOMAS TIPTON have been located.

4 SCOTT LEE JOHNSON aka SCOTT L. TIPTON: A birth certificate has not been
5 located. The only information found is a letter from the birth mother relinquishing custody of
6 the child to BILLY L. TIPTON and STELLA MARIE TIPTON. No documents concerning
7 the legal adoption of SCOTT LEE JOHNSON aka SCOTT L. TIPTON have been located.

8 WILLIAM ALAN TIPTON: A birth certificate from St. Anthony's Hospital shows
9 his parents to be Mr. and Mrs. BILL L. TIPTON. The birth certificate from the State of
10 Oregon lists STELLA MARIE TIPTON as the mother.

11 PAMELA MARIE LYONS: Pinnacle Professional Services P.S. investigated a birth
12 certificate for a PAMELA MARIE LYONS that was found among KITTY S. OAKES'
13 belongings. No PAMELA MARIE LYONS was located living in the United States.
14 However, several persons with similar names were identified as possible matches given the
15 date of birth listed on the birth certificate. One such person with the same date of birth and
16 with a similar name is a PAMELA MARIE LEWIS who lives in Spokane, Washington.
17 THEODORA "THEA" A. SKOMO, is PAMELA MARIE LEWIS' Professional Guardian
18 under a Spokane County Guardianship Matter. It unknown whether PAMELA MARIE
19 LEWIS is PAMELA MARIE LYONS. Obviously the last names are different.

20 It is unknown if PAMELA MARIE LEWIS is the PAMELA MARIE LYONS who
21 may be an heir of the Decedent. Accordingly, appointment of a Guardian ad Litem ("GAL")
22 to act on behalf of PAMELA MARIE LEWIS during these proceedings may be appropriate.

23

1 Status of Notice to Creditors

2 A Notice to Creditors was filed, published and served in accordance with the statute.
3 The four-month creditor claim period elapsed on December 17, 2007 with several creditors
4 filing claims. Some creditor’s claim have been disputed or denied. Once all of the creditors’
5 claims have been resolved, the estate then would be ready for distribution. However, the
6 Personal Representative cannot make the legal determination of who is an heir. Thus, the
7 Personal Representative requests the Court to set a hearing date on an Order to show Cause.

8 **III. ISSUES**

9 A. Whether a Show Cause Hearing should be set at which time those individuals
10 asserting status as heirs to the estate of KITTY S. OAKES may present evidence to the court
11 to establish his/her status as an heir?

12 B. What form of Notice, Summons or Citation is to be issued to those persons requiring
13 notice of the Show Cause Hearing?

14 C. Whether a Guardian ad Litem should be appointed to protect the interests of PAMELA
15 MARIE LEWIS, and whether an Attorney should also be appointed to represent PAMELA
16 MARIE LEWIS in this proceeding?

17 D. Whether any conflict of interest is created by the possibility that the Personal
18 Representative might be the Guardian of a potential heir, and if so, can such potential conflict
19 of interest be remedied through appointment of a GAL until it is determined if PAMELA
20 MARIE LEWIS is the possible heir, PAMELA MARIE LYONS?

21 **IV. LEGAL AUTHORITY**

22 A. Duty of Personal Representative to Distribute to Heirs

23 It is the duty of the Personal Representative to settle the estate. RCW 11.48.010. In
order to settle the estate, it must be determined who are the heirs of the Decedent.

1 RCW 11.02.005(6) provides: “[h]eirs denotes those persons, including the surviving
2 spouse, who are entitled under the statutes of intestate succession to the real and personal
3 property of a decedent on the decedent’s death intestate.” Once the determination is made as
4 to who is an heir, the provisions of RCW 11.04.015 regarding Descent and Distribution
5 govern to whom the intestate estate would be distributed.

6 B. TEDRA Provisions Apply as to Hearing and Required Notice

7 The Washington Trust and Estate Dispute Resolution Act, Chapter 11.96A RCW,
8 (“TEDRA”) also applies to the determination of who is an heir in a probate administration.
9 RCW 11.96A.020 gives the courts “full and ample power and authority under this title to
10 administer and settle: (a) [a]ll matters concerning the estates and assets ofdeceased
11 persons,... RCW 11.96A.030 provides that “[m]atter” includes any issue, question, or dispute
12 involving: “The determination of....heirs...or other persons interested in an estate,.....”¹
13 Further, the court is empowered to address “[t]he determination of any question arising in the
14 administration of an estate...” RCW 11.96A.030(c). The provisions of TEDRA “shall not
15 supersede, but shall supplement, any otherwise applicable provisions and procedures
16 contained in this title,”... RCW 11.96A.080(2).

17 Given the factual issues presented in this matter, the Personal Representative is unable
18 to make a determination as to who is an heir of the Decedent. Accordingly, the Petitioner
19 requests this Court to schedule a hearing at which time it is anticipated that those claiming
20 status of an heir would present evidence so that the court may make a determination of who in
21 fact is an heir of KITTY S. OAKES.

22 ¹ RCW 11.96A.030(1) “Matter” includes any issue, question, or dispute involving:
23 (a) The determination of any class of creditors, devisees, legatees, heirs, next of kin, or other persons
interested in an estate, trust, nonprobate asset, or with respect to any other asset or property interest passing at
death.

1 Regarding the issue of what constitutes appropriate Notice of the Show Cause Hearing,
2 RCW 11.96A.060 provides that the "court may make, issue, and cause to be filed or served,
3 any and all manner and kinds of orders, judgments, citations, notices, summons, and other
4 writs and processes that might be considered proper or necessary in the exercise of the
5 jurisdiction or powers given or intended to be given by this title." Accordingly, it is clear that
6 this court may determine what would constitute proper and adequate notice to those persons
7 asserting his/her status as an heir to the Decedent. The Petitioner believes that a Notice of
8 Show Cause Hearing is required and appropriate, but seeks an order from this court specifying
9 the appropriate form and manner of notice, summons or citation to be given.

10 C. Appointment of Guardian ad Litem for PAMELA MARIE LEWIS

11 It is unknown whether or not the PAMELA MARIE LEWIS for whom THEODORA
12 "THEA" SKOMO serves as a Guardian is the PAMELA MARIE LYONS who may or may
13 not be an heir of the Decedent. However, there is some evidence to raise the question of
14 PAMELA MARIE LEWIS' status as an heir. Accordingly, THEODORA "THEA" SKOMO
15 requests the Court to appoint a Guardian ad Litem for PAMELA MARIE LEWIS to
16 investigate her potential status as heir. Further, if the GAL concludes that there is sufficient
17 evidence of PAMELA M. LEWIS' status as an heir, then Independent Counsel may also be
18 appropriate to represent PAMELA MARIE LEWIS' interests in the probate proceeding.

19 Lastly, the Personal Representative seeks approval from the Court to continue as
20 Personal Representative at this time and until further information may be learned on the
21 question of whether or not PAMELA MARIE LEWIS is the PAMELA MARIE LYONS of
22 the birth certificated found in Decedent's possessions, and if such person is an heir of the
23 Decedent.


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V. CONCLUSION

THEODORA "THEA" SKOMO respectfully requests that an Order be entered setting a Show Cause Hearing to determine the status of heirs, providing for the appropriate Notice to give to potential heirs regarding Show Cause Hearing, appointing a Guardian ad Litem for PAMELA M. LEWIS, and allowing the Personal Representative to continue in that capacity.

DATED this 6 day of February, 2008.

THE LAW OFFICES OF LYNN ST. LOUIS, PLLC

By: 
LYNN ST LOUIS, WSBA #15348
Attorney for Theodora "Thea" A. Skomo

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THOMAS R. FALLQUIST
SPOKANE COUNTY CLERKIN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE

In the Matter of the Guardianship of:

No.: 04-4-00970-9

KITTY S. OAKES,DECLARATION OF THEODORA "THEA"
A. SKOMO

Deceased.

I, Theodora "Thea" A. Skomo, hereby declare that:

I am a citizen of the United States and a resident of Spokane County, State of Washington, over the age of eighteen (18) years of age, competent to be a witness in the above entitled proceeding;

I am the Certified Professional Guardian appointed by this Court to serve as Guardian of the Person and Guardian of the Estate of the Kitty S. Oakes on December 1, 2004, under Spokane County Cause Number 04-04-00970-9. KITTY S. OAKES died on April 6, 2007. The Petitioner conducted a diligent search, but no Will of the Decedent was found.

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1 same number which was assigned to the guardianship. I was appointed Personal
2 Representative and granted nonintervention powers.

3 At the time of the August 1, 2007 Order, I was unaware of any legal children of the
4 Decedent and the Decedent was predeceased by her parents. I was also not aware of any
5 surviving siblings or issues of siblings. I did have knowledge of three persons believed to
6 have lived with the Decedent [during her "marriage" to Billy Tipton] and I hired Pinnacle
7 Professional Services, P.S. to locate those persons.

8 Pinnacle Professional Services, P.S. located those three persons, as well as a fourth
9 person who was located through a birth certificate I found in KITTY S. OAKES' possessions.

10 Those persons are:

11 JOHN THOMAS TIPTON
12 SCOTT LEE (PAUL) TIPTON (JOHNSON, MILLER)
13 WILLIAM ALAN TIPTON
14 PAMELA MARIE LYONS

15 I caused to be filed an Amended Notice of Pendency of Probate and Declaration of
16 Service. Copies were mailed to JOHN THOMAS TIPTON, SCOTT LEE TIPTON, and
17 WILLIAM ALAN TIPTON on October 22, 2007. No such Notice to PAMELA MARIE
18 LYONS, as that person has not been located.

19 Attorney MARC R. ROECKS has appeared for JONATHAN CLARK (John Thomas
20 Tipton). No attorneys have appeared for SCOTT LEE TIPTON or WILLIAM ALAN
21 TIPTON. An attorney, Mark D. Perison, contacted my attorney, LYNN ST. LOUIS, stating
22 that he represented SCOTT MILLER (Scott Lee Johnson a.k.a. Scott L. Tipton). However,
23 no Notice of Appearance has been filed with this Court on SCOTT LEE JOHNSON'S behalf
by attorney Mark D. Perison.

1 The investigation regarding potential heirs of KITTY S. OAKES has revealed the
2 following information:

3	<u>Name(s) as Listed</u>	<u>Documents</u>	<u>Date</u>
4	John Thomas Tipton	Doctor Certificate of Birth	October 19, 1963
	John Thomas Tipton	Certificate of Registration	October 19, 1963
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3 THEODORA "THEA" A. SKOMO, is PAMELA MARIE LEWIS' Professional Guardian
4 under a Spokane County Guardianship Matter. It unknown whether PAMELA MARIE
5 LEWIS is PAMELA MARIE LYONS. Obviously the last names are different.

6 I have requested Pinnacle Professional Services, P.S. to continue its investigation to
7 ascertain if other persons are possible matches to the PAMELA MARIE LYONS of the birth
8 certificate.

9 DATED this 24 day of January, 2008.

10
11 *Theodora Thea A Skomo*
12 THEODORA "THEA" A. SKOMO
13 Personal Representative
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