

**SUPERIOR COURT OF WASHINGTON
COUNTY OF KITSAP**

DOROTHY HELM

Petitioner/Plaintiff

Honorable MICHELLE ADAMS

Court Reporter CRYSTAL MCAULIFFE

Court Clerk SHAUNA JOHNSON

Date AUGUST 9, 2019

**JAMES & KRISTYAN CALHOUN;
SUSAN & THOMAS PARKER; SENIOR AVENUES LLC**

Respondent/Defendant

No. 18-2-03124-18

Pet/Pla appeared _____ through/with Counsel DAN YOUNG
Resp/Def appeared _____ through/with Counsel RON RICHMOND
Resp/Def appeared _____ through/with Counsel DAVID HORTON

THE MATTER BEFORE THE COURT Motion to Dismiss (Calhoun / Richmond)
 ^{Partial} Motion for Partial Dismissal (Parker/ Horton)

Mr. Richmond outlines the motion, case history, and makes argument.

Mr. Young responds and argues Ms. Calhoun acted on the POA in a breach of confidence scheme in which she sold the property to her friend, Mr. Parker, well below market value and without having the property appraised or exposed to the market. Ms. Calhoun charged Ms. Helm for her time & services. This is a breach of fiduciary duty.

Mr. Horton argues there was no breach of fiduciary duty by Mr. Parker, there was no professional relationship. There may be other causes for action such as an equitable lien on the property or quiet title. If there was a breach of duty, it rests with Ms. Calhoun, not his client.

Mr. Richmond agrees with Mr. Horton's motion. If there was a breach of duty it was his client's breach. There are other potential claims.

Mr. Horton moves for dismissal of claims against his client.

Mr. Young argues the Parkers participated in the breach, but did not commit the breach of fiduciary duty. They participated in cheating a beneficiary by knowingly purchasing the property well below fair market value from a known fiduciary. There is no relationship between Ms. Helm and the Parkers, but there is a relationship between the Parkers and Ms. Calhoun. There is significant injury to Ms. Helm and the Parkers participated; and, there are other incidents of similar actions by the defendants.

Mr. Richmond - Nothing further to add. Do not believe there is a viable cause of action against the Parkers for breach of fiduciary duty.

Mr. Horton - There are claims, just not the ones made.

Court reads statute and finds: The motion to partially dismiss is DENIED. This Court is concerned there was a plan here, the house had renters in it, paying \$800 per month, and the house was sold for \$28,000. Ms. Helms purchased the house in 2005 for \$117,000. This causes concern as to the disparity. This appearance of a scheme to unfairly enrich Ms. Calhoun and Mr. Parker, and harm to Ms. Helm. There are also allegations that Mr. Parker has purchased other properties under fair market value, which suggests he should have known. There is enough here to go forward. Court finds there was no fiduciary duty as to Mr. Parker, but there is showing of a possible ongoing scheme between Mr. Parker and Ms. Calhoun to the detriment of Ms. Helm. Mr. Parker should have known when purchasing property for so little. Motion Denied.



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August 9, 2019

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|---|---|--|
| <input type="checkbox"/> Courtroom polled for _____ | <input type="checkbox"/> No response | Time _____ |
| <input type="checkbox"/> Default Granted | <input type="checkbox"/> Writ Granted | <input type="checkbox"/> Judgment Approved |
| <input checked="" type="checkbox"/> The Court grants/ denies motion. | <input type="checkbox"/> The Court takes the matter under advisement. | |
| <input checked="" type="checkbox"/> Order signed as presented. | <input type="checkbox"/> Order to be presented. | |
| <input type="checkbox"/> This matter stricken/continued. | <input type="checkbox"/> Court Scheduler advised | |
| <input type="checkbox"/> Court sets _____ hearing at _____ am/pm on _____ | | |
| <input checked="" type="checkbox"/> Pleadings/File taken from this hearing by <u>Mr Young</u> | | |

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