

NO. 92305-1

---

RECEIVED BY E-MAIL

SUPREME COURT OF THE STATE OF WASHINGTON

NO. 71742-1-I

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

---

TERRI BLOCK  
as guardian of SARAH BLOCK

Appellant,

v.

THE LAW OFFICES OF BEN F. BARCUS & ASSOCIATES, PLLC, a  
Washington Professional Limited Liability Company, BEN F. BARCUS  
and JANE DOE BARCUS, individually and the marital community  
comprised thereof; LEGGETT & KRAM, a Washington Partnership;  
PETER KRAM and JANE DOE KRAM, individually and the marital  
community comprised thereof,

Respondents.

---

RESPONDENTS LEGGETT & KRAM,  
PETER KRAM, AND JANE DOE KRAM'S ANSWER TO  
APPELLANT'S PETITION FOR REVIEW

---

Troy A. Biddle WSBA#: 39165  
Donald J. Verfurth WSBA#:15554  
Gordon & Rees LLP  
701 5th Avenue, Suite 2100  
Seattle, WA 98104  
Phone: (206) 695-5100  
Fax: (206) 689-2822  
[tbiddle@gordonrees.com](mailto:tbiddle@gordonrees.com)  
[dverfurth@gordonrees.com](mailto:dverfurth@gordonrees.com)

**TABLE OF CONTENTS**

**I. INTRODUCTION** ..... 1

**II. STATEMENT OF THE CASE** ..... 1

    A. Peter Kram, Esquire ..... 1

    B. Mr. Kram is Hired to Obtain Plaintiff’s Appointment  
        as Guardian ..... 2

    C. Plaintiff Petitions Court to Distribute Settlement  
        Funds and Establish Special Needs Trust ..... 3

**III. ARGUMENT** ..... 8

    A. Plaintiff’s motion should be denied as the Court of  
        Appeals’ decision does not conflict with Young and  
        Rivas 8

        1. The Trust and Estates Dispute  
            Resolution Act..... 9

        2. That the Court of Appeals Was Correct  
            in Ruling That TEDRA Applies to  
            Plaintiff’s Claims Against Kram..... 10

    B. TEDRA Applies to Plaintiff’s Claims Against Kram  
        Based on the Complaint ..... 10

    C. Plaintiff’s Claims Against Kram Are Governed by  
        TEDRA ..... 12

    D. Plaintiff’s motion does not raise a significant  
        question of law under the Washington State  
        Constitution ..... 14

    E. Plaintiff’s motion fails to identify an issue of  
        substantial public interest that should be determined  
        by this Court ..... 16

    F. Kram’s joinder in Barcus’ answer ..... 17

**IV. CONCLUSION**..... 17

## TABLE OF AUTHORITIES

### Cases

<i>Grant County Fire Protection Dist. No. 5 v. City of Moses Lake</i> , 150 Wn.2d 791, 83 P.3d 419 (2004).....	15
<i>In re Estate of Kordon</i> , 157 Wn.2d 206 (2006).....	11
<i>Rivas v. Overlake Hospital Med. Ctr.</i> , 164 Wn.2d 264, 189 P.3d 753 (2008).....	8
<i>Schroeder v. Weighall</i> , 179 Wn.2d 566, 316 P.3d 482 (2014).....	14, 15, 16

### Statutes

RCW 11.88 .....	12
RCW 11.92 .....	12
RCW 11.96A.010.....	9
RCW 11.96A.020.....	10, 11
RCW 11.96A.030(2)(c).....	9
RCW 11.96A.040.....	10, 11
RCW 11.96A.050.....	11
RCW 11.96A.070(3).....	9
RCW 11.96A.070(4).....	10, 15
RCW 11.96A.150.....	11
RCW 11.98 .....	13
RCW 4.12.025 (1).....	11
RCW 4.12.025 (3).....	11
RCW 4.16.090(1).....	9

RCW 4.16.190 .....	10
RCW 4.16.190(2).....	14
<b>Other Authorities</b>	
RAP 10.1(g).....	17

## **I. INTRODUCTION**

This court should deny Plaintiff's motion for discretionary review as it fails to establish any of the requirements of RAP 13.4(b). The Court of Appeals' decision affirming the trial court's granting of summary judgment in Defendant Kram's favor does not conflict with a decision of this Court, nor does it conflict with another Court of Appeals' decision. Similarly, there is not a significant question of law under the Washington State Constitution raised by the motion, because that question has been answered by this Court in prior decisions. Finally, the motion is devoid of an issue of substantial public interest.

## **II. STATEMENT OF THE CASE**

### **A. Peter Kram, Esquire.**

Peter Kram has been practicing law in Washington since 1976, focusing in the areas of probate and guardianship matters. Mr. Kram has handled hundreds of guardianship matters like the one at issue in this lawsuit over his 37-year career as an attorney. Mr. Kram has tried well over 200 cases during this time and is appointed as a guardian ad litem ("GAL") by the Pierce County Superior Court approximately 10-15 times a year. Mr. Kram has served as a Pro Tem Commissioner in Pierce County Superior Court and District Court, and Pro Tem Judge in District Court. He also acts as an arbitrator in King and Pierce County Superior Courts. CP 52-53, ¶ 2.

**B. Kram is Hired to Obtain Plaintiff's Appointment as Guardian.**

On October 5, 2005, Plaintiff signed Krams' General Retainer Agreement to establish a Guardianship for Sarah Block, Plaintiff's daughter, following a head-on collision Sarah was involved in on Interstate 5 in Pierce County. Sarah was rendered comatose following the accident and airlifted to Harborview Medical Center. Rosalie Meeks, the driver of the other car, was killed in the accident. CP 54, ¶ 4.

On October 19, 2005, Kram filed a Petition for Guardianship of Person RCW 11.88.030 ("Guardianship Petition"), for Sarah in Pierce County Superior Court asking the court to appoint Plaintiff as Sarah's Guardian. The Guardianship Petition requested the appointment of a GAL that was an attorney and familiar with "the interplay of Washington laws regarding torts, guardianship, insurance and probate claims, subrogation, medical payments and special needs trusts." The Guardianship Petition identified three potential persons to act as Sarah's GAL. The Guardianship Petition requested an order approving Krams' fees in preparing the Guardianship Petition, the Barcus firm's retainer agreement that Plaintiff had signed previously, and that the Barcus firm be allowed "to commence claim filing and litigation as necessary to perfect the claims of Sarah Block against the adverse driver and any other at fault parties."

The Guardianship Petition also sought an order “requiring that the Law Offices of Ben F. Barcus report receipt of funds if any settlement is reached with the tortfeasors and disbursing such funds under court supervision.” That same day, Pierce County Superior Court Commissioner Mary E. Dicke signed an order assigning attorney Judson Gray as Sarah’s GAL (“GAL Gray”). CP 54, ¶ 5; 573-574, ¶ 2.

On November 9, 2005, GAL Gray filed his GAL Report, recommending the appointment of Plaintiff as Sarah’s guardian and the retention of counsel to represent the Guardianship in pursuing claims against the tortfeasor. CP 574, ¶ 3.

On November 10, 2005, Court Commissioner Dicke entered an order appointing Plaintiff as Sarah’s Guardian. The order stated that GAL Gray was to remain as a settlement GAL to address any issues related to the settlement of any claims prosecuted on Sarah’s behalf. The order also precluded the distribution of any settlement funds without a court order. The court approved Krams’ \$1,900 in fees as well as Plaintiff’s retainer agreement with Barcus firm, which allowed them to commence litigation and perfect Sarah’s claims from the accident. CP 55, ¶ 6; 574, ¶ 4.

**C. Plaintiff Petitions Court to Distribute Settlement Funds and Establish Special Needs Trust.**

On March 23, 2006, Plaintiff filed a verified Petition for Order

Authorizing the Guardian to Execute a Special Needs Trust and Disbursement of Funds with the Pierce County Superior Court (the “Funds Petition”). The Funds Petition asked the court to “approv[e] the distribution of all assets, less the itemized expenses and reasonable attorney fees set forth in Exhibit “B,” into the Special Needs Trust” (the “Trust”). The Funds Petition also sought approval to distribute to the Barcus firm their one-third contingency fee of the \$2.1 million settlement, pursuant to the court-approved retainer agreement between Plaintiff and the Barcus firm. Plaintiff also sought court approval to pay Kram \$4,066.89 for work on Sarah’s behalf. GAL Gray submitted a report requesting that the court approve the fees and costs identified in the Funds Petition. CP 122, ¶ 30; 574, ¶ 5.

On March 31, 2006, Pierce County Superior Court Pro Tem Judge Ronald Thompson entered an order approving Plaintiff’s Funds Petition and Special Needs Trust (the “Trust”) and further ordered the Barcus firm to distribute the funds as requested by Plaintiff (\$4,066.89 to Kram, and \$708,795.03 to the Barcus firm for their fees and costs). CP 57, ¶ 10.

GAL Gray was discharged as Sarah’s GAL by the court on April 21, 2006. CP 575, ¶ 7.

On May 1, 2006, Kram received an April 26, 2006, letter from Plaintiff addressed to Mr. Kram, Ms. Lester, Mr. Barcus, and Trustee



Bush expressing her appreciation and stating that she “believe[d] we have some of the best attorneys in Washington.” She also wrote:

I do realize our relationship is based on business and we will probably never be at peace with the huge fees you require, at the same time, I do believe you’ve done well for Sarah and I am thankful you are apart of our lives since Sarah’s crash . . . My request is for none of you to take a break from Sarah’s case until she and Dale board the plane to come home. I know you want things to be presented perfectly to a court, but nothing is perfect . . . You are all very smart and talented people, I have faith that you can do this.

CP 58 ¶ 11.

From approximately May 2006, to October 2008, Kram continued his representation of the Guardianship in myriad ways: relocating Sarah to her home state of Alaska, assisting in the resolution of litigation by Providence against Sarah for medical expenses Providence paid related to her medical bills as a result of the accident, and complying with court requirements related to Guardianship reporting and accounting. CP 58-60, ¶ 11-15; 639, ¶ 4; 125, ¶ 35; 129, ¶ 39.

Unbeknownst to Kram, Plaintiff wrote Trustee Bush a letter dated October 7, 2008, informing him that she planned to have Kram removed as counsel for the Guardianship and again complained about the fees the Barcus firm collected following the \$2.1 million settlement. She alleges she was told by the Barcus firm that:

[A]ll the 2.1 mill[ion] would go into the trust & they would discuss their fees afterward. That never happened. I contacted Peter Kram nearly hysterical & he basically told me to shut up & appreciate my attorneys. Next Kari Lester & Ben Barcus said Farmer's tried not to pay & they had to work hard for it – I'd been getting the paper[s] from Farmer's & it was very, very quick involving 3 letters & they paid. Mike Caryl is deciding if he has a case. He's very respected – is the only attorney in the state that goes after [an] attorney taking exorbitant fees – Barcus just recently asked him for [sic] advise a few months ago . . . I'm seeking a new Guardian attorney as Peter Kram has been difficult, not reliable & not out for Sarah's best interest (more for Barcus, his old school friend I later learned) . . . I'm sorry to spring this onto [you] all of a sudden – but I had to wait [un]til the drunk driver case closed since we paid for that work to be done. I think we're all done with the Barcus firm now. Of course I feel I failed Sarah with those attorneys and allowed her to be stolen from by nearly a million - - I'm sick sick sick over it, have been for a long time. If Mike Caryl chooses to take this case – the trust will be fortunate and I'll have some peace.

CP 640, ¶ 6.

On October 16, 2008, Plaintiff sent Kram a handwritten letter informing him that she was “hiring a new [sic] gardian attorney [Eileen Peterson] and will no longer be using your services.” Kram signed the substitution of counsel on November 29, 2008. CP 60, ¶¶ 17-18.

On December 23, 2008, Ms. Peterson filed a Petition with Pierce County Superior Court seeking leave to have the Trust pay to hire Mr. Caryl to investigate the reasonableness of the attorney's fees charged by the Barcus firm and Kram. Plaintiff “strongly believe[d] that the fees

received by the Barcus Law Firm were excessive and inappropriate.” Trustee Bush, on behalf of the Trust, opposed Plaintiff’s request. CP 717, ¶ 8; 640-641, ¶ 8.

On January 16, 2009, the court entered an order finding that Mr. Bush appropriately exercised his discretion in declining to pay Mr. Caryl a retainer and that Plaintiff could pursue an investigation of the fee claim at her own expense. Plaintiff informed Mr. Caryl that she did not have the necessary retainer, thus he declined to accept the case. CP 718, ¶ 17.

In August 2011, Plaintiff signed an hourly fee agreement with Mr. Caryl. After reviewing the underlying files, Mr. Caryl offered to take the case on a contingency fee basis. Plaintiff accepted Mr. Caryl’s offer in June 2012, seeking court approval to pursue those claims in January 2013, which was granted on January 25, 2013. Plaintiff finally filed this lawsuit—three-plus months later—on May 3, 2013. CP 718, ¶ 19; 104, ¶ 2; 1-25.

On February 25, 2014, the Honorable Laura C. Inveen of the King County Superior Court granted Krams’ motion for summary judgment on their statute of limitations affirmative defense. Plaintiff’s motion for reconsideration was denied by Judge Inveen on March 20, 2014. CP 1401-1405.

On July 27, 2015, the Court of Appeals, Division One, affirmed

the trial court ruling on Krams' motion for summary judgment, finding that the "applicable statute of limitations were not tolled. And there are no genuine issues of material fact regarding [Plaintiff's] equitable tolling and estoppel claims." Motion at Appx. A, p. 1.

### III. ARGUMENT

#### A. **Plaintiff's motion should be denied as the Court of Appeals' decision does not conflict with *Young* and *Rivas*.**

Plaintiff urges the Court to grant discretionary review because the Court of Appeal's decision "is in direct conflict with *Young v. Key Pharms, Inc.*, 112 Wn.2d 216, 770 P.2d 182 (1989), and its progeny . . ." Motion at p. 6. Simply put, Plaintiff is wrong. In *Young*, this Court held that appointment of a guardian did not stop tolling of an incompetent's claims under RCW 4.16.190 "without a clear directive from the Legislature" to that effect. *Id.* at 224. Plaintiff also cites to *Rivas v. Overlake Hospital Med. Ctr.*, 164 Wn.2d 264, 189 P.3d 753 (2008), to support her argument. However, *Rivas* is irrelevant to Plaintiff's motion because it did not involve the appointment of a guardian.

Nonetheless, Plaintiff argues that the Court of Appeals improperly applied Washington's Trust and Estates Dispute Resolution Act ("TEDRA") in ruling that the statute of limitations under RCW 4.16.190(1) is not tolled because TEDRA does not apply under the facts of this case. According to Plaintiff, her claims against Kram do not involve the administration of a trust or any similar allegations that fall within the

parameters of TEDRA, which was alleged in the Complaint solely as “an alternative grounds for venue and jurisdiction.” Motion at p. 10. Plaintiff’s claims against Kram and the plain language of TEDRA demonstrates that the Court of Appeal’s decision do not conflict with *Young* and *Rivas*.

**1. The Trust and Estates Dispute Resolution Act.**

The Trust and Estates Dispute Resolution Act (“TEDRA”), was adopted in 1999, ten years after *Young*, “and represents the clear directive from the Legislature” that the *Young* court alluded to in that opinion. TEDRA was promulgated to confirm Washington’s “longstanding public policy of promoting the prompt and efficient resolution of matters involving trusts and estates.” RCW 11.96A.070(3). Further:

The overall purpose of this chapter is to set forth generally applicable statutory provisions for the resolution of disputes and other matters involving trusts and estates in a single chapter under Title 11 RCW.

RCW 11.96A.010. Relevant to the conclusion that the Court of Appeals was correct in applying TEDRA to Plaintiff’s RCW 4.16.090(1) tolling argument, TEDRA defines “Matter” to include “any issue, question, or dispute involving . . . The determination of any question arising in the administration of an estate or trust . . . .” RCW 11.96A.030(2)(c).

TEDRA also includes a provision--RCW 11.96A.070(4)--that creates a specific exception to the tolling statute Plaintiff attempts to rely upon:

The tolling provisions of RCW 4.16.190 apply to this chapter except that the running of . . . any other applicable statute of limitations for any **matter** that is the subject of dispute under this chapter, **is not tolled as to an individual who had a guardian ad litem, limited or general guardian of the estate, . . .** to represent the person during the probate or dispute resolution proceeding.

*Id.* (Bold added.)

2. **That the Court of Appeals Was Correct in Ruling That TEDRA Applies to Plaintiff's Claims Against Kram**

The Court need look no further than Plaintiff's allegations in the Complaint against Kram and the undisputed facts regarding the appointment of a guardian and guardian ad litem to conclude that TEDRA applies to this case.

**B. TEDRA Applies to Plaintiff's Claims Against Kram Based on the Complaint**

Plaintiff's Complaint against Kram establishes that TEDRA applies to her claims against Kram. Specifically, Plaintiff admits that the trial court has jurisdiction and venue of her case against Kram based on TEDRA:

¶ 2.1 This Court has jurisdiction of this cause under the statutes and the Constitution of the State of Washington, **including but not limited to RCW 11.96A.020 and 11.96A.040.**

¶ 2.2. Venue is proper in King County pursuant to RCW 4.12.025 (1) and (3) because The Law Offices of Ben F. Barcus & Associates, PLLC transacts business and/or transacted business at the time the cause of action arose in King County; **and pursuant to RCW 11.96A.050.**

CP 3, ¶¶ 2.1, 2.2 (bold added). In addition, she re-alleges TEDRA's applicability as to each and every cause of action against Kram. CP 13, ¶ 5.1; 14, ¶¶ 6.1, 7.1.

In her Prayer for Relief, Plaintiff also seeks her attorney's fees and costs against Kram under TEDRA:

¶ 8.6 For an award of reasonable fee shifting attorney's fees and all costs provided for in RCW 11.96A.150.

CP 15, ¶ 8.6.

In short, Plaintiff's reliance upon RCW 11.96A.020 (providing courts with power to administer all matters concerning the assets of incapacitated persons), RCW 11.96A.040 (original subject matter jurisdiction for such claims), RCW 11.96A.050 (venue for such claims), and RCW 11.96A.150 (attorney's fees and costs) in pursuing her claims against Kram irrefutably establish that TEDRA applies to this case. *See also In re Estate of Kordon*, 157 Wn.2d 206, 211 (2006) (TEDRA is applicable to statutory claims arising outside of specific TEDRA provisions when claim "aris[es] in the administration of an estate").

**C. Plaintiff's Claims Against Kram Are Governed by TEDRA.**

Despite Plaintiff's bald admissions regarding the applicability of TEDRA identified above, she seeks review of the Court of Appeals' decision in Krams' favor because the Complaint "is not a TEDRA action arising under Title 11." Motion at pp. 8-9. The following undisputed facts, however, emphatically confirm that the Court of Appeals did not err and that TEDRA applied to Plaintiff's claims against Kram from the very beginning of their retention.

First, Sarah's Guardianship Petition was granted and a Guardian Ad Litem (Judson Gray) was appointed on Sarah's behalf on October 19, 2005. CP 573-574, ¶ 2. GAL Gray continued to act in that capacity until he was discharged on April 21, 2006. CP 575, ¶ 7. The creation of a Guardianship and the appointment of a GAL are governed by Title 11-- specifically, RCW 11.92, et. seq. and RCW 11.88, et. seq. Further, the GAL was expected to be versed "and familiar with "the interplay of Washington laws regarding torts, guardianship, insurance and probate claims, subrogation, medical payments and special needs trusts." *Id.*

Second, Plaintiff was appointed as Sarah's Guardian shortly thereafter, on November 10, 2005. CP 55, ¶ 6. Once again, that appointment is governed by Title 11 and falls within TEDRA. Included in



the order appointing Plaintiff as Guardian was the requirement that GAL Gray remain as a settlement GAL to address any issues related to the settlement of any claims prosecuted on Sarah's behalf, which would benefit the guardianship estate and is governed by TEDRA. *Id.* The order also precluded the distribution of any settlement funds without a court order. *Id.*

Third, on March 23, 2006, Plaintiff petitioned the court for the creation of a special needs trust for Sarah following a \$2.1 million settlement obtained by the Barcus firm on Sarah's behalf. CP 122, ¶ 30. Included in the submission of the petition was a report from GAL Gray requesting that the court approve the fees and costs payable to the Barcus firm identified in the petition. CP 574, ¶ 5. The court approved plaintiff's petition on March 31, 2006. CP 57, ¶ 10. The petition, creation, and court approval of trusts, including special needs trusts, are governed by RCW 11.98, et. seq.

Plaintiff's allegations against Kram and the undisputed facts before the Court demonstrate that TEDRA applies to this case. The Court of Appeal's decision does not conflict with any decisions by this Court.

**D. Plaintiff’s motion does not raise a significant question of law under the Washington State Constitution.**

Plaintiff relies solely on this Court’s opinion in *Schroeder v. Weighall*, 179 Wn.2d 566, 316 P.3d 482 (2014) to support her position that the Court of Appeals’ decision raises a significant question of law under the state constitution. However, in *Schroeder*, this Court addressed the constitutionality of an entirely different exception to tolling than what is at issue here. In *Schroeder*, the petitioner challenged the constitutionality of RCW 4.16.190(2), which creates an exception for medical malpractice claims from the tolling of the statute of limitations for minors. This Court held that RCW 4.16.190(2) violates the privileges and immunities clause, article I, section 12, of the Washington State Constitution, which provides that “[n]o law shall be passed granting to any citizen [or] class of citizens . . . , privileges or immunities which upon the same terms shall not equally belong to all citizens....” This Court found that “RCW 4.16.190(2) confers a benefit on a privileged group of citizens, i.e., medical professionals, and burdens a vulnerable minority, by placing “a disproportionate burden on the child whose parent or guardian lacks the knowledge or incentive to pursue a claim on his or her behalf.” This Court explained that courts in other jurisdictions have “recognized this problem, noting that statutes analogous to RCW 4.16.190(2) have the

greatest impact on children in the foster care system, children whose parents are themselves minors, and children whose parents are simply unconcerned. [Citation.] It goes without saying that these groups of children are not accountable for their status.” *Id.* at 578-579.

Unlike the exception to tolling at issue in *Schroeder*, the exception to tolling created by RCW 11.96A.070(4) does not single out any politically advantaged group of citizens or business concerns for special treatment. Because the law does not confer a privilege to a class of citizens, it does not violate the Privilege and Immunities Clause. *Grant County Fire Protection Dist. No. 5 v. City of Moses Lake*, 150 Wn.2d 791, 812, 83 P.3d 419 (2004).

Also, unlike the tolling exception at issue in *Schroeder*, RCW 11.96A.070(4) limits its tolling exception to individuals “who had a guardian ad litem, limited or general guardian of the estate, or a special representative to represent the person during the probate or dispute resolution proceeding.” Therefore, it does not affect children generally, and it does not burden a child whose parent or guardian lacks the knowledge or incentive to pursue a claim on his or her behalf. Rather, it negates the tolling provision only to those individuals, children or otherwise incapacitated individuals, who are represented during a probate or dispute resolution proceeding by a representative who has the

knowledge and incentive, in fact a duty, to pursue claims on the individual's behalf. To apply, the individual must already be represented in the probate or dispute resolution proceeding, this necessarily requires that the individual is already a party to the proceeding and his or her claims are being represented in that proceeding.

The *Schroeder* decision has no applicability to the TEDRA provision at issue here. Similarly, the Court of Appeals' decision fails to raise a significant question of law under the Washington State Constitution. Plaintiff's motion should be denied.

**E. Plaintiff's motion fails to identify an issue of substantial public interest that should be determined by this Court.**

Plaintiff's motion does not identify an issue of substantial public interest that should be determined by this Court. Instead her motion identifies decisions from this Court that have already resolved these purported issues. That is, the decisions decided by this Court that are cited in Plaintiff's motion provide the clarity and direction utilized by the Court of Appeals in rendering its decision in this case. Plaintiff's argument that the Court of Appeals' decision here failed to cite certain decisions by this Court, or the Court of Appeals, does not create an issue of substantial public interest.

In particular, the Court of Appeals properly applied the three-year

statute of limitations to Plaintiff's claims against Kram. There are no facts before this Court suggesting an issue of substantial public interest based upon the Court of Appeals' decision regarding the statute of limitations. Likewise, the Court of Appeals' decision not to apply RCW 4.16.230 to Plaintiff's claims against Kram does not identify an issue of substantial public interest. The facts, specifically that Block was only precluded from using trust assets, not her own funds, to investigate potential claims, and that she only needed to seek court approval to pursue a lawsuit, are wholly-unique and do not present an issue of substantial public interest.

**F. Kram's joinder in Barcus' answer**

Pursuant to RAP 10.1(g), Kram joins in the arguments contained in the answer of the Barcus Defendants to the extent applicable.

**IV. CONCLUSION**

The Court of Appeals' decision affirming the trial court's granting of summary judgment in Defendant Kram's favor does not conflict with a decision of this Court, nor does it conflict with another Court of Appeals' decision. Similarly, there is not a significant question of law under the Washington State Constitution raised by the motion, because that question has been answered by this Court in prior decisions. The motion is devoid

of an issue of substantial public interest. Plaintiff's motion should be denied.

RESPECTFULLY SUBMITTED this 26<sup>th</sup> day of October, 2015.

GORDON & REES LLP



Troy A. Biddle WSBA#: 39165  
Donald J. Verfurth WSBA#:15554  
Gordon & Rees LLP  
701 5th Avenue, Suite 2100  
Seattle, WA 98104  
Phone: (206) 695-5100  
Fax: (206) 689-2822  
[tbiddle@gordonrees.com](mailto:tbiddle@gordonrees.com)  
[dverfurth@gordonrees.com](mailto:dverfurth@gordonrees.com)

**CERTIFICATE OF SERVICE**

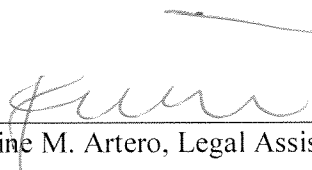
The undersigned certifies that on this day I caused to be served via email transmission and U.S. Mail the attached RESPONDENTS LEGGETT & KRAM, PETER KRAM, AND JANE DOE KRAM'S ANSWER TO APPELLANT'S PETITION FOR REVIEW on the following counsel of record:

G. Lee Raaen  
Law Office of G. Lee Raaen  
2110 N. Pacific St., Suite 100  
Seattle, WA 98103-9181

Michael R. Caryl  
Michael R. Caryl, P.S.  
65417 E. Rocky Mesa Dr.  
Tucson, AZ 85739-1695

Keith D. Petrak  
Byrnes Keller Cromwell LLP  
1000 Second Avenue, Suite 3800  
Seattle, WA 98104-1094

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct this 26<sup>th</sup> day of October, 2015.

  
\_\_\_\_\_  
Francine M. Artero, Legal Assistant