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STATE OF WASHINGTON
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NO. 96874-8

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

ANDREW LEE BENJAMIN, as Successor Administrator of the Estate of
Lue Alice Green,

Appellant,

v.

DALYNNE SINGLETON and JOHN DOE SINGLETON, her husband, and
the marital community comprised thereof, and LAW OFFICE OF B.
CRAIG GOURLEY, PLLC, a Washington Professional Limited Liability
Company, d/b/a GOURLEY LAW GROUP,

Respondents.

RESPONDENTS' ANSWER TO PETITION FOR REVIEW

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I. INTRODUCTION

The Petitioner seeks to rewrite long standing, *en banc* precedent and cause attorneys for personal representatives to be the guarantor of their client's fidelity. That has never been the role of an attorney in this state, and, for many reasons, should not begin now. Every single judge below applied this Court's clear precedent to dismiss the present lawsuit. There is no conflict, confusion, or persuasive policy argument. Simply put, further review is unwarranted.

The sole issue is the standing of a non-client to bring a claim against an attorney he or she did not hire. Here, the successor administrator sought to sue Respondents, Dalynne Singleton and the Law Office of B. Craig Gourley, PLLC ("Singleton"), who were solely the attorney for the previous Administrator, Leonardo Monk ("Monk"). The trial court below applied the multifactor balancing test enunciated in *Trask* and granted a motion to dismiss based on a lack of standing. The appellate court affirmed, citing well settled Washington law.

And rightly so. This has been the law for decades, because non-clients were never intended to be the beneficiaries of legal services they did not seek out or pay for. The Petitioner implicitly acknowledges this, as he makes no effort to engage in the *Trask v. Butler*, 123 Wn.2d 835, 872 P.2d 1080 (1994) (*en banc*) analysis, which defines the contours of the

duties at play. The Petitioner does not have any attorney-client relationship with Singleton, nor privity with Singleton. And, as *Trask* made abundantly clear, the Petitioner is not an intended beneficiary of the legal services conveyed from Singleton to Monk.

Settled law ends the analysis, to be sure. But even if the Court were to entertain the “policy debate,” it would not help Petitioner’s cause. The arguments advanced are untethered from sound reasoning, and directly conflict with the very real policy concerns raised by this Court in *Trask* and its progeny. Indeed, this case perfectly animates them, inasmuch as Monk allegedly undertook intentional action to deplete the estate. If a nebulous duty were owed to some others interests, like Estate beneficiaries or a then-fictional successor administrator, Singleton would have had an unresolvable conflict of interest with her actual client.¹

For the reasons that follow, review should be denied.

II. STATEMENT OF THE CASE

A. The Underlying Probate Case

On April 20, 2005, Decedent Lue Alice Green (the “Decedent”) died intestate. Clerk’s Papers 2 (CP), ¶ 2.0. The Decedent’s main asset

¹ Also notable, the Estate both had and *exercised* a remedy available to it through the Successor Administrator by bringing a direct cause of action against the Former Administrator. Its conclusory statements regarding collectability are a distraction from the legal analysis. Besides being irrelevant legal conclusions, which are afforded no weight under CR 12(b)(6), *Jackson v. Quality Loan Serv. Corp.*, 186 Wn. App. 838, 843, 347 P.3d 487 (2015), they also sound in “error correction,” which does not implicate review.

was a home located at 1425 East Union Street, Seattle, Washington 98122 (the “Property”). CP 2, ¶ 2.1. The Decedent had eleven beneficiaries. CP 2, ¶ 2.0, 17. A probate was filed in the King County Superior Court, #16-4-03707-8 SEA (the “Estate”). CP 3, ¶ 2.5.

Prior to Singleton’s involvement, Monk—one of Decedent’s children—was represented by attorney Julie Christianson. Monk was appointed by court order as the Administrator of the Estate, without bond, and with the consent of the beneficiaries. CP 3, ¶ 2.4; CP 17. Respondents did not yet represent Monk. CP 3, ¶ 2.4, CP 18.

On August 2, 2016, Singleton appeared on behalf of Monk. CP 3, ¶ 2.6, CP 18. On that same day, Singleton sought approval for the sale of the Property. CP 3, ¶ 2.6. The probate court conducted three hearings in approving the sale of the Property, at which attorney John E. Woodbery (“Woodbery”) appeared on behalf of two of the beneficiaries, and nearly all of the beneficiaries attended. CP 18. On October 3, 2016, the court approved the sale of the Property and ordered the funds from the sale of the house be deposited into the Estate’s bank account at Wells Fargo. CP 4, ¶ 2.9, CP 18. Woodbery was present at the hearing and approved the form of the order *See* CP 18. The order did not require the funds be deposited into a blocked account.

Following the deposit of the proceeds, Monk apparently began to mismanage the Estate's funds. CP 4, ¶ 2.11-2.12, CP 18. Singleton gave notice of her voluntary withdrawal as attorney for Monk, and the court approved her withdrawal on December 12, 2016. CP 4, ¶ 2.13, CP 18. That same day, the court removed Monk as Administrator of the Estate on Woodbery's motion. CP 4, ¶ 2.13, CP 18.

The court then appointed Petitioner as the Successor Administrator. CP 4, ¶ 2.13, CP 18. The Successor Administrator obtained judgment against Monk, the Former Administrator. CP 4, ¶ 2.14, CP 18. However, no efforts have been made to collect from Mr. Monk or other known persons who were provided monies by Monk inappropriately. CP 18-19. Though the court ordered the Successor Administrator to investigate a potential professional liability claim, it specifically declined the request to order its prosecution. CP 5, ¶ 2.17, CP 76, CP 79, CP 84.

B. The Superior Court Litigation

The Petitioner filed suit against Singleton alleging Legal Malpractice and Breach of a Fiduciary Duty without investigation. CP 5-7. On October 3, 2017, Singleton moved to dismiss for lack of standing. *See* CP 16-29. In response, the Petitioner focused on factual accusations of negligence, immaterial to the question of standing. *See* CP 32-39, 40-50, 51-70. The Court properly limited its review to the threshold standing

issue and struck the irrelevant and inadmissible declarations. CP 72. On November 2, 2017, the court dismissed the Petitioner's lawsuit with prejudice. *See* CP 87-88. No error was assigned to the exclusion.

Following the dismissal, the Petitioner sought an advisory opinion and force of Court Order to support his claims. However, on December 1, 2017, the probate court declined the Petitioner's request, instead ordering him again to both investigate and report back to the court the results, prior to prosecuting the claim. The Petitioner did not report back to the court.

C. The Appellate Court's Decision

The Petitioner appealed the trial court's dismissal of his legal malpractice claim against Singleton, and on January 28, 2019, Division I affirmed the trial court. Petition, Appendix A. The appellate court, citing *Trask*, determined that a successor administrator or personal representative does not have privity of contract to bring a malpractice cause of action against the attorney for a predecessor personal representative.

III. CLARIFICATION OF THE ISSUE

Whether this Court should rewrite decades of settled law to require probate attorneys to act as guarantors of their client's fidelity, in order to benefit non-clients with divergent and often adverse interests who already hold a private right of action against the relevant wrongdoer?

IV. ARGUMENT

The trial court followed Washington Supreme Court precedent to the pled facts taken as true and correctly dismissed the claims. The appellate court affirmed this reasoned decision. The law is clear that the Petitioner was not Singleton's client, nor that Singleton owed him any duty as he is not an intended beneficiary of the attorney-client relationship. Because Washington, as a matter of policy and allocation of duties, disallows malpractice claims by non-clients on these alleged facts, the petition should be denied.

D. The Court Should Uphold and Affirm Settled Law

1. Petitioner Does Not (And Cannot) Dispute That The Lower Courts Applied *Trask* Correctly.

Petitioner engages in no analysis of the applicable standard to find whether a non-client was an intended beneficiary of the attorney-client relationship. The lower courts did, following the road map this Court plainly laid out. After careful consideration of existing views and tests in other jurisdictions on attorney malpractice claims, this Court spoke on the very same question of Petitioner's standing in *Trask*:

[W]e hold that a duty is not owed from an attorney hired by the personal representative of an estate to the estate or to the estate beneficiaries. The multifactor balancing test does not impose legal malpractice liability upon [the attorney] to [the successor personal representative] under these facts for three reasons: (1) the estate and its beneficiaries are *incidental*, not intended, beneficiaries of the attorney-

personal representative relationship; (2) the estate heirs may bring a direct cause of action against the personal representative for breach of fiduciary duty; and (3) the unresolvable conflict of interest an estate attorney encounters in deciding whether to represent the personal representative, the estate, or the estate heirs unduly burdens the legal profession.

Trask, 123 Wn.2d at 845 (emphasis in original). The facts here are remarkably similar to *Trask*. None of the subsequent cases cited, or not cited, by the Petitioner alters the central holding in *Trask*.

Because the inevitable conclusion of this analysis results in failure of Petitioner's claims, he simply ignores it. But this Court should not follow suit. This Court was clear in *Trask* when it allocated the liability for mismanagement of an estate to the single person who owes a duty to the estate and the beneficiaries – the personal representative. The duty, and therefore the liability, is expressly *not* allocated to the attorney for the personal representative.

2. The Duty Owed in Malpractice Actions

In malpractice claims, the threshold legal question is whether the defendant owed plaintiff a duty of care. *Linth v. Gay*, 190 Wn. App. 331, 337, 360 P.3d 844 (2015). The first element of a legal malpractice claim requires “[t]he existence of an attorney-client relationship which gives rise to a duty of care on the part of the attorney to the client...”

Id. at 336-337 (internal citations omitted) (emphasis added).² Generally a lack of an attorney-client relationship is fatal to finding a duty of care. *See id.* No attorney-client relationship between Singleton and the Petitioner exists. In a probate, the attorney owes a duty only to her client, the Administrator – not to the Estate, the beneficiaries and certainly not an ethereal successor administrator.

To prove either claim in the Petitioner’s Complaint requires a duty flowing from Singleton to someone other than her client, Monk. Singleton was never an attorney for either the estate or the Successor Administrator.

3. In *Trask*, This Court Established the Factors Necessary to Find a Duty to a Non-Client Third Party, Expressly Not Adopting the Tests Used by California and Illinois.

Generally, only an attorney’s client may bring a malpractice claim. *Linth*, 190 Wn. App. at 337. In Washington, pre-*Trask*, two tests were used to determine whether a duty to a non-client arose: (1) the California “multi-factor balancing” test and (2) the Illinois “third-party beneficiary” test. *Trask*, 123 Wn.2d at 840; *Stangland v. Brock*, 109 Wn.2d 675, 679-82, 747 P.2d 464 (1987). The *Trask* court examined the two tests and combined them to set forth the current test in Washington.

² The same holds true for a breach of fiduciary duty claim, the threshold question is whether a duty is owed. *Micro Enhancement Int'l, Inc. v. Coopers & Lybrand, LLP*, 110 Wn. App. 412, 433–34, 40 P.3d 1206 (2002).

The Washington Supreme Court’s central tenet was to keep the analysis focused on the **purpose** for establishing the attorney-client relationship and who was the intended beneficiary of the attorney-client relationship. The threshold question the *Trask* Court answered was whether the malpractice plaintiff was “an *intended beneficiary* of the transaction to which the [attorney’s] advice pertained?” If the answer is no, that is the end of the inquiry. 123 Wn.2d at 843 (emphasis added).

The reason for this is simple. Attorneys do not have a duty to the world at large, and therefore an attorney could have no duty to a non-client where the advice was not intended to benefit that person. Consequently, the non-client legal malpractice plaintiff had no standing to sue. *Leipham v. Adams*, 77 Wn. App. 827, 832, 894 P.2d 576 (1995). And this makes sense as a practical matter. Attorneys must put clients first, and forcing them to serve two (or more) masters—absent unique and compelling circumstances—does violence to the fiduciary relationship, almost by definition.

Thus, the **first and threshold inquiry in the *Trask* test** (a two part, six factor balancing test) **is whether there was an intent to benefit the malpractice plaintiff.** *Id.* (emphasis added). “While the answer to the threshold question does not totally resolve the issue, **no further inquiry need be made unless such an intent exists.**” *Id.* (emphasis added). If a

court finds that a non-client was not an intended beneficiary, the court does not proceed beyond the first step.

In *Trask* the claim was brought – as here – by the successor personal representative. The *Trask* Court held that the only intended beneficiary in an attorney’s representation of a personal representative is the personal representative—not the estate, estate beneficiaries, and certainly not the actual party who brought the claim, the successor personal representative. *See Trask*, 123 Wn.2d at 845. In this case, just like *Trask*, Singleton was hired to represent the Former Administrator, Monk. That was the sole attorney-client relationship. On these facts, the law is clear. Only Monk can bring a legal malpractice or breach of fiduciary duty claim against Singleton.

4. The Post-*Trask* Guardianship Cases Do Not Alter the Application of *Trask* to This Case

This is not a guardianship case. It is undisputed Singleton was never hired to establish a guardianship. Through the lens of *Trask* it is clear why (1) the guardianship cases found the ward an intended beneficiary, and (2) why those cases do not apply to the present situation. Neither involve similar facts to this case. Both involve legally incompetent wards, a non-adversarial relationship, and legal services consisting solely

of setting up the guardianships for the benefit of the incompetent ward.³

In *Karan*, the court held that the attorney of the guardian owed a duty to the minor ward. 110 Wn. App. at 86. Specifically, in *Karan*, an attorney had been hired by the mother of a minor to create a guardianship. *Id.* The mother depleted the funds while serving as the guardian. *Id.* The court applied the *Trask* test and determined the minor, although not the attorney's direct client, was an intended beneficiary of the guardianship because the *sole purpose* of the attorney's engagement was preservation of the ward's property through creation of a guardianship. *Id.* at 85. Thus, the attorney-client relationship between the attorney and the minor's mother was *intended to benefit* the minor. *Id.*

Similarly, in *Treadwell*, the court held that the attorney for the guardian owed a duty to the ward, an incompetent adult. *Estate of Treadwell ex rel. Neil v. Wright*, 115 Wash. App. 238, 247, 61 P.3d 1214, 1218 (2003). In *Treadwell*, the guardian depleted the accounts of the incapacitated ward. *Id.* at 241. The court followed *Karan*, making note

³ Notably, the personal representative and guardianship statutes differ substantially, which supports the court's articulation of a different scope of representation by the attorney. See e.g., RCW 11.28.185 ("In all other cases, **unless waived** by the court, the personal representative **shall** give such bond or other security, in such amount and with such surety or sureties, as the court may direct"); RCW 11.88.100 ("Before letters of guardianship are issued, each guardian or limited guardian **shall** take and subscribe an oath and, unless dispensed with by order of the court as provided in RCW 11.88.105 [providing funds held subject to order of the court may reduce the bond], file a bond, with sureties to be approved by the court, payable to the state, in such sum as the court may fix").

that the *intended beneficiary* of the guardianship was the incompetent adult.

There is no question that Singleton was never hired to set up a guardianship. Singleton was solely hired by Monk to represent him and assist him in discharging *his* fiduciary duties. The Petitioner’s reference to guardianship cases ignores the key policy considerations different between a probate and a guardianship – the lack of an adversarial relationship and the intent of the representation.

Understanding this fatal flaw, the Petitioner attempts to end run around the analysis and assert that since he is a *successor* administrator he “stands in the shoes of the predecessor personal administrator”. Petition, at p. 10. This argument leapfrogs *Trask* to claim a direct relationship. Accordingly the Court of Appeals rightly rejected it below.

First, the plaintiff in *Trask* was also the successor administrator, and this Court found he lacked standing. Second, Singleton was not hired to represent some fictional “office of the personal administrator” but the individual, Monk the intended beneficiary, to whom she owes an undivided duty of loyalty. Third, this argument amounts to a recast of the repeatedly rejected privity argument.⁴ At bottom, he is not the intended

⁴ Petitioner’s CR 17(a) argument similarly fails – because the analysis dictated by this Court is not tethered to who is currently the real party in interest, but to whom the attorney client relationship was intended to benefit.

beneficiary of Singleton’s legal services. This Court should decline the invitation to expand an attorney’s duty to unintended parties or parties with adversarial interests.

E. Washington’s Case Law is In Accord With Other Jurisdictions

Petitioner claims the majority of other states addressing the standing of successor personal representatives for legal malpractice actions disagree with Washington. This is incorrect. Of the six states that have addressed this particular issue, three follow *Trask*, and three do not.⁵

More importantly, this Court examined the tests in two of those three states – Illinois and California – before deciding *Trask*. In short, Petitioner’s reliance amounts to an attempt to overturn Washington statute and established precedent by importing foreign common law standards largely already considered by this Court, and applying distinguishable statutory schemes around the country.

1. Out of State Cases that Apply A Different Legal Standard Should be Disregarded

Estate of Hudson By Caruso v. Tibble is unhelpful to Petitioner because (1) Illinois applies the third party beneficiary test, which this

⁵ Compare *Estate of Hudson By Caruso v. Tibble*, 99 N.E.3d 105 (Ill. App. Ct. 2018); *Smith v. Cimmet*, 199 Cal.App.4th 1381, 132 Cal.Rptr.3d 276 (2011); *Borissoff v. Taylor & Faust*, 33 Cal.4th 523, 93 P.3d 337, 15 Cal.Rptr.3d 735 (2004); with *Trask*, 123 Wn.2d at 838; *Estate of Cabatit v. Canders*, 105 A.3d 439, 440 (Me. 2014); *Roberts v. Fearey*, 162 Or. App. 546, 548, 986 P.2d 690, 691 (1999); cf. *Allen v. Stoker*, 138 Idaho 265, 266, 61 P.3d 622, 623 (Idaho Ct. App. 2002); *In re Estate of Drwenski*, 83 P.3d 457, 459 (Wyo. 2004).

Court reviewed and declined to adopt in *Trask*; (2) it applied Illinois case law, distinct from the law in Washington, and (3) as Petitioner must admit the central issue of standing was not properly raised or considered.⁶

Applying the third party beneficiary test (expressly rejected here) the court found that *Illinois* case law recognizes the proposition that an attorney owes a duty to the estate when hired by the estate's personal representative for purposes of administering a decedent's estate. *Id.* Critically, *Hudson*, never addresses the issue here – *i.e.*, plaintiff's standing – because it was never raised below. It is not helpful.

2. Out of State Cases that Apply a Different Statutory Scheme Are Unhelpful to This Court

Each of the California and Florida cases rely on and interpret a different statutory scheme than Washington. First, in *Borissoff v. Taylor & Faust*, 33 Cal.4th 523, 93 P.3d 337 (2004), the court relied entirely on California Probate Code:

[T]he successor personal representative has the **powers and duties** in respect to the continued administration that the former personal representative would have had.

⁶ In *Estate of Hudson*, Alma Leticia Hudson (Letty), was the former administrator of the estate, who faced claims by other heirs she dissipated estate funds. *Id.* at 108. Ultimately, the successor administrator and Kyle brought a malpractice lawsuit against Letty's counsel. *Id.* But the issue of standing was never raised. On appeal, the court acknowledged that in order to find that defendants owed a duty to the estate, an attorney-client relationship must have existed between them or the estate must have been an intended beneficiary of such a relationship. *Id.* at 112. However, the court noted that neither party raised that argument previously, and because of this, the court focused on whether a duty was owed. *See id.*

California Probate Code § 8524 (c). Relying on the statutory text, the court concluded that the probate code “gives the successor fiduciaries the same **powers** and **duties** their predecessors possessed, including the power to sue for malpractice harming the trust.” *Borissoff v. Taylor & Faust*, 33 Cal.4th at 535 (emphasis added).

There are significant factual differences to the case at bar. In *Borissoff*, the special administrator⁷ hired attorneys for the limited purpose of tax advice – explicitly for the benefit of the estate. *Borissoff*, 33 Cal.4th at 527. There was no general counseling relationship between the tax attorney and the special administrator. By contrast, Monk hired Singleton in his capacity as administrator to give *him* general legal advice and counsel to guide him as administrator. The attorney-client relationship was intended to benefit Monk alone.

Smith v. Cimmet, 199 Cal.App.4th 1381, 132 Cal.Rptr.3d 276 (2011), relies on the same language in the California Probate Code and the *Borissoff* case discussed *supra*. There the court reasoned that a successor personal representative could file a claim against the predecessor’s attorneys because “the absence of privity, viewed as an impediment to standing, *is a gap the Legislature has filled in California.*” *Id.* (citing

⁷ A special administrator is a personal representative with limited powers under California law which include retaining tax counsel for the estate. Cal. Prob. Code §§ 58, 8544, 10801.

Borissoff v. Taylor & Faust, 33 Cal.4th 523. (emphasis added)). No similar provision exists in the applicable Washington statutes.

Similarly, *Bookman v. Davidson*, 136 So. 3d 1276 (Fla. Dist. Ct. App. 2014)⁸ relied solely on the Florida Probate Code:

A successor personal representative has the **same power and duty** as the original personal representative....

Florida Statute § 733.614 (emphasis added). The court emphasized that the **powers** granted to the original personal representative flow to the successor personal representative; the court focused on the word “power” stressing it “is informed by the plain meaning of the language of the relevant statutes in the Florida Probate Code.” *Id.*, 136 So.3d at 1279.

Though our legislature is presumptively aware of existing case law, it has made no similar grant. Apart from the fact that *Trask* controls in Washington, the Washington Probate Code is markedly different and provides, in part, that:

[t]he successor personal representative shall **perform like duties and incur like liabilities** as the preceding personal representative, unless the decedent provided otherwise in a duly probated will or unless the court orders otherwise. A succeeding personal representative may petition for

⁸ In *Bookman*, the successor personal representative brought a legal malpractice lawsuit against the attorney for the former personal representative. Primarily, counsel for Ford argued that a successor personal representative is not in privity with the former personal representative’s attorney, a necessary prerequisite to maintaining a malpractice claim under Florida law. *Id.* Just as in the California cases cited, the court turned to the legislative language to fill the privity gap – language not present in Washington and directly at odds with *Trask*.

nonintervention powers under chapter 11.68 RCW.

RCW 11.28.280 (emphasis added). Unlike the statutes in California and Florida, the Washington code expressly does *not* grant a successor representative the power to step into the shoes of the prior representative.

Instead the Washington Legislature granted the “duties” and “liabilities” to a successor personal representative and – under *Trask* – explained that the contours of those duties exclude the very cause of action at issue here. “[N]either an estate beneficiary ***nor a successor personal representative*** has privity of contract to bring a malpractice cause of action.” *Trask*, 123 Wn.2d at 847 (emphasis added). Simply put, successor personal representatives have different rights under Washington Probate Code.

This Court is not the proper venue for legislative change.⁹ If the Washington legislature intended for the Probate Code to follow other jurisdictions, it could have done so, but it did not. If the legislature disagreed with *Trask*’s clear mandate, it has had 25 years to amend the statute to clarify its disagreement. When, as here, the legislature declines to revisit a statutory interpretation after this long, *stare decisis* principles are at their zenith. *See, e.g., Baker v. Leonard*, 120 Wn.2d 538, 545, 843

⁹ Courts interpret, construe, and apply laws made by the legislature...[t]he legislature may, however, amend a statute. *In re Det. of Savala*, 147 Wn. App. 798, 806–07, 199 P.3d 413, 417 (2008) (internal citations omitted).

P.2d 1050 (1993) (“Legislative silence regarding... creates a presumption of acquiescence in that construction.”) Petitioner’s reliance on out of state authority is misplaced.

F. Public Policy Dictates Following Washington Precedent

1. The Legal Profession Would Be Impossibly Burdened If Attorneys Were Required to Fulfill Conflicting Duties

Where parties have adversarial interests, as in probate, the legal profession would be impossibly burdened by vague duties to other interests, such as the estate and beneficiaries or a successor administrator (known, or even unknown). *Karan*, 110 Wn. App. at 83. “The policy considerations against finding a duty to a non[-]client are strongest where doing so would detract from the attorney’s ethical obligations to the client. This occurs where a duty to a non[-]client creates a risk of divided loyalties because of a conflicting interest or of a breach of confidence.” *Trask*, 123 Wn.2d at 844. (citing 1 R. Mallen & J. Smith, *Legal Malpractice* § 7.11 (3d ed. 1989)).

Attorneys cannot fulfill conflicting duties to their clients and their clients’ adversaries. *Id.* Here actual conflicts existed between the parties and two of the siblings (with an identical interest as the alleged incompetent) hired separate counsel and opposed actions taken by Monk. Courts are appropriately concerned about imposing a duty to a non-client beneficiary in a probate because it would “**create an impossible ethical**

conflict for lawyers, because the interests of beneficiaries and the personal representative of a deceased's estate are frequently at odds. The parties are legal adversaries.” *See Karan*, 110 Wn. App. at 86 (emphasis added). Here too, the parties were legal adversaries.

Even more, the attorney-client relationship did not (and could not) be intended to benefit the Successor Administrator who directly challenged Monk’s actions as the Administrator. Monk’s attorney could not owe the Successor Administrator a duty because he was not the **intended beneficiary** of the attorney-client relationship between her and Monk. Indeed, the Petitioner sought and obtained judgment against Monk. A finding of a duty would require Singleton to serve two masters with directly adversarial interests – an impossible ethical conflict.

2. The Number of Probate Filings Versus Guardianship Filings Should Not Impose Additional Requirements on Attorneys

Petitioner argues that the sheer number of probate filings compared to the number of guardianship filings should impose additional requirements on attorneys. Even if this was a cognizable basis for a change in the law, its central premise fails – the ratio of probate filings compared to guardianship filings has remained relatively consistent

throughout since *Trask* was decided.¹⁰

But even if this assertion were factually supportable—and it is not—it would be an argument better made to the legislature. This Court should decline to revisit and rewrite settled law on this basis.

V. CONCLUSION

For the foregoing reasons, Singleton respectfully requests that the decline review.

RESPECTFULLY SUBMITTED this 3rd day of April, 2019.

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Counsel for Respondents

¹⁰ When *Trask* was decided—in 1994—the number of probate filings greatly outnumbered the amount of guardianship filings (see Appendix A Civil Department Statistical Report for City County 1992-2001). The year *Trask* was decided, 4,577 probate matters were filed in King County compared to only 818 guardianship filings.

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that under the laws of the State of Washington that on the 3rd day of April, 2019, I caused a true and correct copy of the foregoing document, to be delivered via the court efilng system to:

Robert B. Gould
Law Office of Robert B. Gould
P. O. Box 6227
Edmonds, WA 98026

DATED this 3rd day of April, 2019, at Seattle, Washington.

/s/ Kami R. Mejia
Kam R. Mejia, Legal Assistant

APPENDIX 1

King County Superior Court
2001 Annual Statistical Report

Department of Judicial Administration
Prepared by: Shiquan Liao, Ph.D., Statistician

March 01, 2002

Report #: YR-2001

2001 Highlights

This 2001 annual statistical report presents information on filings, resolutions, pending caseload, and trials in King County Superior Court (KCSC). Statistics for 2001 have been updated at the end of 2001. Because of the year-end adjustment, a slight difference may exist between the statistics in this annual report and the statistics in the quarterly reports. The annual report data will be used as baselines for 2001 reports.

- **Filings** (Table 1). The total number of cases filed in 2001 was slightly lower than that in 2000. In 2001, the total filings (including “Matters Filed with Clerk”) were 73,485 cases, a 1.7% decrease from 2000. However, the change in filings was non-uniform across filing categories. In 2001, criminal filings continued to be high at 10,526 cases, but it was 2.6% lower than that in 2000 (-2.6%). The criminal filings have been over 10,000 in the last three consecutive years. General civil filings (case type 2, excluding Clerk’s filings and civil RALJ) increased by 1.3% in 2001. Domestic filings showed another decrease in 2001 (-4.6%). Domestic filings have shown a decreasing trend since 1993. In 2001, juvenile offender filings decreased by 16.0% from 2000. Since 1998, juvenile offender filings have decreased 41% (-41%).
- **Resolutions** (Table 2). The total resolutions (including “Matters Filed with Clerk”) in 2001 were 73,904 cases, a 2% increase from 2000. The total resolutions were slightly higher than the total filings in 2001. The resolution pace in 2000 was significantly slower than the filing pace in criminal cases, indicating more pending criminal cases in the court’s caseload.
- **Pending Caseload** (Table 3). The overall pending caseload at the end of 2001 was 27,906 cases, higher than that at the end of 2000 (+3.6%). The court added more cases to its pending caseload in criminal (+24.9%), general civil (+1%), domestic (+4.6%), probate (+2%), mental illness (+74%), juvenile dependency/ARY (+94.5%), and juvenile truancy (+2%). Despite the fact that the number of resolutions was higher than the number of filings in 2001, the total pending caseload was up by 3.6%. Since the pending caseload does not include cases on suspense status (i.e., on warrant or appeal), the active pending caseload could increase if more cases were removed from the suspense status and then added into the active pending caseload even if the resolutions were higher than the filings.
- **Trials** (Table 4). Overall, there were 784 jury trials (including 94 mistrials) in 2001. There were 3,452 non-jury trials (including 2,486 juvenile fact-findings) in 2001. Starting 2001, the court stopped recording trial length due to the lack of feasible mechanism to collect trial hours.
- **KNT vs. SEA** (Table 5). Of the total 73,485 cases filed in 2001, 31% were KNT cases. However, no cases in the following categories were assigned to KNT: mental illness, juvenile offender, criminal RALJ and civil RALJ. If we include the cases assigned to both Seattle and KNT only, the percentage would be higher than 31%. The KNT resolutions (31%, as a percentage of total resolution in KCSC) in 2001 were comparable with the KNT assignment (31%). At the end of 2001, the KNT pending caseload was 32% of that of the entire court, including all case categories. Based on KNT cases as the percentage of total filings, KNT had a higher percentage of filings in criminal, general civil, domestic, paternity, and juvenile ARY/CHINS/Dependency. In 2001, filings at KNT in the three major case categories (criminal, civil and domestic cases) were all about 36% - 37% of the total filings in the respective categories.

Table 1. Annual Filings

Category	Annual Filings										2000-2001 Change (%)
	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	
Criminal	7,929	7,765	7,825	8,129	8,027	9,312	9,589	10,130	10,806	10,526	-2.6%
Civil (excluding RALJ and Matters Filed with Clerk)	22,108	22,381	22,831	23,682	22,698	22,786	22,112	21,947	23,072	23,376	+1.3%
Civil Matters Filed with Clerk ⁽¹⁾	7,807	9,405	10,533	9,707	10,083	8,777	8,149	7,821	8,768	9,660	+10.2%
Domestic	9,642	10,009	9,898	9,892	9,294	9,279	8,931	8,732	8,543	8,151	-4.6%
Probate	4,534	4,848	4,577	4,508	4,549	4,736	4,693	5,054	4,976	5,016	+0.8%
Guardianship	822	805	818	726	924	876	902	966	871	859	-1.4%
Adoption	826	762	711	788	712	828	883	916	951	809	-14.9%
Paternity	2,295	3,059	3,779	3,775	2,752	2,617	2,416	2,319	2,064	2,016	-2.3%
Mental Illness	2,271	2,018	1,916	1,903	1,921	1,831	1,992	1,916	1,920	2,148	11.9%
Juvenile At-Risk Youth and Child-in-Need-of-Service	214	239	273	334	534	647	686	692	848	600	-29.2%
Juvenile Dependency	1,398	1,295	1,115	1,082	1,034	1,134	970	922	829	1,041	+25.6%
Juvenile Truancy ⁽²⁾	0	0	4	766	3,895	4,506	3,917	3,652	4,301	3,636	-15.5%
Juvenile Offender	8,434	7,931	8,462	7,989	9,035	7,775	8,650	7,419	6,121	5,142	-16.0%
Criminal RALJ	453	539	648	511	506	542	476	465	476	352	-26.1%
Civil RALJ	258	270	249	172	200	204	216	168	205	153	-25.4%
Total	68,991	71,326	73,674	73,964	76,164	75,850	74,582	73,119	74,751	73,485	-1.7%

(1) The statistics in this table include "Civil Matters Filed with Clerk", which are reported separately in the quarterly report. "Civil Matters Filed with Clerk" consist of those civil cases that require no or little judicial resources. This category includes the following cause codes of civil actions: Abstract of Judgment, Foreign Judgment, Tax Warrant, and Transcript of Judgment.

(2) Juvenile truancy filing became mandated on 10/1/1995.

Table 2. Annual Resolutions

Category	Annual Resolutions										2000-2001 Change (%)
	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	
Criminal	8,298	7,965	7,469	7,965	7,906	8,305	8,768	9,627	10,434	9,978	-4.4%
Civil (excluding RALJ and Matters Filed with Clerk)	23,814	22,900	23,234	23,241	22,335	23,307	21,664	21,910	22,306	23,242	+4.2%
Civil Matters Filed with Clerk ⁽¹⁾	7,806	9,406	10,517	9,697	10,080	8,776	8,146	7,823	8,766	9,663	+10.2%
Domestic	9,879	10,126	9,793	9,697	9,240	9,540	8,796	8,757	8,509	8,161	-4.1%
Probate	6,968	6,821	5,543	4,375	4,382	4,933	4,652	4,972	4,712	4,902	+4.0%
Guardianship	1,436	1,203	866	720	818	790	902	912	884	802	-9.3%
Adoption	828	1,054	898	892	780	862	884	944	943	808	-14.3%
Paternity	2,688	2,469	3,511	3,780	3,508	2,815	2,457	2,508	2,118	1,973	-6.8%
Mental Illness	2,807	2,017	1,907	1,915	1,856	1,704	1,969	1,877	1,893	2,096	+10.7%
Juvenile At-Risk Youth and Child-in-Need-of-Service	267	201	195	324	425	685	734	706	677	621	-8.3%
Juvenile Dependency	1,734	1,501	1,228	978	756	1,169	1,137	940	691	844	+22.1%
Juvenile Truancy ⁽²⁾	2	0	0	155	3,831	1,807	5,760	3,145	3,280	4,482	+36.6%
Juvenile Offender	8,094	8,076	8,708	8,551	9,018	8,010	8,781	7,631	6,477	5,643	-12.9%
Criminal RALJ	509	528	553	500	431	436	478	494	559	482	-13.8%
Civil RALJ	366	283	246	201	172	172	223	207	175	207	+18.3%
Total	75,496	74,550	74,668	72,991	75,538	73,311	75,351	72,453	72,424	73,904	+2.0%

(1) The statistics in this table include "Civil Matters Filed with Clerk", which are reported separately in the quarterly report. "Civil Matters Filed with Clerk" consist of those civil cases that require no or little judicial resources. This category includes the following cause codes of civil actions: Abstract of Judgment, Foreign Judgment, Tax Warrant, and Transcript of Judgment.

(2) Juvenile truancy filing became mandated on 10/1/1995.

Table 3. Year-end Pending Caseload

Category	Year-end Pending Caseload ⁽²⁾										2000-2001 ⁽³⁾
	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	Change (%)
Criminal	1,457	1,289	1,470	1,533	1,497	1,962	2,334	2,420	2,763	3,451	+24.9%
Civil (excluding RALJ and Matters Filed with Clerk)	11,214	10,550	9,186	9,499	9,854	9,106	9,725	10,161	11,462	11,599	+1.2%
Civil Matters Filed with Clerk ⁽¹⁾	2	1	17	27	30	4	10	25	38	9	-76.3%
Domestic	4,693	4,569	4,531	4,744	4,746	4,357	4,584	4,522	4,435	4,637	+4.6%
Probate	3,044	1,071	106	239	412	215	291	407	755	770	+2.0%
Guardianship	597	199	151	157	264	337	385	408	400	364	-9.0%
Adoption	1,040	748	561	457	389	355	371	356	357	338	-5.3%
Paternity	1,426	2,009	2,243	2,245	1,504	1,313	1,285	1,176	1,059	1,110	+4.8%
Mental Illness	17	18	27	15	80	203	253	84	112	195	+74.1%
Juvenile At-Risk Youth and Child-in-Need-of-Service	44	81	151	162	250	221	113	102	238	463	+94.5%
Juvenile Dependency	830	623	542	646	932	901	740	731	764	747	-2.2%
Juvenile Truancy	0	0	4	354	483	1,831	1,118	1,691	2,174	2,032	-6.5%
Juvenile Offender	3,536	2,910	1,423	1,168	1,350	1,195	1,018	1,114	943	962	+2.0%
Criminal RALJ	288	292	365	372	411	602	602	596	507	338	-33.3%
Civil RALJ	133	119	122	90	120	151	139	103	137	81	-40.9%
Total	28,321	24,479	20,899	21,708	22,322	22,753	22,968	23,896	26,144	27,096	+3.6%

(1) The statistics in this table include "Civil Matters Filed with Clerk", which are reported separately in the quarterly report. "Civil Matters Filed with Clerk" consist of those civil cases that require no or little judicial resources. This category includes the following cause codes of civil actions: Abstract of Judgment, Foreign Judgment, Tax Warrant, and Transcript of Judgment.

(2) Pending caseload does not include cases on suspense status.

(3) The percentage should be interpreted along with the number of cases. For those categories with small numbers, a large percentage does not necessarily indicate potential problem.

Table 4. Annual Trial Statistics

Category	Annual Trials										2001-2000
	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	Change (%)
Jury Trials											
Number of Trials	935	834	847	768	752	685	687	684	719	784	+9.0%
Trial Hours	16,056	16,366	15,895	15,291	14,441	13,768	13,344	12,069	12,594	N/C	N/C
Non-jury Trials ⁽¹⁾											
Number of Trials	2,314	2,200	2,321	2,732	3,989	5,017	5,608	4,794	3,917	3,452	-11.9%
Trial Hours	10,564	9,584	10,010	10,467	9,597	9,149	8,863	8,611	8,058	N/C	N/C
Assigned - No Trial (ANTRIAL)											
Number of Trials	---	---	---	---	---	---	1,926	1,372	1,224	595	-54.1%
Trial Hours	---	---	---	---	---	---	1,620	1,368	1,358	N/C	N/C
Total											
Number of Trials (jury and non-jury only)	3,249	3,034	3,168	3,500	4,741	5,702	6,295	5,478	4,636	4,236	-8.6%
Trial Hours ⁽³⁾	26,620	25,950	25,905	25,758	24,038	22,917	23,827	22,048	22,010	N/C	N/C

(1) Note: Juvenile truancy fact-findings are recorded as "non-jury" trials based on statewide standard. The significant increase in the number of "non-jury" trials in 1996 and 1997 was primarily due to the increase in the juvenile truancy fact-findings.

(2) Trial statistics prior to 1998 do not include "Assigned - No Trial" (ANTRIAL). An "Assigned - No Trial" is a trial that has pre-trial motion time (PTM) and possibly voir dire time (VDT), but the trial was ended by plea, settlement or other dispositions before the opening statement or the impanel of a jury.

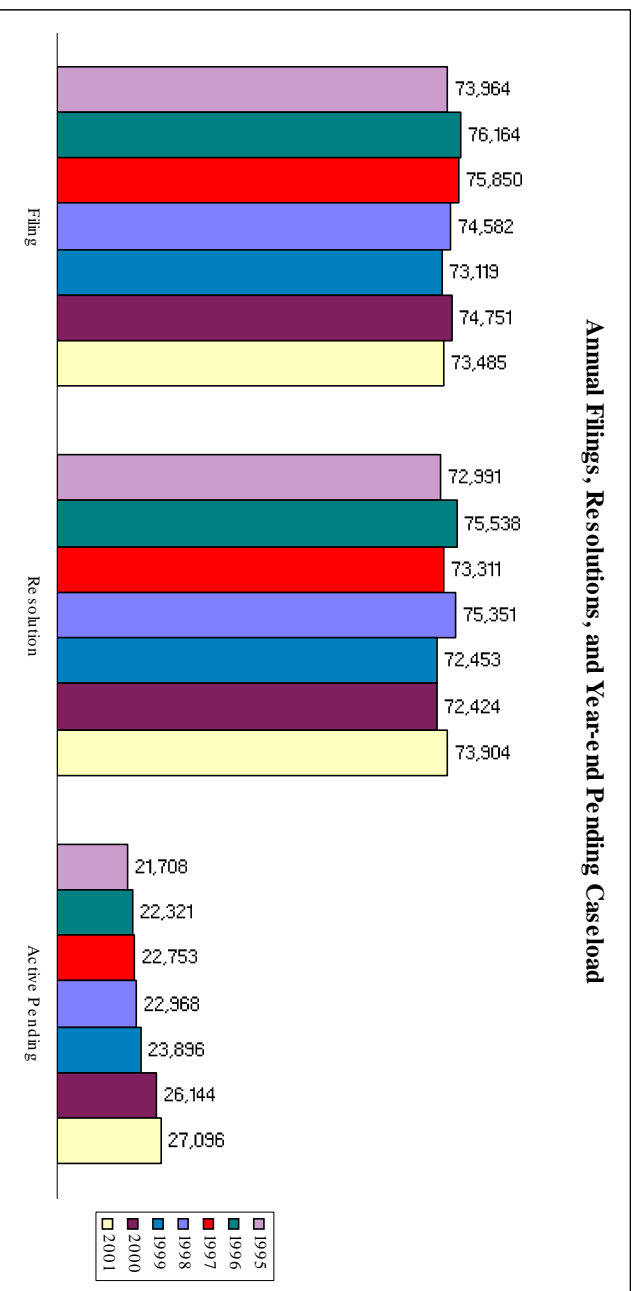
(3) Total trial hours in 1998 and 1999 include hours from ANTRIALS.

(4) Starting 2001, trial time is not collected. The jury trials in 2001 including 94 mis-trials.

Table 5. 2001 Statistics by Location (SEA vs. KNT)

Category	2001 Filings			2001 Resolutions			2001 Year-end Pending Caseload		
	KNT (%)	SEA (%)	Total (n)	KNT (%)	SEA (%)	Total (n)	KNT (%)	SEA (%)	Total (n)
Criminal	37%	63%	10,526	36%	64%	9,978	35%	65%	3,451
Civil (excluding RALJ and Matters Filed with Clerk)	36%	64%	23,376	35%	65%	23,242	28%	72%	11,599
Civil Matters Filed with Clerk ⁽¹⁾	33%	67%	9,660	33%	67%	9,663	67%	33%	9
Domestic	37%	63%	8,151	36%	64%	8,161	41%	69%	4,637
Probate	22%	78%	5,016	22%	78%	4,902	24%	76%	770
Guardianship	25%	75%	859	25%	75%	802	29%	71%	364
Adoption	26%	74%	809	24%	76%	808	26%	74%	338
Paternity	46%	54%	2,016	46%	55%	1,973	47%	53%	1,110
Mental Illness	---	100%	2,148	---	100%	2,096	---	100%	195
Juvenile At-Risk Youth and Child-in-Need-of-Service	50%	50%	600	52%	48%	621	47%	53%	463
Juvenile Dependency	43%	57%	1,041	39%	61%	844	26%	74%	747
Juvenile Truancy ⁽²⁾	36%	64%	3,636	39%	71%	4,482	49%	51%	2,032
Juvenile Offender	---	100%	5,142	---	100%	5,643	---	100%	962
Criminal RALJ	----	100%	352	---	100%	482	---	100%	338
Civil RALJ	---	100%	153	---	100%	207	---	100%	81
Total	31%	69%	73,485	31%	69%	73,904	32%	68%	27,096

(1) The statistics in this table include “Civil Matters Filed with Clerk”, which are reported separately in the quarterly report. “Civil Matters Filed with Clerk” consists of those civil cases that require title or no judicial resources. This category includes the following cause codes of civil actions: Abstract of Judgment, Foreign Judgment, Tax Warrant, and Transcript of Judgment.



Appendix Definition

Active Status

A case is active if it is not on suspense status (see Suspense Status).

Adoption Cases

This reporting category includes the following “cause-of-action” codes within SCOMIS case type 5:

- Relinquishment (REL)
- Termination of Parent/Child Relationship (TER)
- Adoption (ADP)
- Miscellaneous (MSC)
- Name Change - Confidential (CHN)
- Initial Pre-Placement Report Filed with Clerk (PPR)

Annual Filings

Total number of new case filings during the calendar year (January 1 to December 31).

ANTRIAL

An “Assigned - No Trial” is a trial that has pre-trial motion time (PTM) and possibly voir dire time (VDT), but the trial was ended by plea, settlement or other dispositions before the opening statement or the impanel of a jury.

Case

A case is defined as a filing with an assigned case number (or a case number plus a defendant connection code in pre-1990 criminal filings).

Civil Cases (excl. RALJ and Matters Filed with Clerk)

Civil cases, excluding appeals from courts of limited jurisdiction and “Matters Filed with Clerk”. Civil cases include small claims as identified by the “Small Claim Track”. This reporting category includes the following “cause-of-action” codes within SCOMIS case type 2:

- Administrative Law Review (ALR)
- Change of Name - Non-Confidential (CHN)
- Collection (COL)
- Commercial (COM)
- Condemnation (CON)
- Appeals of Department of Licensing Revocation (DOC)
- Domestic Violence Protection (DVP)
- Emancipation of Minor (EOM)
- Foreclosure (FOR)
- Civil Harassment (HAR)
- Injunction (INJ)
- Other Malpractice (MAL)
- Medical Malpractice (MED)
- Meretricious Relationship (MER)
- Malicious Harassment (MHA)
- Miscellaneous (MSC)
- Minor Settlement (MST) - *as of 10/1/96, under Guardianship*
- Petition of Civil Commitment- Sexual Predator (PCC)
- Property Fairness (PFA)
- Personal Injury (PIN)
- Property Damage (PRP)
- Quiet Title (QTI)
- Small Claims (LCA/LCI on “Small Claim Track”)
- Seizure of Property from the Commission of a Crime (SPC)
- Seizure of Property Resulting from a Crime (SPR)
- Tort Motor Vehicle (TMV)
- Tort Other (TTO)
- Unlawful Detainer (UND)
- Wrongful Death (WDE)
- Writ of Habeas Corpus (WHC)
- Miscellaneous Writ (WMW)
- Writ of Mandamus (WRM)

- Writ of Restitution (WRR)
- Writ of Review (WRV)

Civil Matters Filed with Clerk

Filings with clerk (case numbers assigned), but requiring little or no judicial action. This reporting category includes the following “cause-of-action” codes within SCOMIS case type 2:

- Abstract of Judgment (ABJ)
- Foreign Judgment (FJU)
- Tax Warrant (TAX)
- Transcripts of Judgment (TRJ)

Civil RALJ Cases

Civil appeals from courts of limited jurisdiction (excluding small claims as identified by the “Small Claim Track”). Civil RALJ includes the following “cause-of-action” reporting categories:

- Lower Court Appeal - Civil and “Not a Small Claim”
- Lower Court Appeal - Infraction and “Not a Small Claim”

Note: The Civil RALJ cases are determined based on both SCOMIS “cause-of-action” code (LCA and LCI) within SCOMIS case type 2 and the “Small Claim Track”.

Completion

A case is completed when dispositive document is filed with the court following resolution.

Criminal Cases (excl. RALJ)

Adult criminal cases, excluding appeals from courts of limited jurisdiction. This reporting category includes the following crime categories within SCOMIS case type 1:

- Homicide
- Sex Crime
- Robbery
- Assault
- Theft/Burglary
- Motor Vehicle Theft
- Controlled Substance
- Other Felony
- Others (Misdemeanor, Non-charge Case)

Criminal RALJ Cases

Criminal appeals from courts of limited jurisdiction. This reporting category includes all SCOMIS case type 1 cases that have an appeal from lower court field of “Yes”.

Domestic Cases

This reporting category includes the following “cause-of-action” codes within SCOMIS case type 3:

- Child Custody (CUS)
- Dissolution with Children (DIC)
- Dissolution without Children (DIN)
- Foreign Judgment (FJU)
- Annulment/Invalidity (INV)
- Modification (with a new case number) (MOD)
- Miscellaneous (MSC)
- Mandatory Wage Assignment (MWA)
- Out-of-State Child Custody (OSC)
- Reciprocal, Respondent-in-County (RIC)
- Reciprocal, Respondent-out-of-County (ROC)
- Legal Separation (SEP)

Guardianship Cases

This reporting category includes the following “cause-of-action” codes within SCOMIS case type 4:

- Guardianship/Estate (G/E)
- Guardianship (GND)
- Limited Guardianship (LGD)
- Minor Settlement (MST)

Jury Trial

A hearing is reported as a jury trial if the jury is impaneled.

Juvenile At-risk Youth/Child-in-Need of Service Cases

Juvenile dependency cases, excluding truancy cases. This reporting category includes following “cause-of-action” codes within SCOMIS case type 7:

- Alternative Residential Placement (ARP)
- At-Risk Youth (ARY)
- Child in Need of Service (CNS)
- Termination (TER)

Juvenile Dependency Cases

Juvenile dependency cases, excluding truancy cases. This reporting category includes following “cause-of-action” codes within SCOMIS case type 7:

- Dependency (DEP)

Juvenile Offender Cases

This reporting category includes the following crime categories in SCOMIS case type 8:

- Homicide
- Sex Crime
- Robbery
- Assault
- Theft/Burglary
- Motor Vehicle Theft
- Controlled Substance
- Other Felony
- Others (Misdemeanor, Non-charge Case)

Juvenile Truancy Cases

Mandatory truancy filings started on 10/01/1995. This reporting category includes the following “cause-of-action” code within SCOMIS case type 7:

- Truancy (TRU)

Mental Illness Cases

This reporting category includes all “cause-of-action” codes within SCOMIS case type 6:

- Alcoholic Treatment (ALT)
- Mental Illness - Adult (MI)
- Mental Illness - Juvenile (MIJ)

Non-Jury Trial

A hearing is reported as a non-jury trial if an opening statement is made, waived, or reserved. A juvenile fact finding hearing is reported as a non-jury trial.

Number of Trials

Occurrences of trials. If a case has multiple trials, all trials are reported. If multiple cases are tried together, it is reported as one trial where possible (see “Number of Cases Tried” for difference). The number of trials refer to number of jury and non-jury trials (including juvenile fact-findings).

Paternity Cases

This reporting category includes the following “cause-of-action” codes within SCOMIS case type 5:

- Modification (MOD)
- Paternity (PAT)
- Paternity/URES/EIFSA (PUR)

Pending Case

A case is defined as pending if it is unresolved and active (not in suspense).

Probate Cases

This reporting category includes the following “cause-of-action” codes within SCOMIS case type 4:

- Absentee (ABS)
- Disclaimer (DSC)
- Estate (EST)
- Foreign Will (FNW)
- Miscellaneous (MSC)
- Non-Probate Notice to Creditors (NNC)
- Will Only (WLL)

Resolution

A case is resolved if all issues in the complaint are fully adjudicated.

Suspended Case

A case is placed in suspense status from active status during the reporting period.

Suspense Status

A case is on suspense status if it is on warrant, appeal, stay, mediation, arbitration (“Deferred Prosecution” is not a suspense status, but is treated as a resolution).

Trial

A hearing set before a judge or jury in which all the issues in the case are meant to be resolved. A trial normally includes opening statements to the court or jury stating what evidence will show, introduction of witnesses and exhibits for direct and cross examination, final arguments to the court or jury in which counsel argue both the evidence and the law, and judgment by the court or jury stating what the facts of the case are and what law applies to the facts. In a jury case, it also includes the selection of the jury. A trial can be held for one or more cases. A single trial may be held to adjudicate more than one case (as defined above).

Trial Hours

Trial time (including voir dire, pre-trial motion time) in hours, regardless of the number of cases involved in the trial. The trial time is reported based on “Number of Trials” (not “Number of Cases Tried”). Since 1998, the trial hours contain duration of “Assigned with No Trials” (ANTRIAL). However, ANTRIALS are not used in the reporting of number of trials.

King County Superior Court
2011 Annual Statistical Report

Department of Judicial Administration
Prepared by: Shiquan Liao, Ph.D., Statistician

January 20, 2012

Report #: YR-2011

2011 Highlights

This 2011 annual statistical report presents information on filings, resolutions, pending caseload, and trials in King County Superior Court (KCSC). Because of the year-end update and adjustment, a slight difference may exist between the statistics in this annual report and the statistics in the quarterly reports.

- **Filings** (Table 1). The total number of cases filed in 2011 was slightly lower than that in 2010 (-3.0%). In 2011, the total filings (including “Matters Filed with Clerk”) were 73,136 cases. However, the change in filings was non-uniform across filing categories. In 2011, criminal filings continued to be low. The criminal filings were 5,986 cases in 2011, showing a decrease of 10.5% from 2010. General civil filings (case type 2, excluding Clerk’s filings and civil RALJ) and domestic filings (case type 3) in 2011 were almost the same as that in 2010 (-0.3%). Significant decrease in filings was observed in paternity, juvenile truancy and juvenile offender in 2011 when compared with previous years. Juvenile offender filings reached a historically low volume of 2,496 cases in 2011. Mental Illness filings increased significantly again in 2011. In addition, there were 2,018 post-disposition modifications in the domestic and paternity cases in 2011.
- **Resolutions** (Table 2). The total resolutions (including “Matters Filed with Clerk”) in 2011 were 75,451 cases, a 2.8% decrease from that in 2010. The total resolutions exceeded the total filings in 2011. In 2011, the disposition pace of criminal, general civil, juvenile offender, dependency, and truancy cases exceeded the filing pace. No significant gap was observed between the filings and resolutions for other categories in 2011.
- **Pending Caseload** (Table 3). The overall pending caseload at the end of 2011 was 19,797 cases, showing an overall decrease of 6% from 2010 (-6%). The pending caseload in the major categories of criminal, general civil, and juvenile offender decreased from a year ago, while an increase in pending caseload was observed in mental illness, juvenile dependency and ARY/CNS cases. No significant change was seen in the pending caseload in all other categories.
- **Trials**. Overall, there were 470 jury trials in 2011. There were 556 non-jury trials and 823 juvenile fact-findings in 2011. In addition, there were 427 trials by affidavits and stipulated trials in 2011.
- **KNT vs. SEA** (Table 4). Of the total 73,136 cases (including Matters filed with the Clerk) filed in 2011, 37% were KNT cases. However, no cases in the following categories were assigned to KNT: mental illness, juvenile offender. The KNT resolutions (36%, as a percentage of total resolution in KCSC) in 2011 were comparable with the KNT assignment (37%). At the end of 2011, the KNT pending caseload was 34% of that of the entire court, including all case categories. In 2011, filings at KNT in criminal, civil and domestic cases were 45%, 42% and 37% respectively.

Table 1. Annual Filings

Category	Annual Filings										2010-2011 Change (%)
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	
Criminal	9,306	10,026	9,962	9,901	10,648	10,767	8,667	6,498	6,691	5,986	-705
Civil (excluding RALJ and Matters Filed with Clerk)	24,566	27,304	27,567	26,915	25,469	26,020	27,577	29,821	27,632	27,542	-90
Civil Matters Filed with Clerk ⁽¹⁾	10,779	12,781	11,630	12,332	12,536	12,784	13,881	14,662	15,586	14,799	-787
Domestic	7,975	7,525	7,507	7,837	7,750	7,720	7,254	7,673	7,850	7,865	15
Probate	4,808	4,857	5,082	4,876	5,136	5,363	5,373	5,110	5,203	5,417	214
Guardianship	885	984	832	831	875	885	901	841	893	837	-56
Adoption	874	877	884	846	751	717	772	685	686	688	2
Paternity	1,754	1,555	1,508	1,394	1,199	1,421	1,147	1,233	1,189	1,039	-150
Mental Illness	2,068	2,189	2,317	2,342	2,225	2,397	2,420	2,727	3,059	3,506	447
Juvenile At-Risk Youth and Child-in-Need-of-Service	574	526	478	399	413	411	417	341	347	303	-44
Juvenile Dependency/Termination	955	975	968	887	945	971	888	903	1,038	1,060	22
Juvenile Truancy ⁽²⁾	1,796	1,874	1,755	1,803	2,204	2,111	2,512	2,083	1,614	1,350	-264
Juvenile Offender	5,208	5,497	4,788	4,085	4,178	3,954	3,803	3,967	3,356	2,496	-860
Criminal RALJ	306	308	261	287	247	225	214	180	176	191	15
Civil RALJ	115	140	112	119	93	95	73	86	64	57	-7
Total	71,969	77,418	75,651	74,854	74,669	75,841	75,899	76,810	75,384	73,136	-2,248
Post-disposition Modifications (domestic/paternity)			1,991	1,838	1,812	1,761	1,820	2,005	1,964	2,018	+54

(1) The statistics in this table include "Civil Matters Filed with Clerk", which are reported separately in the quarterly report. "Civil Matters Filed with Clerk" consist of those civil cases that require no or little judicial resources. This category includes the following cause codes of civil actions: Abstract of Judgment, Foreign Judgment, Tax Warrant, and Transcript of Judgment.

(2) Juvenile truancy filing became mandated on 10/1/1995.

Table 2. Annual Resolutions

Category	Annual Resolutions										2010-2011 Change (%)
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	
Criminal	9,928	8,959	9,516	9,478	9,937	11,051	9,619	7,644	6,521	6,285	-236
Civil (excluding RALJ and Matters Filed with Clerk)	23,962	27,245	28,035	29,556	26,436	26,792	27,293	28,815	28,902	28,797	-105
Civil Matters Filed with Clerk ⁽¹⁾	10,775	12,772	11,619	12,334	12,536	12,784	13,900	14,662	15,590	14,799	-791
Domestic	8,340	7,749	7,659	7,689	7,825	7,705	7,194	7,530	7,781	7,952	171
Probate	4,733	4,735	4,984	4,688	4,864	5,438	5,704	5,036	5,222	5,435	213
Guardianship	856	839	821	743	793	971	1,027	911	947	824	-123
Adoption	848	913	834	830	781	800	809	710	698	715	17
Paternity	2,061	1,511	1,791	1,344	1,429	1,344	1,279	1,167	1,289	1,110	-179
Mental Illness	2,127	2,133	2,336	2,372	2,165	2,329	2,353	2,493	3,072	3,434	362
Juvenile At-Risk Youth and Child-in-Need-of-Service	540	488	526	423	426	404	400	365	437	317	-120
Juvenile Dependency/Termination	881	1,549	1,297	766	849	1,035	909	1,571	1,170	1,133	-37
Juvenile Truancy ⁽²⁾	1,734	2,407	2,149	1,412	1,856	2,293	2,828	2,725	2,211	1,765	-446
Juvenile Offender	4,932	5,073	4,662	3,766	3,958	3,699	3,525	3,252	3,471	2,645	-826
Criminal RALJ	377	349	304	260	268	238	226	198	218	187	-31
Civil RALJ	151	108	137	104	112	89	96	79	76	53	-23
Total	72,245	76,830	76,670	75,765	74,235	76,972	77,162	77,158	77,605	75,451	-2,154

(1) The statistics in this table include "Civil Matters Filed with Clerk", which are reported separately in the quarterly report. "Civil Matters Filed with Clerk" consist of those civil cases that require no or little judicial resources. This category includes the following cause codes of civil actions: Abstract of Judgment, Foreign Judgment, Tax Warrant, and Transcript of Judgment.

(2) Juvenile truancy filing became mandated on 10/1/1995.

Table 3. Year-end Pending Caseload

Category	Year-end Pending Caseload ⁽²⁾										2010-2011 ⁽³⁾
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Change (%)
Criminal	2,326	2,884	3,377	3,227	3,828	4,154	3,338	2,582	2,791	2,549	-242
Civil (excluding RALJ and Matters Filed with Clerk)	11,598	11,902	11,838	9,625	8,941	8,719	9,262	11,299	9,969	9,238	-731
Civil Matters Filed with Clerk ⁽¹⁾	0	10	2	0	0	0	0	0	0	0	0
Domestic	3,929	3,690	3,695	3,698	3,641	3,773	4,084	4,375	4,453	4,421	-32
Probate	784	859	821	915	1,082	994	621	635	579	559	-20
Guardianship	379	519	525	552	617	512	380	304	248	261	13
Adoption	357	331	374	394	365	288	253	225	215	192	-23
Paternity	816	901	624	689	468	558	442	523	436	377	-59
Mental Illness	101	158	123	92	136	209	301	465	463	530	67
Juvenile At-Risk Youth and Child-in-Need-of-Service	206	247	98	83	69	100	150	153	68	94	26
Juvenile Dependency/Termination	1,094	550	330	457	557	620	853	424	446	522	76
Juvenile Truancy	1,872	1,518	938	1,224	1,339	1,327	1,529	690	313	165	-148
Juvenile Offender	922	1,071	1,045	1,116	889	1,059	875	1,091	913	723	-190
Criminal RALJ	276	246	204	230	207	195	187	171	126	132	6
Civil RALJ	48	81	56	71	49	58	34	42	31	34	3
Total	24,708	24,967	24,050	22,373	22,188	22,566	22,309	22,979	21,051	19,797	-1,254

(1) The statistics in this table include "Civil Matters Filed with Clerk", which are reported separately in the quarterly report. "Civil Matters Filed with Clerk" consist of those civil cases that require no or little judicial resources. This category includes the following cause codes of civil actions: Abstract of Judgment, Foreign Judgment, Tax Warrant, and Transcript of Judgment.

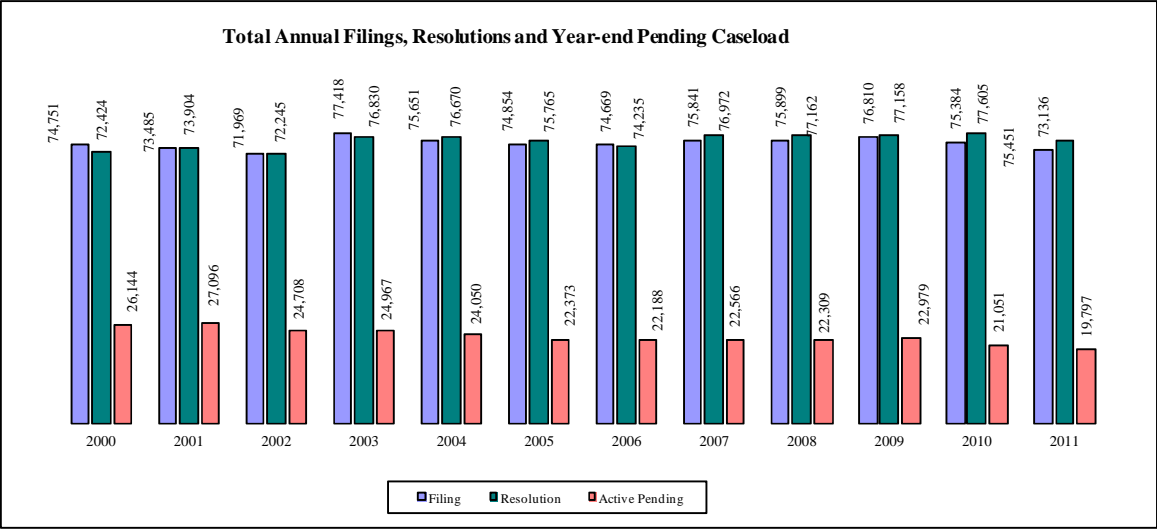
(2) Pending caseload does not include cases on suspense status.

(3) The percentage should be interpreted along with the number of cases. For those categories with small numbers, a large percentage does not necessarily indicate potential problem.

Table 4. Statistics by Location (SEA vs. KNT)

Category	2011 Filings			2011 Resolutions			2011 Year-end Pending Caseload		
	KNT (%)	SEA (%)	Total (n)	KNT (%)	SEA (%)	Total (n)	KNT (%)	SEA (%)	Total (n)
Criminal	45%	55%	5,986	39%	61%	6,285	52%	48%	2,549
Civil (excluding RALJ and Matters Filed with Clerk)	42%	52%	27,542	42%	58%	28,797	30%	70%	9,238
Civil Matters Filed with Clerk ⁽¹⁾	40%	60%	14,799	40%	60%	14,799	---	---	0
Domestic	37%	63%	7,865	37%	63%	7,952	40%	60%	4,421
Probate	22%	78%	5,417	22%	78%	5,435	15%	85%	559
Guardianship	36%	64%	837	39%	61%	824	36%	64%	261
Adoption	25%	75%	688	27%	73%	715	22%	78%	192
Paternity	54%	46%	1,039	50%	50%	1,110	55%	45%	377
Mental Illness	0%	100%	3,506	0%	100%	3,434	0%	100%	530
Juvenile At-Risk Youth and Child-in-Need-of-Service	48%	52%	303	49%	51%	317	36%	64%	94
Juvenile Dependency/Termination	52%	48%	1,060	53%	47%	1,133	44%	56%	522
Juvenile Truancy ⁽²⁾	57%	43%	1,350	50%	50%	1,765	51%	49%	165
Juvenile Offender	0%	100%	2,496	0%	100%	2,645	0%	100%	723
Criminal RALJ	8%	92%	191	9%	91%	187	11%	89%	132
Civil RALJ	14%	86%	57	5%	95%	53	12%	88%	34
Total	37%	63%	73,136	36%	54%	75,451	34%	66%	19,797

(1) The statistics in this table include "Civil Matters Filed with Clerk", which are reported separately in the quarterly report. "Civil Matters Filed with Clerk" consists of those civil cases that require little or no judicial resources. This category includes the following cause codes of civil actions: Abstract of Judgment, Foreign Judgment, Tax Warrant, and Transcript of Judgment.



Appendix Definition

Active Status

A case is active if it is not on suspense status (see Suspense Status).

Adoption Cases

This reporting category includes the following “cause-of-action” codes within SCOMIS case type 5:

- Relinquishment (REL)
- Termination of Parent/Child Relationship (TER)
- Adoption (ADP)
- Miscellaneous (MSC)
- Name Change - Confidential (CHN)
- Initial Pre-Placement Report Filed with Clerk (PPR)

Annual Filings

Total number of new case filings during the calendar year (January 1 to December 31).

ANTRIAL

An “Assigned - No Trial” is a trial that has pre-trial motion time (PTM) and possibly voir dire time (VDT), but the trial was ended by plea, settlement or other dispositions before the opening statement or the impanel of a jury.

Case

A case is defined as a filing with an assigned case number (or a case number plus a defendant connection code in pre-1990 criminal filings).

Civil Cases (excl. RALJ and Matters Filed with Clerk)

Civil cases, excluding appeals from courts of limited jurisdiction and “Matters Filed with Clerk”. Civil cases include small claims as identified by the “Small Claim Track”. This reporting category includes the following “cause-of-action” codes within SCOMIS case type 2:

- Administrative Law Review (ALR)
- Change of Name - Non-Confidential (CHN)
- Collection (COL)
- Commercial (COM)
- Condemnation (CON)
- Appeals of Department of Licensing Revocation (DOC)
- Domestic Violence Protection (DVP)
- Emancipation of Minor (EOM)
- Foreclosure (FOR)
- Civil Harassment (HAR)
- Injunction (INJ)
- Other Malpractice (MAL)
- Medical Malpractice (MED)
- Meretricious Relationship (MER)
- Malicious Harassment (MHA)
- Miscellaneous (MSC)
- Minor Settlement (MST) - *as of 10/1/96, under Guardianship*
- Petition of Civil Commitment- Sexual Predator (PCC)
- Property Fairness (PFA)
- Personal Injury (PIN)
- Property Damage (PRP)
- Quiet Title (QTI)
- Small Claims (LCA/LCI on “Small Claim Track”)
- Seizure of Property from the Commission of a Crime (SPC)
- Seizure of Property Resulting from a Crime (SPR)
- Tort Motor Vehicle (TMV)
- Tort Other (TTO)
- Unlawful Detainer (UND)
- Wrongful Death (WDE)
- Writ of Habeas Corpus (WHC)
- Miscellaneous Writ (WMW)
- Writ of Mandamus (WRM)
- Writ of Restitution (WRR)
- Writ of Review (WRV)

Civil Matters Filed with Clerk

Filings with clerk (case numbers assigned), but requiring little or no judicial action. This reporting category includes the following “cause-of-action” codes within SCOMIS case type 2:

- Abstract of Judgment (ABJ)
- Foreign Judgment (FJU)
- Tax Warrant (TAX)
- Transcripts of Judgment (TRJ)

Civil RALJ Cases

Civil appeals from courts of limited jurisdiction (excluding small claims as identified by the “Small Claim Track”). Civil RALJ includes the following “cause-of-action” reporting categories:

- Lower Court Appeal - Civil and “Not a Small Claim”
- Lower Court Appeal - Infraction and “Not a Small Claim”

Note: The Civil RALJ cases are determined based on both SCOMIS “cause-of-action” code (LCA and LCI) within SCOMIS case type 2 and the “Small Claim Track”.

Completion

A case is completed when dispositive document is filed with the court following resolution.

Criminal Cases (excl. RALJ)

Adult criminal cases, excluding appeals from courts of limited jurisdiction. This reporting category includes the following crime categories within SCOMIS case type 1:

- Homicide
- Sex Crime
- Robbery
- Assault
- Theft/Burglary
- Motor Vehicle Theft
- Controlled Substance
- Other Felony
- Others (Misdemeanor, Non-charge Case)

Criminal RALJ Cases

Criminal appeals from courts of limited jurisdiction. This reporting category includes all SCOMIS case type 1 cases that have an appeal from lower court field of “Yes”.

Domestic Cases

This reporting category includes the following “cause-of-action” codes within SCOMIS case type 3:

- Child Custody (CUS)
- Dissolution with Children (DIC)
- Dissolution without Children (DIN)
- Foreign Judgment (FJU)
- Annulment/Invalidity (INV)
- Modification (with a new case number) (MOD)
- Miscellaneous (MSC)
- Mandatory Wage Assignment (MWA)
- Out-of-State Child Custody (OSC)
- Reciprocal, Respondent-in-County (RIC)
- Reciprocal, Respondent-out-of-County (ROC)
- Legal Separation (SEP)

Guardianship Cases

This reporting category includes the following “cause-of-action” codes within SCOMIS case type 4:

- Guardianship/Estate (G/E)
- Guardianship (GND)
- Limited Guardianship (LGD)
- Minor Settlement (MST)

Jury Trial

A hearing is reported as a jury trial if the jury is impaneled.

Juvenile At-risk Youth/Child-in-Need of Service Cases

Juvenile dependency cases, excluding truancy cases. This reporting category includes following “cause-of-action” codes within SCOMIS case type 7:

- Alternative Residential Placement (ARP)
- At-Risk Youth (ARY)
- Child in Need of Service (CNS)

Juvenile Dependency Cases

Juvenile dependency cases, excluding truancy cases. This reporting category includes following “cause-of-action” codes within SCOMIS case type 7:

- Dependency (DEP)
- Termination (TER)

Juvenile Offender Cases

This reporting category includes the following crime categories in SCOMIS case type 8:

- Homicide
- Sex Crime
- Robbery
- Assault
- Theft/Burglary
- Motor Vehicle Theft
- Controlled Substance
- Other Felony
- Others (Misdemeanor, Non-charge Case)

Juvenile Truancy Cases

Mandatory truancy filings started on 10/01/1995. This reporting category includes the following “cause-of-action” code within SCOMIS case type 7:

- Truancy (TRU)

Mental Illness Cases

This reporting category includes all “cause-of-action” codes within SCOMIS case type 6:

- Alcoholic Treatment (ALT)
- Mental Illness - Adult (MI)
- Mental Illness - Juvenile (MIJ)

Non-Jury Trial

A hearing is reported as a non-jury trial if an opening statement is made, waived, or reserved.

Number of Trials

Occurrences of trials. If a case has multiple trials, all trials are reported. If multiple cases are tried together, it is reported as one trial where possible (see “Number of Cases Tried” for difference). The number of trials refer to number of jury and non-jury trials (including juvenile fact-findings).

Paternity Cases

This reporting category includes the following “cause-of-action” codes within SCOMIS case type 5:

- Modification (MOD)
- Paternity (PAT)
- Paternity/URESA/UIFSA (PUR)

Pending Case

A case is defined as pending if it is unresolved and active (not in suspense).

Post-disposition Modifications

Petitions to modify parenting plan and/or support after the resolution of the original cases, based on the modification tracks opened during the reporting period.

Probate Cases

This reporting category includes the following “cause-of-action” codes within SCOMIS case type 4:

- Absentee (ABS)
- Disclaimer (DSC)
- Estate (EST)
- Foreign Will (FNW)
- Miscellaneous (MSC)
- Non-Probate Notice to Creditors (NNC)
- Will Only (WLL)

Resolution

A case is resolved if all issues in the complaint are fully adjudicated.

Suspended Case

A case is placed in suspense status from active status during the reporting period.

Suspense Status

A case is on suspense status if it is on warrant, appeal, stay, mediation, arbitration (“Deferred Prosecution” is not a suspense status, but is treated as a resolution).

Trial

A hearing set before a judge or jury in which all the issues in the case are meant to be resolved. A trial normally includes opening statements to the court or jury stating what evidence will show, introduction of witnesses and exhibits for direct and cross examination, final arguments to the court or jury in which counsel argue both the evidence and the law, and judgment by the court or jury stating what the facts of the case are and what law applies to the facts. In a jury case, it also includes the selection of the jury. A trial can be held for one or more cases. A single trial may be held to adjudicate more than one case (as defined above).

WILLIAMS KASTNER

April 03, 2019 - 2:02 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 96874-8
Appellate Court Case Title: Andrew Lee Benjamin v. Dalynne Singleton, et al.
Superior Court Case Number: 17-2-23133-9

The following documents have been uploaded:

- 968748_Answer_Reply_20190403135912SC480124_7125.pdf
This File Contains:
Answer/Reply - Answer to Petition for Review
The Original File Name was Final Answer to Petition for Review.pdf

A copy of the uploaded files will be sent to:

- dvelloth@williamskastner.com
- kmejia@williamskastner.com
- rb Gould@nwlegalmal.com

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Sender Name: Kami Mejia - Email: kmejia@williamskastner.com

Filing on Behalf of: Rodney L. UmbergerJr. - Email: rumberger@williamskastner.com (Alternate Email:)

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