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Division II  
State of Washington  
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STATE OF WASHINGTON  
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No. 56205-7-II

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IN THE SUPREME COURT OF THE STATE OF  
WASHINGTON

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Dr. AMELIA BESOLA, Administrator and Petitioner,

Appellant,

v.

ERIC PULA, individually and as PERSONAL  
REPRESENTATIVE OF THE ESTATE MARK L. BESOLA,  
and *ET AL.*,

Respondents.

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**AMENDED PETITION FOR SUPREME COURT REVIEW**

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Jose F. Vera of Vera & Associates PLLC  
WSBA #25534, Attorney for Petitioners  
100 West Harrison Street, Suite 300  
Seattle, WA 98119  
(206) 793-8318  
Josevera@veraassociates.com

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## I. INTRODUCTION

This *Amended Petition for Review* stems from a TEDRA action in the Estate of Mark L. Besola (PCSC Cause # 19-4-01945-2). On August 13, 2021, the trial court issued an *Order to Seal* third-party records created when a bad actor used an online legal-document provider to create a fake will more than four months after Mark Besola's death with the intent to commit fraud on the Besola Estate. The Besola Estate had been valued between \$5.5M and \$7.5M—depending various interest rates, real property values, and rates of return on investment accounts (all of which were and have been volatile over the last few years). The conspiracy to commit fraud very nearly succeeded in taking the entire estate. In fact, it would have succeeded if the on-line legal-document provider and fake will documents had not been discovered and presented to the trial court. The litigation between the various bad actors and Mark Besola's sister, Dr. Amelia Besola (Dr. Amy) rose in intensity to a cacophony—until the fever broke when the trial court found that Mark Besola's will

was a fake in the November 17, 2021, *Findings of Fact and Conclusions of Law*.

The online legal-document provider is FormSwift. The FormSwift documents are comprised of three document sets: (1) the testamentary documents initially created on April 19, 2019, by Ms. Robyn Peterson; (2) documents related to Ms. Robyn Peterson's financial information that she used to purchase and create the initial FormSwift documents; and (3) the final Besola Will filed in Pierce County Superior Court on May 8, 2019, which had specific paragraphs significantly revised. On August 13, 2021, the trial court sealed only the FormSwift documents created by Ms. Peterson on April 19, 2019 (a will and living will for Mark Besola).

This Appeal is about the sealing the April 19, 2019, FormSwift Documents. It is about the trial court's decision to and method of sealing of the April 19, 2019, FormSwift Documents. It is about the proper application of Washington's General Application Rule 15 and about meeting the Washington

Constitutional mandate of Article 1 Sec. 10 of Washington's Constitution. Last, it is about the victims lost in the noise of litigation—it is about two sisters and two nieces who lost millions to litigation costs from the Besola Estate and their respective families because of a fake will and a fake Estate. They nearly lost everything because of a conspiracy to commit fraud that continues to this day. The challenge for the innocent victims of this conspiracy is that the sealed FormSwift documents contain evidence probative of whether the conspiracy includes individuals previously excluded from the conspiracy and who are even now attempting to take non-probate assets from the Besola Estate. Unsealing the April 19, 2019 FormSwift documents may be the best available defense for the victims of the conspiracy to commit fraud.

Division II of the Court of Appeals denied Petitioner's *Motion for Reconsideration* in this appeal on December 29, 2022. Under RAP 13.4, Petitioner has 30 days from December 29, 2022 to file this *Petition for Review*. 30 days after December



29, 2022 falls on January 28, 2023, which is a Saturday. The first Court Day after January 28, 2023 is Monday January 30, 2023. The date on which Petitioner will file this *Petition for Review* with the Washington Court of Appeals and Supreme Court.

## **II. IDENTITY OF PETITIONER**

Petitioner, Dr. Amelia Besola, ("Dr. Amy" or "Petitioner") respectfully moves for the relief set forth below.

## **III. DECISION**

Petitioner respectfully requests this Court to accept review of the decision entered by Division II of Washington Court of Appeals on November 8, 2022 (Court of Appeals No. 56205-7-II) (the "Decision" or "Opinion"). Attached hereto as **Appendix A**.

## **IV. ISSUES PRESENTED FOR REVIEW**

A general question before the Supreme Court on this *Amended Petition for Review* is whether the trial Court in this matter complied with both GA 15 (c), (e) and Article I Sec. 10 of Washington's Constitution when it sealed and kept sealed the

April 19, 2019, FormSwift documents without any reference to or application of the Ishikawa and its progeny. The specific questions are:

1. Did the trial court make the required written findings (a) detailing the interests to be protected, (b) setting forth the justification for the length of time sealing the FormSwift documents to protect the interests at issue, and (c) providing the justifying rationale for the Court's file as opposed to relying improperly on conclusory statements;
2. Did the trial court err when it failed to unseal the FormSwift documents after being presented with a stipulation of all parties to unseal the FormSwift documents per GA 15(e);
3. Did the trial court err when it failed to unseal the FormSwift documents after it entered the *Findings of Fact and Conclusions of Law* on November 17, 2021, that found (at FF 57, 58, 59, 61, and 62)<sup>1</sup> that Ms. Robyn Peterson created

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<sup>1</sup> These findings of facts were unchallenged and hence are verities on appeal. *In re Est. of Jones*, 12 Wn.2d 1, 8, 93 P.3d 147 (2004).

the fake FormSwift will with an intention to deceive when protecting Ms. Peterson from criminal liability based on her actions vis a vis creation of the FormSwift fake will; and

4. Did the trial court err when it sealed and kept sealed the April 19, 2019, FormSwift Documents without making written findings and taking other steps to comply with the five Ishikawa steps, which is required to ensure compliance with Article I Sec. 10 of Washington's Constitution.

## **V. STATEMENT OF THE CASE**

The statement of the case material to this *Petition for Review* is limited. Mark Besola passed on January 1, 2019. On April 19, 2019, Ms. Robyn Peterson created the FormSwift testamentary documents at issue in this Petition. *Appendix F* at FF 57. The trial court also found that Ms. Peterson created the fake will filed with the Pierce County Superior Court on May 8, 2019, and that together with James Garrett and Eric Pula, the three of them intended to and did deceive the trial court with the fake will. *Appendix F* at FFs 58 - 62. The trial court even

specifically found that the fake will created by Ms. Peterson harmed the true beneficiaries of Mark L. Besola's Estate. *Appendix F* at FF 62.

Mr. Brandon Gunwall was removed as a party from this matter by the Court Order dismissing all claims against Mr. Gunwall dated December 4, 2020. *Appendix H (filed in PCSC Cause # 19-4-01902-9)*. The Stipulation to Unseal the April 19, 2019, FormSwift Documents signed by all parties except by Mr. Gunwall/Mr. Walk is attached hereto as *Appendix I*. See CPs 165 - 168.

Last, on August 13, 2021, the trial court signed the below Order attached hereto as *Appendix G*:

THIS MATTER, having come before the above-entitled Court by stipulation/motion of the parties to seal the following documents and their attachments:

1. Declaration of Records Custodian – Formswift

and the Court having read the files and records herein and the Court finding that sealing is justified by identified compelling privacy or safety concerns that outweigh the public interest in access to the court record, Now, Therefore,

**IT IS HEREBY ORDERED** that the above referenced documents be sealed in the court file and not be opened, except upon Order of the above-entitled Court. In the event of an application for the opening or copying of a sealed document listed above, notice shall be given to the parties or their counsel of record and a hearing shall be noted before the assigned department.

DATED this 13th day of August, 2021.

  
JUDGE BRYAN CHUSHCOFF

The trial court admitted in making its decision to keep the FormSwift documents sealed that the sealed documents could contain evidence that Ms. Peterson had committed a crime. *Appendix A* at P. 5. This appeal follows the trial court's August 13, 2021 Order to Seal when Mr. Morgan filed a Motion for Discretionary Review which was granted on December 7, 2021. *See Appendix A* at P. 6. The FormSwift documents have remained sealed since August 13, 2021.

## **VI. GROUNDS FOR RELIEF REQUESTED**

Appellate courts review a trial court's decision to seal or unseal records for abuse of discretion. *Rufer v. Abbot Labs*, 154

Wash.2d 530, 540, 114 P.3d 1182 (2005). But where the trial court applied an incorrect legal rule, the appellate court remands to the trial court to apply the correct rule. *State v. Waldon*, 148 Wash.App. 952, 957, 202 P.3d 325 (2009).

The threshold question here is whether the trial court and parties complied with the requirements of General Rule 15 because this rule sets forth the proceeds for sealing and unsealing documents. See GR 15 (c) and (e). However, assessing the sealing and efforts to unseal a document or court record does not end with GR 15 because compliance with GR 15 alone does not meet the constitutional benchmark required by Article I, Section 10 of Washington's Constitution. *Waldon*, 148 Wash.App. at 962. The question of whether the sealing or unsealing of a court record is constitutional is determined under the 5-step framework outlined in *Seattle Times Co. v. Ishikawa*, 97 Wash.2d 30, 37-39, 640 P.2d 716 (1982). *Waldon*, 148 Wash. at 967. Thus, a court must analyze the sealing or efforts to unseal a court record under both GR 15 and the five-step Ishikawa framework to

determine if a court record was properly sealed or was properly kept sealed in response to a parties' efforts to unseal the court record.

The Ishikawa 5-step outline is as follows:

1. The first factor requires that the proponent of sealing the court record must establish that the court record at issue presents a serious and imminent threat to some other interest;
2. The second factor requires that anyone present when the motion related to sealing the record is made be given an opportunity to object to the sealing of the court record, and the proponent of sealing the record must state the grounds for sealing the court record with reasonable specificity;
3. The third Ishikawa factor requires that the court impose the "least restrictive means" necessary to protect the threatened interest;<sup>2</sup>

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<sup>2</sup> Note: GR 15 requires that the court record at issue not be sealed when redaction would adequately resolve the issue.

4. The fourth Ishikawa factor requires the court to weigh the competing interests of the proponent for sealing the court record at issue and of the public, consider the suggested alternatives, and articulate its findings and conclusions as specifically as possible; and
5. The fifth Ishikawa factor specifies that the order sealing the court record must be no broader in its application or duration than necessary to serve its purpose with the order applying for a specific time period with a burden on the proponent to come before the court at a time specified to justify continued sealing. *Waldon*, 148 Wash. at 962-4.

The Ishikawa factors are central to the analysis of whether a court record is sealed or kept sealed that prior to entering an order authorizing the sealing of documents, the trial court must make, in writing, the findings required by the five-factor *Ishikawa* test set forth above. *State v. Waldon*, 148 Wn. App. 952, 964, 202 P.3d 325, 332 (2009) (citing *Wash. Court Rules Ann.* GR 15 cmt. at 26 (2d ed.2006–07)). In fact, GR 15 and Ishikawa must



be read together when ruling on a motion to seal or redact court records. *State v. Waldon*, 148 Wn. App. 952, 967, 202 P.3d 325, 333 (2009). In *State v. Richardson* the Court held that ““compelling circumstances” for unsealing exist when the proponent of continued sealing fails to overcome the presumption of openness under the five-factor Ishikawa analysis. In either case, the trial court must apply the factors and enter findings supporting the decision.” 177 Wn.2d 351, 363, 302 P.3d 156, 161 (2013). The trial court’s written findings should be as specific as possible rather than conclusory. *Dreiling v. Jain*, 93 P.3d 861, 869, 151 Wash.2d 900 (2004).

Under the above, the issue before this Court will be whether the trial court’s August 13, 2021 Order sealing the April 19, 2019, FormSwift documents and continued sealing of such court records was and remains justified under Ishikawa and GR 15. This Court will find that the trial court’s sealing of the April 19, 2019 FormSwift documents fails to meet the requirements of

GR 15 and of the Ishikawa factors as required by Article I, Section 10 of Washington's Constitution.

With respect to GR 15, the August 13, 2021 Order fails, on the face of the Order, to state the interest to be protected, fails to consider if redaction would be equally as effective at protecting Ms. Peterson's interest as sealing the Order; and fails to address if continued sealing of the Order would protect Ms. Peterson's interests even after the trial court entered its Findings of Fact and Conclusions of Law on November 17, 2021. If the August 13, 2021 Order to Seal failed to meet the requirements of GR 15, then it most certainly failed to meet muster under the Ishikawa factors.

The trial court's August 13, 2021 Order to Seal fails to meet the test set forth by the Ishikawa factors. First, the trial court's written findings is just a conclusory statement taken from the text of GR 15. The written findings fail to state the trial court's concern about Ms. Peterson's potential for criminal liability and fails to state how redacting the FormSwift

documents will not work at least as well as sealing the FormSwift documents. The trial court's failure even to consider redacting the FormSwift documents is fatal under GR 15 to the trial court's August 13, 2021 Order to Seal—as is the trial court's failure to make the required specific written findings.

It is also fatal to the trial court's Order to Seal under the Ishikawa factors that the Order fails to evidence any effort to make the Order to Seal no broader than necessary to serve its purpose of protecting Ms. Peterson from criminal liability. And finally, not once on the face of the Order to Seal does the trial court consider or even address the harm to Mark Besola's true beneficiaries, which it identified in its *Findings of Fact and Conclusions of Law*.

Worse still, Division II of the Court of Appeals seemed not to apply the Ishikawa factors to its assessment of whether the trial court's Order to Seal met the requirements of both GR 15 and Article I, Section 10 of Washington's Constitution. Assessing the trial court's Order to Seal only under the GR 15

standard is to apply the wrong rule for assessing whether the Order to Seal was properly applied here. As such, this matter needs to be remanded to trial court so that it may assess if its Order to Seal is proper under both GR 15 and the Ishikawa Factors.

Last, under GR 15(e)(3), we now know that Mr. Brandon Gunwall was no longer a party to the TEDRA matter—at least according to the December 4, 2020 *Order Awarding Attorneys’ Fees and Directing Entry of Final Judgment* in the matter of PCSC Cause # 19-4-01902-9 (consolidated with PCSC Cause # 19-4-01945-2). *Appendix H*. Hence, we also now know that all parties to the matter in August 2021 signed the August 13, 2021, *Stipulation to Unseal* the FormSwift documents. *Appendix I*. In light of these two documents, GR 15 (e)(3) applies to the question of whether to unseal the FormSwift Documents. This provision of GR 15 states: “A sealed court record in a civil case shall be ordered unsealed only upon stipulation of all parties . . .” In light of **Appendixes H and I**, this Court should to remand

this matter to the trial court to have it unseal the FormSwift documents.

Please recall that from the perspective of the true Mark Besola Estate beneficiaries, they are seeking to have these records unsealed to present evidence that the conspiracy to commit fraud includes Mr. Brandon Gunwall and maybe others. This is vital because Mr. Gunwall will soon take the Fidelity account funds and litigation to take ownership of Mark Besola's life insurance proceeds is just starting discovery in the Federal District Court for the Western District of Washington.

## **VII. WHY REVIEW SHOULD BE ACCEPTED**

Review of this Petition should be accepted because Article 1, Section 10 of Washington's Constitution is central to this appeal. Moreover, it appears that the trial court and Division II both failed to assess the August 13, 2021 *Order to Seal* the FormSwift documents under the Ishikawa Factors as required to determine if the order meets the requirements of Washington's Constitution. Instead, the appellate decision from Division II

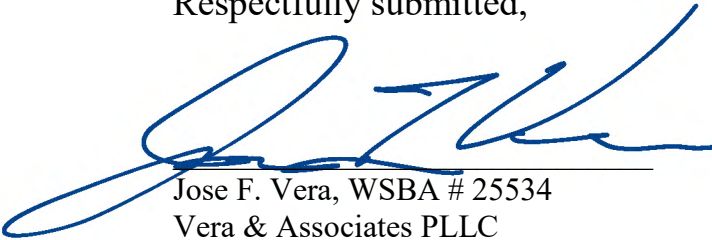
appears to focus on whether the Order to Seal met the requirements of GR 15. If so, this would put the Division II appellate decision at odds with the Supreme Court doctrine formed by Ishikawa and its progeny. Thus the presence of a significant constitutional interest in open justice and the need to ensure that Division II's decision is consistent with the Supreme Court's application of Ishikawa militate in favor of this Court accepting review of this Petition.

## VII. CONCLUSION

Based on the foregoing, Petitioner respectfully requests the Supreme Court to grant the Petitioner's Petition for Review to the Washington State Supreme Court.

Submitted January 30, 2023.

Respectfully submitted,

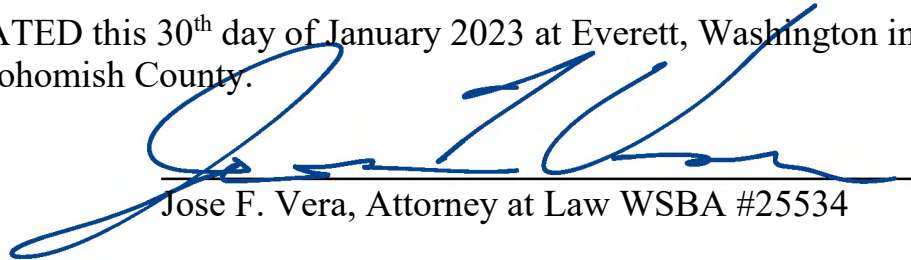


Jose F. Vera, WSBA # 25534  
Vera & Associates PLLC  
100 W. Harrison Street, Suite 300  
Seattle, WA 98119  
P. (206) 793-8318

## **CERTIFICATE OF WORD COUNT**

The undersigned certifies that the foregoing Petition for Review is 14 point, New Times Roman font and contains 2710 words.

DATED this 30<sup>th</sup> day of January 2023 at Everett, Washington in Snohomish County.



Jose F. Vera, Attorney at Law WSBA #25534

## CERTIFICATE OF SERVICE

I hereby certify that on 30th day of January, 2023, I served a true and correct copy of the foregoing document upon counsel of record, via the methods noted below, properly addressed as follows:

Jose F. Vera ☒ Email  
Vera & Associates PLLC  
Suite 300, South Tower  
100 W. Harrison  
Seattle, WA 98119  
Attorney for Amelia Besola  
[josevera@veraassociates.com](mailto:josevera@veraassociates.com)

Stuart C. Morgan ☒ Email  
Grady R. Heins  
Ledger Square Law, P.S.  
710 Market Street  
Tacoma, WA 98402  
Attorneys for Amelia Besola  
[stu@ledgersquarelaw.com](mailto:stu@ledgersquarelaw.com)  
[grady@ledgersquarelaw.com](mailto:grady@ledgersquarelaw.com)

Quentin Wildsmith ☒ Email  
Lasher Holzapfel Sperry & Ebberson PLLC  
2600 Two Union Square  
601 Union Street  
Seattle, WA 98101  
Attorneys for Julia Besola-Robinson  
[wildsmith@lasher.com](mailto:wildsmith@lasher.com)

Igor V. Stadnik ☒ Email  
Keesal, Young & Logan  
1301 Fifth Avenue, Suite 3100  
Seattle, WA 98101  
Attorney for Fidelity Brokerage Services, LLC  
[Igor.stadnik@kyl.com](mailto:Igor.stadnik@kyl.com)



Elizabeth Thompson  Email  
Law Office of Elizabeth Thompson PLLC  
401 Broadway, Suite 100  
PMB 97636  
Tacoma, WA 98402  
Attorney for Kelly McGraw  
[ethompson@elizabeththompsonlaw.com](mailto:ethompson@elizabeththompsonlaw.com)

Desmond Kolke  Email  
Law Offices of Desmond Kolke  
1201 Pacific Avenue, Suite 600  
Tacoma, WA 98402  
Attorney for Amelia Besola  
[ddklawoffice@gmail.com](mailto:ddklawoffice@gmail.com)

DATED this 30th day of January, 2023.

/s/ Lisa Lefebvre  
Lisa Lefebvre, Legal Assistant

## APPENDIX A

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

In the Matter of the Estate of MARK  
LESTER BESOLA,

Deceased,

AMELIA BESOLA,

Petitioner,

v.

ERIC PULA, individually and as personal  
representative of the Estate of Mark Lester  
Besola; UC DAVIS VETERINARY  
CATASTROPHIC NEED FUND,

Respondents,

KELLY McGRAW, individually; JULIA  
BESOLA-ROBINSON, individually; KARE  
KITSAP ANIMAL RESCUE AND  
EDUCATION; BRANDON GUNWALL;  
JOHN DOES 1-20; and FIDELITY  
BROKERAGE SERVICES, LLC, an  
interested party,

Respondents below.

No. 56205-7-II

UNPUBLISHED OPINION

CRUSER, J.—Amelia Besola appeals the trial court order denying her motion to unseal certain records in her will contest claim that she brought in her brother Mark Lester Besola's estate case and the order denying her motion for reconsideration.<sup>1</sup> She argues that the trial court erred when it (1) entered an August 13, 2021 order sealing certain records without making the required

<sup>1</sup> None of the respondents filed a response in this matter.

findings, (2) denied her motion to unseal these records despite being presented with a stipulation that was signed by counsel for all parties, (3) denied her motion to unseal these records once the trial court disclosed the protected facts in findings of fact and conclusions of law filed well after the trial court denied the motion to unseal and motion for reconsideration, and (4) denied the motion to unseal because unsealing these records was consistent with the constitutional principle of open justice. Because Besola does not establish that the trial court erred, we affirm.

#### FACTS<sup>2</sup>

Before Mark's<sup>3</sup> death, Brandon Gunwall, Eric Pula, and Kelly McGraw had been living on Mark's property at Lake Tapps. Mark, who "had significant health problems," died unexpectedly on January 1, 2019. Clerk's Papers (CP) at 187. For several months following Mark's death Pula, Gunwall, McGraw, and others continued to occupy Mark's property.

Two days after Mark's death, Besola was appointed as the personal representative of Mark's estate. In late April, Besola evicted Gunwall, Pula, McGraw, and others from Mark's property.

On May 8, 2019, Pula filed in the superior court a will that Mark had purportedly signed in December 2018. This will was purportedly witnessed by two individuals, one of whom was Robyn Peterson. "On September 16, 2019, Brandon Gunwall, as the beneficiary of [Mark's] dogs, petitioned for the December 2018 Will to be admitted to probate." CP at 191. The will was

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<sup>2</sup> Some of these facts are drawn from the trial court's unchallenged findings of fact, which are verities on appeal. *In re Est. of Jones*, 152 Wn.2d 1, 8, 93 P.3d 147 (2004).

<sup>3</sup> Because Mark and Amelia Besola share the same last name, we refer to Mark by his first name to avoid confusion.

admitted to probate on September 26, 2019. Pula replaced Besola as the personal representative of the estate.

Besola filed a petition opposing the probate of the December 2018 will on multiple grounds, including fraud. Pula and counsel for the estate filed counterclaims against Besola.<sup>4</sup>

At some point during the discovery process in the will contest, it was discovered that the December 2018 will had been produced using an online site, FormSwift.com.<sup>5</sup> The trial court issued a subpoena for the FormSwift records potentially related to the purported December 2018 will.

According to the trial court's later findings of fact, FormSwift produced records that included a draft will for Mark and a draft living will for Mark created on April 19, 2019, on a FormSwift account that was in Peterson's name. The records also showed that these items were paid with Peterson's credit card.

On May 28 and July 16, 2021, the trial court entered protective orders covering the records produced by FormSwift. According to Besola, the protective orders required that "[u]nless otherwise agreed in writing by the parties and Robyn Peterson, or unless otherwise ordered by the Court, access, copying, and/or dissemination of" this information was limited. CP at 104 (alteration in original).

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<sup>4</sup> On December 4, 2020, the trial court removed Pula as personal representative after finding reason to believe that revocation was appropriate under RCW 11.28.250. The trial court appointed Michael B. Smith as the new personal representative.

<sup>5</sup> FormSwift "is a legal forms website on which customers can purchase customized estate planning materials, including Last Wills and Testaments." CP at 190.

On August 13, 2021, the trial court issued an order sealing the FormSwift records. The trial court found “that sealing is justified by identified compelling privacy or safety concerns that outweigh the public interest in access to the court record.” CP at 109. The order further stated that the sealed records could not be opened unless allowed by court order.

Four days later, Stuart Morgan, Besola’s counsel in her capacity as the discharged administrator of Mark’s estate, e-mailed trial court staff a proposed stipulation and order to unseal the records sealed by the August 13, 2021 order. In his e-mail, he stated that “[a]ll representatives of parties have signed except for [Daniel Walk, counsel for Gunwall,] who declines to sign but I believe also does not object to entry of the proposed stipulation and order.” CP at 164. Morgan asked that the court advise him if it “would prefer that [he] present this in some different format or manner.” *Id.*

On August 20, 2021, at the trial court’s behest, Besola filed a motion to unseal the records sealed by the August 13, 2021 order under GR 15(e)(3). Besola asserted that “[a]ll counsel of record since August 13 have agreed to stipulate or agree that the FormSwift [records] be unsealed.” CP at 111. Morgan’s supporting declaration stated that he had prepared the stipulation and agreed order and submitted it to the court. But he noted that this stipulation was not signed by Walk, counsel for Gunwall, “who believes his signature is not required.” CP at 116.

The trial court heard this motion on September 3, 2021. During this hearing, the court asked Morgan why he needed access to the sealed records. Morgan responded that he needed to see the records so he could prepare his defense to the counterclaims against Besola. Morgan suggested that the records could be relevant to the issue of whether the December 2018 will was fraudulent and that they would “bear directly on [his] defense of the counterclaims in the case.” Verbatim

Report of Proceedings at 6. But Morgan could not explain exactly how the records related to the defense of the counterclaims beyond the fraud determination because he had never had access to the records.

Tyler Shillito, the attorney representing Besola on the will contest, stated that he also needed to have the records unsealed to pursue his case-in-chief and that these records were the most crucial records in the case. Shillito also commented that it was impossible to file a substantive motion about the contents of the records while they remained sealed.

Reminding the trial court that the original reason for the protective order was "to protect Ms. Peterson," Shillito argued that there was no indication that the sealed records contained information that was "secret or special" with regard to Peterson, such as any personal identification. *Id.* at 7. The trial court acknowledged that if it unsealed the records there would no longer be a protective order and that the purpose of the protective order was "to protect Ms. Peterson." *Id.* But the trial court stated that the records could contain evidence that Peterson had committed a crime.

When Morgan again suggested that he should be able to see the records to defend against the counterclaims, the trial court stated that counsel had no need to see the records because if Besola's other counsel succeeded in showing that the December 2018 will was fraudulent, Besola would win her counterclaims. And if the will was not fraudulent, then Besola had "lost that issue" and could not re-litigate it. *Id.* at 12. The trial court also stated that "whatever that document is has got nothing to do with whether or not [Besola] breached any fiduciary duties or otherwise damaged the estate during the time when she acted as personal representative." *Id.* at 13.



On September 3, 2021 the trial court denied Besola's motion to unseal the records sealed under the August 13, 2021 order. On September 20, 2021, the trial court denied Besola's motion for reconsideration of that order. And on September 21, 2021, Besola filed a motion for discretionary review of the August 13, 2021 order and the denial of the motion for reconsideration with this court.

Besola's will contest claim was then adjudicated at a bench trial. On November 17, 2021, the trial court issued written findings of fact and conclusions of law, concluding that the December 2018 will was fraudulent.

On December 7, 2021, a commissioner of this court granted Besola's motion for discretionary review.

## ANALYSIS

### I. AUGUST 13, 2021 SEALING ORDER

Besola first argues that the trial court erred when it failed "to identify any privacy or security concerns that were addressed or protected by sealing the Formswill Will Documents prior to entering the August 13, 2021 Order to Seal." Appellant's Opening Br. at 5, 12-13. But Besola did not move for discretionary review of the August 13, 2021 order.

The Rules of Appellate Procedure require that the notice for discretionary review "designate the decision or part of decision which the party wants reviewed." RAP 5.3(a)(3), (b). Because the August 13, 2021 order was not designated in the motion for discretionary review, we decline to address this issue.



## II. DENIAL OF STIPULATED MOTION TO UNSEAL

Besola next argues that the trial court erred when it denied her motion to unseal the FormSwift records despite being presented with a stipulation agreeing to unseal the records that was signed by counsel for all parties. Besola fails to show that the trial court abused its discretion or applied an improper legal rule.<sup>5</sup>

### A. LEGAL PRINCIPLES

In the August 20, 2021 motion, Besola sought to unseal the FormSwift records under GR 15(c)(3), which provides:

*A sealed court record in a civil case shall be ordered unsealed only upon stipulation of all parties or upon motion and written notice to all parties and proof that identified compelling circumstances for continued sealing no longer exist, or pursuant to RCW 4.24, or CR 26(j)*

(Emphasis added.)<sup>6</sup>

The legal standard for sealing or unsealing court records is a question of law which we review *de novo*. *Drelling v. Jain*, 151 Wn.2d 900, 908, 93 P.3d 861 (2004). We review a trial court's decision to seal or unseal records for abuse of discretion, but if that decision is based on an improper legal rule, we remand to the trial court to apply the correct rule. *Id.* at 907.

In determining whether court records may be sealed from public disclosure, we start with the presumption of openness. *Id.* Our state constitution mandates that "[j]ustice in all cases shall be administered openly, and without unnecessary delay." CONST. art. I, § 10. But while we presume court records will be made open and available for public inspection, court records may be sealed "to protect other significant and fundamental rights." *Drelling*, 151 Wn.2d at 909.

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<sup>5</sup> On October 1, 2021, the trial court issued an order modifying the earlier protective orders, and on November 2, 2021, the trial court issued an order sealing what appears to be the same materials now at issue. Besola does not address the effects of these later orders.

<sup>6</sup> We note that Besola's August 20, 2021 motion relied entirely on the stipulation portion of GR 15(c)(3).

*Ruler v. Abbott Labs.,* 154 Wn.2d 530, 540, 114 P.3d 1182 (2005) (alteration in original)

B. ADEQUACY OF STIPULATION

Even assuming the trial court was required to grant the motion to unseal if all parties stipulated to unsealing the record,<sup>5</sup> Besola fails to establish on this record that all parties stipulated to the unsealing of the FormSwift records.

The stipulation that Morgan submitted to the trial court was not signed by Gunwall or Gunwall's counsel. The only parts of the record that address whether Gunwall was a party in this case at the time of the stipulation are (1) Morgan's representation in his declaration supporting his August 20, 2021 motion that Gunwall's counsel did not believe Gunwall was required to sign the stipulation, and (2) a copy of an e-mail from Morgan to court staff attached to the motion for reconsideration in which Morgan stated that Gunwall's counsel declined to sign the proposed stipulation, but Morgan "believe[ed]" Gunwall's counsel also did not object to the entry of the stipulation and order. CP at 164. The statements by Morgan that Gunwall's counsel may have believed Gunwall was not a party at the time of the stipulation do not establish that Gunwall was not a party when the motion to unseal the records was filed. And there is nothing in the record before us from which we can discern whether Gunwall was a party at the relevant time.

Accordingly, because the record does not show that the stipulation was signed by all parties, Besola does not establish that she met the CR 15(e)(3) requirements. And the trial court

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<sup>5</sup> We address this issue below.

did not abuse its discretion when it denied Besola's motion to unseal and the motion for reconsideration.<sup>9</sup>

C. GR 15(e)(3)

Furthermore, we disagree with Besola's presumption that GR 15(e)(3) requires the trial court to automatically grant the motion to unseal a record if all parties stipulate.

Resolution of this [issue] requires interpretation of a court rule, which is subject to *de novo* review. *State v. Osman*, 168 Wn.2d 632, 637, 229 P.3d 729 (2010). We interpret court rules using the rules of statutory construction. *Wiley v. Rehak*, 143 Wn.2d 339, 343, 20 P.3d 404 (2001). Rules are construed so as to effectuate the drafters' intent, avoiding readings that result in absurd or strained consequences. *See Whatcom County v. City of Bellingham*, 128 Wn.2d 537, 546, 909 P.2d 1303 (1996).

*State v. McInroe*, 174 Wn.2d 795, 800, 279 P.3d 861 (2012).

"If the rule's meaning is plain on its face, we must give effect to that meaning as an expression of the drafter's intent." *Jafar v. Webb*, 177 Wn.2d 520, 526, 303 P.3d 1042 (2013). When a court rule is ambiguous, "we must discern the drafter's intent by 'reading the rule as a whole, harmonizing its provisions, and using related rules to help identify'" the intended meaning. *Id.* at 526-27 (quoting *State v. Chhom*, 162 Wn.2d 451, 458, 173 P.3d 234 (2007)).

GR 15(e) is entitled, "Grounds and Procedures for Requesting the Unsealing of Sealed Records" (boldface omitted). And, as noted above, GR 15(e)(3) states:

A sealed court record in a civil case shall be ordered unsealed only upon stipulation of all parties or upon motion and written notice to all parties and proof that identified compelling circumstances for continued sealing no longer exist, or pursuant to RCW 4.24, or CR 26(j).

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<sup>9</sup> Although the trial court did not deny the motion on this ground, "we may affirm on any ground supported by the record." *Hoover v. Warner*, 189 Wn. App. 509, 526, 358 P.3d 1174 (2015).

(Emphasis added.) The plain language of this rule does not support Besola's assertion.

GR 15(e)'s caption does not state that it is intended to establish when the trial court must unseal a sealed record—it states that it is establishing the grounds and procedures for requesting unsealing. And the rule itself merely describes the limited circumstances that must exist before the trial court can unseal a record. Thus, GR 15(e) states the mandatory *prerequisites* for unsealing; it is not a directive to the trial court that it must grant the motion to unseal and it does not require the trial court to blindly accept a stipulation.

Additionally, Besola cites no authority establishing that GR 15(e)(3) requires the trial court to grant a motion to unseal based solely on a stipulation when the trial court sealed the record to protect a nonparty, Peterson, who was not a party to the stipulation. And when a party does not cite any authority to support an argument, we assume there is none. *Kanam v. Kmet*, 21 Wn. App. 2d 902, 911, 508 93 1071 (2022).

Accordingly, Besola does not show that the trial court applied an improper legal rule or abused its discretion when it denied the motion to unseal the FormSwift records based solely on the parties' stipulation or when it denied the motion for reconsideration.

#### D. CONFIDENTIAL INFORMATION

We also disagree with Besola's apparent contention that the trial court erred in denying the motion to unseal because the records in question "contained no information related to Ms. Peterson." Appellant's Opening Br. at 15. Although one of Besola's attorneys who had access to the records stated that the records did not contain any of Peterson's personal information, the trial court's concern was that the records could expose Peterson to criminal prosecution. And Besola does not present any argument demonstrating that this concern was insufficient to support the trial

court's decision to deny Besola's motion to unseal these records.<sup>10</sup> Again, when a party does not cite any authority to support an argument, we assume there is none. *Kumon*, 21 Wn. App. 2d at 911.

F. OTHER LITIGATION

We also reject Besola's argument that the trial court should have granted the motion to unseal because she needs these records for use in other litigation, including a federal proceeding. Besola did not make this argument when she moved to unseal the records or when she moved for reconsideration, and we will not fault a trial court for failing to address grounds that were not presented.<sup>11</sup> Accordingly, we will not consider this argument. RAP 3.5(a).

III. NOVEMBER 17, 2021 FINDINGS OF FACT AND CONCLUSIONS OF LAW

Besola also argues that the trial court erred when it denied her motion to unseal the FormSwift records after entering the November 17, 2021 findings of fact and conclusions of law because the findings of fact and conclusions of law "eviscerated the concerns expressed by the trial court during the September 3, 2021 hearing as to why it would keep the FormSwift Will Documents sealed." Appellant's Opening Br. at 5, 15.

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<sup>10</sup> We again note that Besola's August 20, 2021 motion relied entirely on the stipulation portion of CrR 15(e)(3). But even if Besola had brought the motion under the other prongs of CrR 15(e)(3), which would allow the court to unseal records "upon motion and written notice to all parties and proof that identified compelling circumstances for continued sealing no longer exist, or pursuant to RCW 4.24, or CrR 26(j)," her argument is unavailing because, as discussed above, the trial court's concern was the possibility that the records could expose Peterson to criminal prosecution, not just disclose her personal information.

<sup>11</sup> The trial court docket suggests that the counterclaims against Besola were voluntarily dismissed. Besola does not address the dismissal of the counterclaims. But if the counterclaims were dismissed, the reason Morgan articulated for needing access to the sealed records are now likely moot.

But the November 17, 2021 findings of fact and conclusions of law did not exist when Besola moved to unseal the FormSwift records on August 20, 2021. And there is nothing in the record showing that Besola renewed her motion to unseal the FormSwift records after the trial court entered the November 17, 2021 findings of fact and conclusions of law. We decline to hold that the trial court erred when it denied the September 2021 motion to unseal or the related motion for reconsideration based on facts that did not exist at the time of these decisions. Furthermore, we decline to consider this argument further because it was never before the trial court and is not a manifest error.<sup>12</sup> RAP 2.5(a).

#### IV. CONSTITUTIONAL PRINCIPLES

Finally, Besola argues that the trial court erred when it denied the motion to unseal the FormSwift records because unsealing these records was consistent “with the constitutional principle that justice in Washington shall be open and free from unreasonable delay to promote public confidence in the fairness and honest[y] of the judicial branch of government” in light of the November 17, 2021 findings of fact and conclusions of law. Appellant’s Opening Br. at 6. But Besola predicates this argument entirely on her assertion that there is no longer any justification for sealing the records following the issuance of the November 17, 2021 findings of fact and conclusions of law. As discussed above, we will not find error based on facts that did not exist when the trial court issued the orders currently before us.

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<sup>12</sup> Nothing in this opinion prevents Besola from presenting this argument in a new motion to unseal these records.



CONCLUSION

Besola has not demonstrated that the trial court abused its discretion or applied an incorrect legal rule when it denied her August 20, 2021 motion to unseal the FormSwift records or when it denied her motion for reconsideration. Accordingly, we affirm.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.

Cruser, J.  
Cruser, J.

We concur:

J., J.  
J., J.

Glasgow, CJ  
Glasgow, CJ.

## APPENDIX B



No. 56205-7-II

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COURT OF APPEALS, DIVISION II  
OF THE STATE OF WASHINGTON

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Dr. AMELIA BESOLA, Administrator and Petitioner,

v.

ERIC PULA, individually and as PERSONAL  
REPRESENTATIVE OF THE ESTATE MARK L. BESOLA,  
and *ET AL.*,

Respondents.

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APPELLANT'S MOTION FOR RECONSIDERATION

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Stuart C. Morgan, WSBA #26368  
Grady R. Heins, WSBA #54262

Jose F. Vera, WSBA #25534

*Attorneys for Petitioner*

**LEDGER SQUARE LAW, P.S.**  
710 Market Street  
Tacoma, Washington 98402  
Telephone: (253) 327-1900

## INTRODUCTION

This Appeal and Motion are about evidence of Mr. Brandon Gunwall's involvement in the conspiracy to commit fraud on the Estate of Mark Besola. This Motion has nothing to do with Ms. Peterson or her potential criminal liability. In fact, the unsealed FormSwift records of record in the below trial matter already implicate Ms. Peterson as being involved in the procurement and creation of a fake will for Dr. Mark Besola more than four months after his death. The unsealed records seen in *Appendix E* evidence Ms. Peterson's identity, payment card information, personal email address, general names of the two documents created by FormSwift for Mark Besola, and the dates on which these documents were created. This Motion does not further implicate Ms. Peterson in criminal activity.

The problem for Petitioner is that the unsealed FormSwift evidence does not reveal the substance of the two documents created by FormSwift for the one using Ms. Peterson's payment and contact information in April 2019 to create the two

documents. Hence, the purpose of this Appeal and *Motion to Reconsider* is to unseal, at least, one paragraph from the April 19, 2019, Will that is unrelated to Ms. Peterson but contains evidence of Mr. Gunwall's direct involvement in the conspiracy to commit fraud disclosed in the trial court's November 17, 2021, *Findings of Fact and Conclusions of Law*. This one paragraph shows that someone revised the Will Document created on April 19, 2019, prior to May 8, 2019 in a way that benefited Mr. Gunwall by about \$350,000 to the detriment of all other conspirators. This evidence is needed for a federally filed Interpleader Action *New York Life Insurance Company v. Brandon Gunwall, Amelia M. Besola, as Administratrix of the Estate of Mark Lester Besola and et al.*, No. 2:19-CV-00226-RSL.

The issues sought to be corrected by this Motion is supplementation of the record with known, existing evidence from below regarding Mr. Gunwall's status as a party to the various motions filed below to unseal the sealed documents. If this issue had arisen in the ordinary course of an opposed appeal

then Petitioner would have responded by supplementing the record for this Court. Examples of such evidence is attached hereto as Appendixes A – D. Given the various schedules of Petitioner’s counsels, this could be completed in 20 days from the Court’s decision on this Motion.

**A. Identity of Moving Party.**

Petitioner, Dr. Amelia Besola, (“Dr. Amy” or “Petitioner”) respectfully moves for the relief set forth below.

**B. Statement of Relief Requested.**

This *Motion to Reconsider* requests two things. First, the Petitioner, Dr. Amelia Besola (“Dr. Amy” or “Petitioner”) respectfully requests an opportunity to supplement the record formally with the attached *Appendix A-E* and other records from the trial court docket that evidence service on Mr. Gunwall’s counsel of the various trial court motion’s related to the sealed documents. Second, the Petitioner respectfully requests the Court to unseal one page or even one specific paragraph of one

of the seal documents that does not related in any way to Ms. Peterson.

**C. Statement of Material Facts.**

The facts material to this motion to reconsider are few. The Petitioner seeks a targeted, limited disclosure from the sealed FormSwift documents. Petitioner's seeks, at the very least the unsealing of the pages from the sealed April 19, 2019 Will that contain the Will Document Paragraph, Directive for Pet Care, that corresponds to the below paragraph from the filed May 8, 2019, Will Document filed with the Pierce County Clerk's Office under PCSC Cause # 19-4-00016-6:

**DIRECTIVE FOR PET CARE**

Notwithstanding any other provisions of this Will, I further direct and request that

The following pet(s), and any and all animals that I may own at the time of my death, be given to Brandon Gunwall, presently residing at 5214 216th Ave E, Lake Tapps, Washington, 98081, we have made an agreement that he take and treat them as companion animals and is named beneficiary to my AVMA Group Health and Life Insurance Trust to take care of my animals.

If Brandon Gunwall is unwilling or unable to receive my animals, he is in breach of our verbal contract and as beneficiary of my Life Insurance becomes null and void and I give such animals to Eric Pua, presently residing at 5214 216th Ave E, Lake Tapps, Washington, 98081, with the same wish that he treat them as companion animals. In return he becomes beneficiary to my AVMA Group Health and Life Insurance Policy.

If Eric Pua is unwilling or unable to receive my animals, I request that KARE, located at PO Box 194, Silverdale, Washington 98383, whose telephone is 3608026717 and contact person is to receive my animals and ensure they are cared for and treated as companion animals, and if KARE is unable to receive my animals, my Executor shall select an appropriate person and I will give my animals to such person.

PET TYPE	PET NAME	VETERINARY NAME
Dog	Rufus	Mark Besola
Dog	Angel	Mark Besola
Dog	Rory	Mark Besola
Dog	Hope	Mark Besola
Dog	Seamus	Mark Besola
Dog	Fanny	Mark Besola

I instruct my Executor to take my AVMA Group Health and Life Insurance Trust and give it to the person who shall accept my animals, and I wish and direct that these funds be used solely for the care and support of my animals.

The sealed document has the version of the above that was created on April 19, 2019. Reviewing the original of the above and assessing the revisions would enable the Estate of Mark Besola to show if changes occurred in the above paragraph between April 19, 2019 and May 8, 2019 that benefited Mr. Gunwall to the exclusion of all others and whether such revisions, if any, evidenced knowledge by Mr. Gunwall of the conspiracy to commit fraud prior to May 8, 2019. Nothing about the above paragraph (nor its original version) and the revisions

thereto have anything to do with Ms. Peterson. The evidence potentially revealed would only relate to Mr. Gunwall and his knowledge of and participation in the conspiracy to commit fraud.

The evidence existing below implicates Ms. Peterson in the potentially criminal activity of creating the fake April 19, 2019 Will for Mark Besola. As seen in Appendix E, evidence unsealed below currently implicates Mr. Peterson's name, email address, cell phone number, and payment card to the FormSwift will related documents created in April 2019. The trial court's November 17, 2021 *Findings of Fact and Conclusions of Law* confirmed the link between Ms. Peterson and the fraudulently created April 19, 2019 Last Will and Testament of Mark Lester Besola via FormSwift. This evidence alone presents potential criminal liability for Ms. Peterson.

The question of Mr. Gunwall's status in the TEDRA action and in the various *Motions to Unseal* the sealed FormSwift Documents occurred over months—from August



2021 to December 2021. See **Appendixes A-B**. The Appendixes attached hereto evidence Mr. Gunwall's repeated and pointed assertions that he was no longer a party to the TEDRA Action. *Id.* These assertions were made to all the parties and even Ms. Thompson from this Court. **Appendix D**. The Petitioner thought this was a closed issue prior to filing the briefs in this matter.

**B. Grounds for Relief Requested**

1. **Petitioner seeks relief to protect her rights as an heir to the true Estate of Mark Besola.**

The Adequacy of the Stipulation. The underlying records supporting the adequacy of the parties' Stipulation under GR 15 were more extensive than those presenting in the designated Clerk's Papers. The Petitioner could and would have designated for more records on this specific issue if it appeared to be a potential issue. As soon in **Appendix D**, Mr. Gunwall specifically reached out to this Court to make it clear that Mr. Gunwall was not a party to this Appeal. The Petitioner took Mr. Gunwall's actions as advisory and did not designate Clerk's Papers on what appeared to be a non-issue. To the extent Mr.



Gunwall's status is material, the Petitioner offers **Appendixes A-D** as an offer of proof and requests additional time to supplement the record with not only the attached Appendixes but also the record below with declarations of service for the various motions related to unsealing the documents and the minute entries for the related hearings to evidence which parties were served with notice of such hearings and who attended them. Petitioner requests 20 days from the date of a decision on this Motion to designate such records if this request is granted.

Peterson's exposure to criminal liability The facts set forth in **Appendix E** evidence that the concern regarding potential criminal liability for Ms. Peterson already now exists in this matter. The evidence now existing already ties Ms. Peterson to the creation of a fake will for Mark Besola more than four months after his death. A fake Will that Ms. Peterson witnessed in court as being signed by Mark Besola on December 6, 2018. Ms. Peterson also repeatedly offered blatantly false testimony in her depositions, declarations, and in her trial testimony regarding

her observations of Mark Besola signing the fake will on December 6, 2018. Petitioner states the immediately above as fact because none of Ms. Peterson's prior testimony admits to fabricating under oath the events of December 6, 2018 (signing of the fake will) or the events of April 2019 (the creation of the fake will documents via FormSwift).

The trial court did not articulate the nexus between disclosing the substance of the sealed Will Documents and Ms. Peterson's potential liability other than to assert that such additional liability for Ms. Peterson could exist. The trial court appears to have not engaged in any balancing of Ms. Peterson's conjectural harm against the actual harm now being presented to the true beneficiaries of Mark Besola vis a vis rights to his life insurance policy proceeds. The life insurance proceeds (\$650,000) currently the subject of a Federal Interpleader Action are at risk of being awarded to Mr. Gunwall when the evidence that could prevent such an injustice is being is currently sealed to protect Ms. Peterson from the potential of additional criminal

liability related to the FormSwift documents. Should not this matter be remanded to require the trial court to articulate the balance to be struck between these competing interests? Why would a court turn a blind eye to the imminent harm to Mark Besola's true heirs? Petitioner respectfully requests this Court to remand this specific issue to the trial court to make findings articulating the nexus between unsealing the currently sealed FormSwift documents and Ms. Peterson's potential criminal liability and then to articulate the balance between this risk of harm to Ms. Peterson against the risk of harm to the true heirs of Mark Besola. The trial court should make these findings after receiving submissions from the interested parties.

Limited Disclosure to Balance the Competing rights. In the alternative to the above, the Petitioner respectfully requests this Court to disclose or order unsealed the Directive for Pet Care from the April 19, 2019 currently sealed FormSwift fake will document. The publication of this single paragraph from the sealed fake will does not implicate Ms. Peterson (more than the

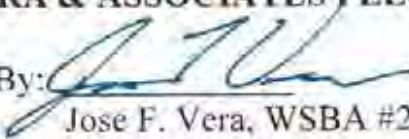
existing evidence in this matter), affords some modest protection to the true heirs of Mark Besola, and is consistent with the results sought by the parties below when they signed the GR 15 stipulation.

**E. CONCLUSION**

For the reasons set forth above, the Petitioner seeks the relief set forth above.

**Respectfully submitted** this 28<sup>th</sup> day of November 2022.

**VERA & ASSOCIATES PLLC**

By:   
Jose F. Vera, WSBA #25534

*Attorneys for Administrator*

*I certify that this memorandum contains 1616 words, in compliance with the RAP 18.17.*

### CERTIFICATE OF SERVICE

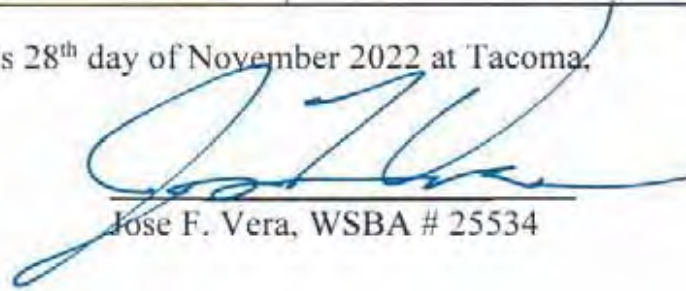
The undersigned certifies under the penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below, I caused to be served the foregoing document on the following persons and in the manner listed below:

C. Tyler Shillito Andrea Brewer Smith Alling, P.S. 1501 Dock St. Tacoma, WA 98402-3209	<input type="checkbox"/> U.S. First Class Mail, postage prepaid <input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Overnight Courier <input checked="" type="checkbox"/> Electronically via email <input type="checkbox"/> Facsimile
Jose F. Vera Vera & Associates PLLC 100 W. Harrison, Suite 300 Seattle, WA 98119-4218	<input type="checkbox"/> U.S. First Class Mail, postage prepaid <input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Overnight Courier <input checked="" type="checkbox"/> Electronically via email <input type="checkbox"/> Facsimile
Kevin T. Steinacker Steinacker Law PLLC 615 E. Pioneer, Suite 212 Puyallup, WA 98372-3320	<input type="checkbox"/> U.S. First Class Mail, postage prepaid <input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Overnight Courier

	<input checked="" type="checkbox"/> Electronically via email <input type="checkbox"/> Facsimile
--	--

DATED this 28<sup>th</sup> day of November 2022 at Tacoma,  
Washington.



Jose F. Vera, WSBA # 25534

## APPENDIX A



Jose Vera

---

**Subject:** FW: Proposed Stipulation and Order Authorizing Disclosure of Sealed Formswift Documents to LSL

**From:** Daniel K. Walk (mailto:dkwalk@bvm.com)  
**Sent:** Monday, August 16, 2021 12:13 PM  
**To:** Kevin Steinhacker <kevin@steinackerlaw.com>; Stu Morgan <stu@ledgersquarelaw.com>; Quentin Wildsmith <qwildsmith@lasher.com>; Dart, Samuel J. <sdart@eisenhowerlaw.com>  
**Cc:** Jose Vera <josevera@veraassociates.com>; Tyler Shillito <tyler@smithalling.com>; Andrea Brewer <Andrea@smithalling.com>; Desmond Kolke <deskolke@gmail.com>; Karen Bertram <kbertram@kbbblaw.com>; Dial, Neil A. <NDial@eisenhowerlaw.com>; Amy Shackelford <amy@ledgersquarelaw.com>; Grady Hems <grady@ledgersquarelaw.com>; Krystalin Williams <Williams@lasher.com>  
**Subject:** RE: Proposed Stipulation and Order Authorizing Disclosure of Sealed Formswift Documents to LSL

Stu,

My signature is not necessary as my client has been entirely dismissed from this matter, but to the extent that you are looking for objections to your office having access to the documents, I have none.

Regards,

Dan

DANIEL K. WALK ATTORNEY



MORTON  
McGOLDRICK  
ATTORNEYS AT LAW



820 "A" Street, Suite 600, Tacoma, WA 98402

Office: 253.627.8131 Direct: 253.682.7241 Fax: 253.272.9338 [www.bvm.com](http://www.bvm.com)

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McGOLDRICK**

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Morton McGoldrick is committed to serving our clients and community during the ongoing pandemic. Please be aware that our physical and virtual business operations may be impacted and we are managing phone and email communications to the extent possible. If any essential personnel are unable to work, we will do our best to ensure that they are critically available by equipment only. Our offices continue to be staffed although some personnel are working remotely. Please be patient with us as this pandemic with other uncertainties delivers our. We wish you and your families the best during these challenging times.



**From:** Kevin Steinacker <[ksteinack@steinackerny.com](mailto:ksteinack@steinackerny.com)>  
**Sent:** Monday, August 16, 2021 11:53 AM  
**To:** Stu Morgan <[stuj@westermountainlaw.com](mailto:stuj@westermountainlaw.com)>; Quentin Wildsmith <[quwildsmith@baker.com](mailto:quwildsmith@baker.com)>; Dart, Samuel J. <[sdart@westermountainlaw.com](mailto:sdart@westermountainlaw.com)>  
**Cc:** Jose Vera <[josevera@westermountainlaw.com](mailto:josevera@westermountainlaw.com)>; Tyler Shillito <[tyshill@westermountainlaw.com](mailto:tyshill@westermountainlaw.com)>; Andrea Brewer <[Andrea@smittaling.com](mailto:Andrea@smittaling.com)>; Desmond Kolke <[deskolke@gmail.com](mailto:deskolke@gmail.com)>; Daniel K. Walk <[dwalk@bvm.com](mailto:dwalk@bvm.com)>; Karen Bertram <[kbertram@baker.com](mailto:kbertram@baker.com)>; Dial, Neil A. <[NDial@westermountainlaw.com](mailto:NDial@westermountainlaw.com)>; Amy Shackelford <[amy@westermountainlaw.com](mailto:amy@westermountainlaw.com)>; Grady Heins <[grady@westermountainlaw.com](mailto:grady@westermountainlaw.com)>; Krystalin Williams <[Williams@baker.com](mailto:Williams@baker.com)>  
**Subject:** RE: Proposed Stipulation and Order Authorizing Disclosure of Sealed Formswift Documents to LSL

Stu, you can add my electronic signature.

Kevin Steinacker  
Steinacker Law PLLC  
253-242-3558

----- Original message -----

**From:** Stu Morgan <[stuj@westermountainlaw.com](mailto:stuj@westermountainlaw.com)>  
**Date:** 8/16/21 9:38 AM (GMT-08:00)  
**To:** Quentin Wildsmith <[quwildsmith@baker.com](mailto:quwildsmith@baker.com)>; "Dart, Samuel J." <[sdart@westermountainlaw.com](mailto:sdart@westermountainlaw.com)>  
**Cc:** Jose Vera <[josevera@westermountainlaw.com](mailto:josevera@westermountainlaw.com)>; Tyler Shillito <[tyshill@westermountainlaw.com](mailto:tyshill@westermountainlaw.com)>; Andrea Brewer <[Andrea@smittaling.com](mailto:Andrea@smittaling.com)>; Desmond Kolke <[deskolke@gmail.com](mailto:deskolke@gmail.com)>; "Daniel K. Walk" <[dwalk@bvm.com](mailto:dwalk@bvm.com)>; Kevin Steinacker <[ksteinack@steinackerny.com](mailto:ksteinack@steinackerny.com)>; Karen Bertram <[kbertram@baker.com](mailto:kbertram@baker.com)>; "Dial, Neil A." <[NDial@westermountainlaw.com](mailto:NDial@westermountainlaw.com)>; Amy Shackelford <[amy@westermountainlaw.com](mailto:amy@westermountainlaw.com)>; Grady Heins <[grady@westermountainlaw.com](mailto:grady@westermountainlaw.com)>; Krystalin Williams <[Williams@baker.com](mailto:Williams@baker.com)>  
**Subject:** RE: Proposed Stipulation and Order Authorizing Disclosure of Sealed Formswift Documents to LSL

Thank you. We are happy to do the same for anyone who wants to email me permission to do so.

Stuart C. Morgan  
Attorney  
Leager Square Law, P.C. | [www.leager-square.com](http://www.leager-square.com)  
710 Market Street, Tacoma, WA 98402  
Direct: (253) 327-1705  
Main: (253) 327-1800  
Fax: (253) 327-1700

**From:** Quentin Wildsmith <[quwildsmith@baker.com](mailto:quwildsmith@baker.com)>  
**Sent:** Monday, August 16, 2021 9:08 AM  
**To:** Dart, Samuel J. <[sdart@westermountainlaw.com](mailto:sdart@westermountainlaw.com)>  
**Cc:** Jose Vera <[josevera@westermountainlaw.com](mailto:josevera@westermountainlaw.com)>; Stu Morgan <[stuj@westermountainlaw.com](mailto:stuj@westermountainlaw.com)>; Tyler Shillito <[tyshill@westermountainlaw.com](mailto:tyshill@westermountainlaw.com)>; Andrea Brewer <[Andrea@smittaling.com](mailto:Andrea@smittaling.com)>; Desmond Kolke <[deskolke@gmail.com](mailto:deskolke@gmail.com)>; Daniel K. Walk <[dwalk@bvm.com](mailto:dwalk@bvm.com)>; Kevin Steinacker <[ksteinack@steinackerny.com](mailto:ksteinack@steinackerny.com)>; Karen Bertram <[kbertram@baker.com](mailto:kbertram@baker.com)>; Dial, Neil A. <[NDial@westermountainlaw.com](mailto:NDial@westermountainlaw.com)>; Amy Shackelford <[amy@westermountainlaw.com](mailto:amy@westermountainlaw.com)>; Grady Heins <[grady@westermountainlaw.com](mailto:grady@westermountainlaw.com)>; Krystalin Williams <[Williams@baker.com](mailto:Williams@baker.com)>  
**Subject:** RE: Proposed Stipulation and Order Authorizing Disclosure of Sealed Formswift Documents to LSL

To clarify – Stu, you have permission to sign for me. Thanks, Quentin

Quentin Wildsmith

Attorney  
DIRECTOR OF BUSINESS



Lasher Holzapfel  
Sperry & Ebberson  
PLLC  
ATTORNEYS AT LAW

201 LUTHER STREET SUITE 2000 SPOKANE, WA 83402

TEL: 800-368-2222 FAX: 509-325-2222

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From: Quentin Wildsmith <[qwildsmith@lshlaw.com](mailto:qwildsmith@lshlaw.com)>

Sent: Saturday, August 14, 2021 5:54 AM

To: Dart, Samuel J. <[sdart@nonconlaw.com](mailto:sdart@nonconlaw.com)>

Cc: Jose Vera <[josevera@ledgersquare.com](mailto:josevera@ledgersquare.com)>; Stu Morgan <[stui@ledgersquarelaw.com](mailto:stui@ledgersquarelaw.com)>; Tyler Shillito <[tyler@smithhall.com](mailto:tyler@smithhall.com)>; Andrea Brewer <[Andrea@smithhall.com](mailto:Andrea@smithhall.com)>; Desmond Kolke <[deskolke@emil.com](mailto:deskolke@emil.com)>; Daniel K. Walk <[dkwalk@kvmti.com](mailto:dkwalk@kvmti.com)>; Kevin Steinacker <[kstein@steinackertlaw.com](mailto:kstein@steinackertlaw.com)>; Karen Bertram <[kbertram@khttlaw.com](mailto:kbertram@khttlaw.com)>; Dial, Neil A. <[n.Dial@nonconlaw.com](mailto:n.Dial@nonconlaw.com)>; Amy Shackleford <[Amy@ledgersquarelaw.com](mailto:Amy@ledgersquarelaw.com)>; Grady Heins <[grady@ledgersquarelaw.com](mailto:grady@ledgersquarelaw.com)>

Subject: Re: Proposed Stipulation and Order Authorizing Disclosure of Sealed Formswift Documents to LSL

I will sign

Quentin Wildsmith

Attorney at Law

Lasher Holzapfel Sperry & Ebberson PLLC

On Aug 13, 2021, at 6:50 PM, Dart, Samuel J. <[sdart@nonconlaw.com](mailto:sdart@nonconlaw.com)> wrote:

**EXTERNAL**

Stu,

I will sign as well.



Sam

Sent from my iPhone

Samuel Dan Attorney

<logo\_fa335a1d-9f24-4802-a3d0-b58f259e3c98.png>

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phone: 253.572.4500 | fax 253.272.5733 | [www.merittlawfirm.com](http://www.merittlawfirm.com)

On Aug 13, 2021, at 5:20 PM, Jose Vera <[jvera@veritaslaw.com](mailto:jvera@veritaslaw.com)> wrote:

I will sign.

**From:** Stu Morgan (<mailto:stmorgan@merittlaw.com>)

**Sent:** Friday, August 13, 2021 4:28 PM

**To:** Stu Morgan <[stmorgan@merittlaw.com](mailto:stmorgan@merittlaw.com)>; Tyler Shinto <[tylshinto@merittlaw.com](mailto:tylshinto@merittlaw.com)>;  
Andrea Brewer <[abrewer@merittlaw.com](mailto:abrewer@merittlaw.com)>; Jose Vera <[jvera@veritaslaw.com](mailto:jvera@veritaslaw.com)>;  
Desmond Kolke <[deskolke@merittlaw.com](mailto:deskolke@merittlaw.com)>; Daniel K. Walk <[dwalk@merittlaw.com](mailto:dwalk@merittlaw.com)>;  
<[dkwalk@merittlaw.com](mailto:dkwalk@merittlaw.com)>; Quentin Wildsmith <[qwildsmith@merittlaw.com](mailto:qwildsmith@merittlaw.com)>; Kevin Steinacker  
<[ksteinacker@merittlaw.com](mailto:ksteinacker@merittlaw.com)>; <[kbertram@merittlaw.com](mailto:kbertram@merittlaw.com)>; Karen Bertram  
<[kbertram@merittlaw.com](mailto:kbertram@merittlaw.com)>; Neil A. Dial <[ndial@merittlaw.com](mailto:ndial@merittlaw.com)>;  
<[ndial@merittlaw.com](mailto:ndial@merittlaw.com)>; Dart, Samuel I. <[sdart@merittlaw.com](mailto:sdart@merittlaw.com)>

**Cc:** Amy Shackelford <[ashackelford@merittlaw.com](mailto:ashackelford@merittlaw.com)>; Grady Heins  
<[gheins@merittlaw.com](mailto:gheins@merittlaw.com)>

**Subject:** Proposed Stipulation and Order Authorizing Disclosure of Sealed Formiswift Documents to LSL

Attached is the revised proposed stipulation containing the language in the stipulation section that mirrors the language in the order as to what my firm would be bound to. Please let me know as soon as you can whether you will sign. If you are willing to sign, please email back your signature page to the group so that everyone can see who is signing and who is not. Much appreciated! I am hoping to avoid bringing a motion.

Stu Morgan

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## APPENDIX B



STUART C. MORGAN  
Direct Dial: (253) 327-1700  
smu@ledger-square-law.com

December 8, 2021

Via Email

Daniel K. Walk  
Marian McIoldrick, P.S.  
P. O. Box 1533  
Tacoma, WA 98401

Re: Estate of Mark Besola

Dear Mr. Walk:

This firm represents Amelia Besola in her capacity as the newly appointed Personal Representative of the Estate of Mark Besola. Copies of her Letters Testamentary are enclosed for your file in the matter.

I was surprised to see your firm file a Response to Petitioner's Motion to Amend Factual Findings and Conclusions of Law in the above-referenced matter and the Personal Representative is asking you to withdraw the Response prior to the hearing.

You will likely recall my previous invitation(s) to have you sign the GR 15 stipulation to unseal the FormSwift documents. You declined by asserting your client, Mr. Gunwall, was no longer a party. Yet, you've now filed a pleading with the Court on behalf of Mr. Gunwall. You are likely familiar with that email string. In one email, you stated, "I will not be signing anything for my dismissed client." All counsel for the parties were on that email string and I suspect, like Ms. Besola, all counsel relied on your statements in those emails. Moreover, you and Mr. Gunwall did not participate in the continued trial proceedings which led to the invalidation of the fake/fraudulent Will. Thereafter, you were present for some hearings related to the same but declined my invitation to sign orders related thereto.

I am not aware of any legal theory that would allow Mr. Gunwall to claim he is no longer a party and that he is dismissed to somehow reappear and claim he is not dismissed. Therefore, the purpose of this letter is to provide you with the opportunity to withdraw your Response which must be in violation of CR 11 as a result.

Daniel K. Walk  
December 8, 2021  
Page 2

Sincerely,

LEDGER SQUARE LAW, P.S.

*v/ Stuart C. Morgan*

Stuart C. Morgan

Enclosure

cc: Amelia Besola (w/o encl.)  
Grady R. Heins (w/o encl.)  
C. Tyler Shillito (w/o encl.)  
Jose Vera (w/o encl.)  
Elizabeth Thompson (w/o encl.)  
Kevin Steinaker (w/o encl.)  
Neil A. Dial (w/o encl.)  
Samuel Dart (w/o encl.)

## APPENDIX C



Jose Vera

---

Subject: FW: Besola Estate

From: Daniel K. Walk <[dwalk@ivmllaw.com](mailto:dwalk@ivmllaw.com)>  
Sent: Wednesday, December 8, 2021 2:40 PM  
To: Amy Shackelford <[amy@ivmllaw.com](mailto:amy@ivmllaw.com)>  
Cc: [alan@sunhighway.com](mailto:alan@sunhighway.com); [nob@pacificpower.com](mailto:nob@pacificpower.com); William F. King <[king@stateofkentia.com](mailto:king@stateofkentia.com)>; [ethanmcgouldrick@ivmllaw.com](mailto:ethanmcgouldrick@ivmllaw.com); [andrew@ivmllaw.com](mailto:andrew@ivmllaw.com); Tyler Shillito <[tyler@ivmllaw.com](mailto:tyler@ivmllaw.com)>; [stheodore@ivmllaw.com](mailto:stheodore@ivmllaw.com); [grace@ivmllaw.com](mailto:grace@ivmllaw.com); Andrea Brewer <[andrea@ivmllaw.com](mailto:andrea@ivmllaw.com)>; Lisa Lefebvre <[lisa@ivmllaw.com](mailto:lisa@ivmllaw.com)>; [william@ivmllaw.com](mailto:william@ivmllaw.com); [skard@ivmllaw.com](mailto:skard@ivmllaw.com); Susan K. Tomo <[susan@ivmllaw.com](mailto:susan@ivmllaw.com)>; Stu Morgan <[stuart@ivmllaw.com](mailto:stuart@ivmllaw.com)>; Grady Heins <[grady@ivmllaw.com](mailto:grady@ivmllaw.com)>  
Subject: RE: Besola Estate

Stu,

The opening paragraph in the response that you've taken issue with clearly states that Mr. Gunwall maintains his position that he is not a party to the TEDRA action (having been dismissed therefrom in late 2020 – a position that we have consistently taken since that time), but because the motion was filed, and set for a hearing, in the probate action (one in which he is still a party to), your client opened the door to his response (which was filed in the probate). It's a simple response really – that the motion is filed in the wrong action and is therefore untimely and improper. The first request in the response is therefore that the court not consider the motion at all. However, if the court is indeed going to consider it in the probate matter, despite a strict application of the rules prohibiting the same, then it should also consider the implications of all the FOF/COL that it made.

To be clear – Mr. Gunwall has not re-inserted himself into the TEDRA matter nor has he claimed to be a party thereto as you and Jose assert that he has. Mr. Gunwall continues to maintain his clearly delineated position that he has been dismissed from the TEDRA (Will contest), despite your client's repeated attempts to drag him back into the same. Mr. Gunwall also remains an interested party in the estate of Mark Besola.

Regards,

Dan

DANIEL K. WALK ATTORNEY



MORTON  
McGOLDRICK  
ATTORNEY AT LAW



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## APPENDIX D

**From:** [Jodie K. Walk](mailto:Jodie@jwalk.com)  
**To:** [Elizabeth Thomsn - Vera Assoc - Tyler Shilito - smithhaling.com](mailto:Elizabeth.Thompson@veraassociates.com); [stuart.ledgers@ledgerssquarelaw.com](mailto:stuart.ledgers@ledgerssquarelaw.com); [andy@ledgerssquarelaw.com](mailto:andy@ledgerssquarelaw.com); [tyler@smithhaling.com](mailto:tyler@smithhaling.com); [sdart@eisenhowerlaw.com](mailto:sdart@eisenhowerlaw.com); [ndial@eisenhowerlaw.com](mailto:ndial@eisenhowerlaw.com); [kbertram@khbbllaw.com](mailto:kbertram@khbbllaw.com); [Elizabeth Thompson - kethompson@elizabeththompsonlaw.com](mailto:Elizabeth.Thompson@elizabeththompsonlaw.com); [wildsmith@lasher.com](mailto:wildsmith@lasher.com); [kwildsmith@lasher.com](mailto:kwildsmith@lasher.com); [kevin@steinackerlaw.com](mailto:kevin@steinackerlaw.com); [kkevin@steinackerlaw.com](mailto:kkevin@steinackerlaw.com)  
**Subject:** RE: D2 562057 - IN RE ESTATE OF MARK LESTER BESOLA--Perfection Notice  
**Date:** Thursday, September 30, 2021 11:14:11 AM  
**Attachments:** [image001.png](#)

---

Thank you Ms. Thompson (Jodie)

DANIEL K. WALK, ATTORNEY



**MORTON  
McGOLDRICK**  
ATTORNEYS AT LAW



820 "A" Street, Suite 800, Tacoma, WA 98402  
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**From:** Thompson, Jodie <Jodie.Thompson@courts.wa.gov>  
**Sent:** Thursday, September 30, 2021 9:22 AM  
**To:** Daniel K. Walk <dkwalk@bvm.com>; Lisa Vera <lvera@veraassociates.com>; Tyler Shilito <tyler@smithhaling.com>; Stuart Ledgers <stuart.ledgers@ledgerssquarelaw.com>; Andy Ledgers <andy@ledgerssquarelaw.com>; Andrea <andrea@smithhaling.com>; Sadari <sdari@eisenhowerlaw.com>; Sdart <sdart@eisenhowerlaw.com>; Ndial <ndial@eisenhowerlaw.com>; Ndial <ndial@eisenhowerlaw.com>; Kbertram <kbertram@khbbllaw.com>; Kbertram <kbertram@khbbllaw.com>; Elizabeth Thompson <kethompson@elizabeththompsonlaw.com>; Wildsmith <wildsmith@lasher.com>; Kwildsmith <kwildsmith@lasher.com>; Kevin <kevin@steinackerlaw.com>; Kkevin <kkevin@steinackerlaw.com>  
**Subject:** RE: D2 562057 - IN RE ESTATE OF MARK LESTER BESOLA--Perfection Notice

DK - Walk



I am a third party contact to your party and therefore have therefore no response will be necessary from you, we would not get involved in the matter. Should you have any further questions please don't hesitate to contact me.

Best regards,

**From:** Daniel K. Walk ([walk@walklaw.com](mailto:walk@walklaw.com))  
**Sent:** Thursday, September 30, 2021 1:20 PM  
**To:** Thompson, Jodie <[jodie.thompson@courts.wa.gov](mailto:jodie.thompson@courts.wa.gov)>; José Vera <[josevera@verasociates.com](mailto:josevera@verasociates.com)>; Tyler Shultz <[tyler@shultzlaw.com](mailto:tyler@shultzlaw.com)>; [stuart@eisenhowerlaw.com](mailto:stuart@eisenhowerlaw.com); [sdart@eisenhowerlaw.com](mailto:sdart@eisenhowerlaw.com); [vidial@eisenhowerlaw.com](mailto:vidial@eisenhowerlaw.com); [erickson@eisenhowerlaw.com](mailto:erickson@eisenhowerlaw.com); [khostram@khhblaw.com](mailto:khostram@khhblaw.com); [lbestram@eisenhowerlaw.com](mailto:lbestram@eisenhowerlaw.com); Elizabeth Thompson <[elizabeth@eisenhowerlaw.com](mailto:elizabeth@eisenhowerlaw.com)>; [wydotmitn@lasher.com](mailto:wydotmitn@lasher.com); [welsh@lasher.com](mailto:welsh@lasher.com); [kwin@sterinaklaw.com](mailto:kwin@sterinaklaw.com); [ryan@sterinaklaw.com](mailto:ryan@sterinaklaw.com)  
**Subject:** RE: D2 562057--IN RE ESTATE OF MARK LESTER BESOLA--Perfection Notice

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My Thompson,

Although I was included on the certificate of service for Mr. Morgan's Notice of Discretionary Review, my client has been dismissed from this matter for some time and therefore I believe that requiring a mandatory response and appearance at the oral argument is improper.

I represented Brandon Gunwall in the underlying trial court matter. Although I still represent Mr. Gunwall in relation to the various matters revolving around the Besola Estate, Mr. Gunwall was dismissed from the matter from which this appeal stems on December 11, 2020. Mr. Gunwall therefore has not had any direct involvement or participation in the underlying matter as a party since that time. Please confirm that Mr. Gunwall was therefore included in this appeal in error and is not required to file a response or participate in any oral argument on the same.

Best regards,

**DANIEL K. WALK - ATTORNEY**



**MORTON  
McGOLDRICK**  
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**From:** Thompson, Jodie <[Jodie.Thompson@mcgoldrick.com](mailto:Jodie.Thompson@mcgoldrick.com)>

**Sent:** Thursday, September 30, 2021 12:52 PM

**To:** 'Jose Vera' <[jvera@verabank.com](mailto:jvera@verabank.com)>; Darrell K. Walk <[dkwalk@verbank.com](mailto:dkwalk@verbank.com)>; Tyler Shifito <[tyshifito@trifling.com](mailto:tyshifito@trifling.com)>; [trish@mcgoldrick.com](mailto:trish@mcgoldrick.com); [graham@getconnected.com](mailto:graham@getconnected.com); [awate@smiththompson.com](mailto:awate@smiththompson.com); 'sdart@eisenhowerlaw.com' <[sdart@eisenhowerlaw.com](mailto:sdart@eisenhowerlaw.com)>; 'hival@eisenhowerlaw.com' <[hival@eisenhowerlaw.com](mailto:hival@eisenhowerlaw.com)>; 'kbertram@kiddbilaw.com' <[kbertram@kiddbilaw.com](mailto:kbertram@kiddbilaw.com)>; 'Elizabeth Thompson' <[elizabeth@mcgoldrick.com](mailto:elizabeth@mcgoldrick.com)>; 'widesmith@lasher.com' <[widesmith@lasher.com](mailto:widesmith@lasher.com)>; 'Kevin@stemarkertlaw.com' <[Kevin@stemarkertlaw.com](mailto:Kevin@stemarkertlaw.com)>

**Subject:** D2 562057 IN RE ESTATE OF MARK LESTER BESOLA-Perfection Notice

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Please contact the court at (253) 593-2970 or [coa2@courts.wa.gov](mailto:coa2@courts.wa.gov) if you have any questions or comments.

Thank you.

Jodie L. Thompson  
Case Manager

## APPENDIX E





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In the Matter of

AMELIA BESOLA

vs

ERIC PULA

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May 07, 2011

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

In the Matter of the Estate of  
MARK LESTER BESOLA,

Deceased.

AMELIA BESOLA, Individually,  
Petitioner.

vs.

ERIC PULA, Individually and as  
Personal Representative of the  
Estate of Mark L. Besola; KELLY  
McGRAW, individually; JULIA  
BESOLA-ROBINSON, individually; DC  
DAVIS VETERINARY CATASTROPHIC NEED  
FUND; KARE KITSAP ANIMAL RESCUE &  
EDUCATION; BRANDON GUNWALL,  
Individually.

Respondents.

AMELIA BESOLA,

Petitioner.

vs.

BRANDON GUNWALL, Respondent; JORDY  
DOES 1-20, Respondent; FIDELITY  
BROKERAGE SERVICES, LLC, an  
Interested Party.

Respondents.

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KING STREET LARS LLC DAVID W. BECKER

May 7, 2021

Tacoma, Washington

Reporter: Barbara Cantrow, CCR, RMR, CRR



wa_id	wa_created on	wa last stored in	Zip	wa_suit_id	wa_name
8453078	6/19/2019 7:57	Chargefy-AuthorizePaymenttech-FormSwift		26636372	robyn peterson

ua_original_email	ua_email	ua_phone_number	ua_site	ua_billing_started_on
sugarbelle7774@gmail.com	sugarbelle7774@gmail.com		formswift.com	3/19/2019 10:10

FORMSWIFT CONFIDENTIAL

ua_billing_carrier	ua_plan	ua_ip	ua_active	ua_access_ends_on
5/13/2019 10:47	legis_monthly_12	2600-1001-8006-0ad8-8ca4-0061-41f6-2112.108.162.246.191	1	4/26/2019 10:10

FORMSWIFT CONFIDENTIAL

s_id	s_date	s_builderType	s_documentType	s_documentName	s_custid	s_plan	s_lo
74924536	4/24/2019 13:57	state	Living Will	Living Will			2600 1001 6006: adad 91ee 13b5 f848: ab21, 10 107 1 112
74925130	4/19/2019 10:23	state	last-will-and-testament	last-will-and-testament			2600 1001 6006: adad 0091 beac 226a 9af5, 10 107 0 107



## Customer Payment Details

robyn peterson



XXXX XXXX XXXX 2751

robyn peterson

EXP. DATE REDACTED





robyn peterson

robyn.p@fox.com

 [suzanne7774@gmail.com](mailto:suzanne7774@gmail.com) 

Charge ID  
34616371

Reference ID (Your App)  
845A078

CC Emails

Organization  
FOX

Customer Since  
5/19/2019

VAT Number

Tax Exempt  
No

Payment Methods  
1 payment method

Shipping Address

## APPENDIX C



**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

**DIVISION II**

In the Matter of the Estate of MARK  
LESTER BESOLA,

Deceased.

AMELIA BESOLA,

Petitioner;

v.

ERIC PULA, individually and as personal  
representative of the Estate of Mark Lester  
Besola; UC DAVIS VETERINARY  
CATASTROPHIC NEED FUND,

Respondents,

KELLY McGRAW, individually; JULIA  
BESOLA-ROBINSON, individually; KARE  
KITSAP ANIMAL RESCUE AND  
EDUCATION; BRANDON GUNWALL;  
JOHN DOES 1-20; and FIDELITY  
BROKERAGE SERVICES, LLC, an  
interested party,

Respondents below.

No. 56205-7-II

ORDER GRANTING MOTION TO  
EXTEND TIME TO FILE SUPPLEMENT,  
DENYING MOTION TO  
SUPPLEMENT, AND DENYING  
MOTION FOR RECONSIDERATION

The opinion in this matter was filed on November 28, 2022. That same day, petitioner filed a motion for reconsideration. Additionally, on December 1, 2022, petitioner filed a motion to extend time to file a supplement to the motion for reconsideration and requested the court to consider the supplemental filing with the motion for reconsideration. No answer to the motion for reconsideration was requested. After consideration, it is hereby

No. 56205-7-II


**ORDERED** that petitioner's motion to extend time to file a supplement to the motion for reconsideration is granted; it is further

**ORDERED** that petitioner's motion to consider the supplemental filing with the motion for reconsideration is denied; it is further

**ORDERED** that petitioner's motion for reconsideration is denied.

**PANEL:** Jj. Lee, Glasgow, Cruser

**FOR THE COURT**

  
\_\_\_\_\_  
Cruser, A.C.J.

## APPENDIX D

No. 56205-7-II

---

IN THE SUPREME COURT OF THE STATE OF  
WASHINGTON

---

Dr. AMELIA BESOLA, Administrator and Petitioner,  
Appellant,

v.

ERIC PULA, individually and as PERSONAL  
REPRESENTATIVE OF THE ESTATE MARK L. BESOLA,  
and *ET AL.*,  
Respondents.

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PETITION FOR SUPREME COURT REVIEW

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Jose F. Vera of Vera & Associates PLLC  
WSBA #25534, Attorney for Petitioners  
100 West Harrison Street, Suite 300  
Seattle, WA 98119  
(206) 793-8318  
Josevera@veraassociates.com

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## 1. INTRODUCTION

This is an appeal from an order that kept a third-party's records with an online legal-document provider regarding the creation of a fraudulent will sealed, even after counsel for all parties signed and filed a *Stipulation to Unseal the Records* under Washington's General Rule 15. The appeal was unopposed and the Court of Appeals issued its decision on November 8, 2022. The Court of Appeals Decision affirmed the trial court to keep the records at issue sealed.

The Petitioner timely filed a *Motion to Reconsider* the Decision, but technical challenges kept the Appendixes for the *Motion to Reconsider* from being filed until after the filing date for the *Motion to Reconsider*. The Petitioner then filed a *Motion to Extend* the time for filing the Appendixes for the *Motion to Reconsider*. The Court of Appeals is considering both Motions now.

Petitioner is now filing this *Petition for Review* out of an abundance of caution to ensure it preserves its right to Petition

the Washington Supreme Court on this matter under RAP 13.4, which provides Petitioner with 30 days from the November 8, 2022 Decision to file the *Petition for Review*. Petitioner will amend this *Petition for Review* if the Court of Appeals denies the currently filed *Motion to Reconsider* or the Petitioner will withdraw it, if the Court of Appeals grants the *Motion to Reconsider*. Either way, Petitioner intends this filed Petition to preserve its rights under RAP 13.4.

## II. IDENTITY OF PETITIONER

Petitioner, Dr. Amelia Besola, ("Dr. Amy" or "Petitioner") respectfully moves for the relief set forth below.

## III. DECISION

Petitioner respectfully requests this Court to accept review of the decision entered by Division II of Washington Court of Appeals on November 8, 2022 (Court of Appeals No. 56205-7-II) (the "Decision" or "Opinion"). Attached hereto as **Appendix A**.



#### **IV. ISSUES PRESENTED FOR REVIEW**

Reserved pending the Court of Appeals' Decision on Petitioner's Motion for Reconsideration.

#### **V. STATEMENT OF THE CASE**

Reserved pending the Court of Appeals' Decision on Petitioner's Motion for Reconsideration.

#### **VI. GROUNDS FOR RELIEF REQUESTED**

Reserved pending the Court of Appeals' Decision on Petitioner's Motion for Reconsideration.

#### **VII. WHY REVIEW SHOULD BE ACCEPTED**

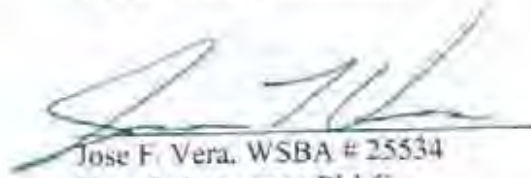
Reserved pending the Court of Appeals' Decision on Petitioner's Motion for Reconsideration.

**VII. CONCLUSION**

Based on the foregoing, Petitioner respectfully requests the Supreme Court to accept this filed Petition as preservative of its rights under RAP 13.4.

Submitted December 8, 2022.

Respectfully submitted,

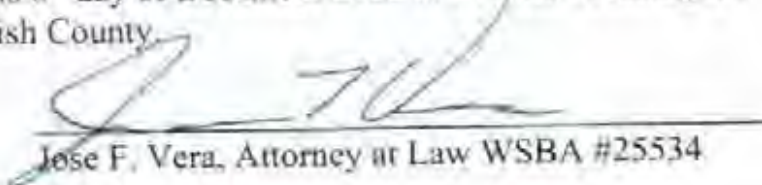


Jose F. Vera, WSBA # 25534  
Vera & Associates PLLC  
100 W. Harrison Street, Suite 300  
Seattle, WA 98119  
P. (206) 793-8318

**CERTIFICATE OF WORD COUNT**

The undersigned certifies that the foregoing Reply is 14 point, New Times Roman font and contains 394 words.

DATED this 8<sup>th</sup> day of December 2022 at Everett, Washington in Snohomish County.



Jose F. Vera, Attorney at Law WSBA #25534

## APPENDIX A

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

November 8, 2022

DIVISION II

In the Matter of the Estate of MARK  
LESTER BESOLA,

Deceased

No. 56205-7-II

AMELIA BESOLA,

Petitioner,

v.

ERIC PULA, individually and as personal  
representative of the Estate of Mark Lester  
Besola; UC DAVIS VETERINARY  
CATASTROPHIC NEED FUND,

Respondents,

UNPUBLISHED OPINION

KELLY McGRAW, individually; JULIA  
BESOLA-ROBINSON, individually; KARE  
KITSAP ANIMAL RESCUE AND  
EDUCATION; BRANDON GUNWALL,  
JOHN DOES 1-20; and FIDELITY  
BROKERAGE SERVICES, LLC, an  
interested party,

Respondents below

CRUSER, J.—Amelia Besola appeals the trial court order denying her motion to unseal certain records in her will contest claim that she brought in her brother Mark Lester Besola's estate case and the order denying her motion for reconsideration.<sup>1</sup> She argues that the trial court erred when it (1) entered an August 13, 2021 order sealing certain records without making the required

<sup>1</sup> None of the respondents filed a response in this matter.

findings, (2) denied her motion to unseal these records despite being presented with a stipulation that was signed by counsel for all parties, (3) denied her motion to unseal these records once the trial court disclosed the protected facts in findings of fact and conclusions of law filed well after the trial court denied the motion to unseal and motion for reconsideration, and (4) denied the motion to unseal because unsealing these records was consistent with the constitutional principle of open justice. Because Besola does not establish that the trial court erred, we affirm.

#### FACTS<sup>2</sup>

Before Mark's<sup>3</sup> death, Brandon Gunwall, Eric Pula, and Kelly McGraw had been living on Mark's property at Lake Tapps. Mark, who "had significant health problems," died unexpectedly on January 1, 2019. Clerk's Papers (CP) at 187. For several months following Mark's death Pula, Gunwall, McGraw, and others continued to occupy Mark's property.

Two days after Mark's death, Besola was appointed as the personal representative of Mark's estate. In late April, Besola evicted Gunwall, Pula, McGraw, and others from Mark's property.

On May 8, 2019, Pula filed in the superior court a will that Mark had purportedly signed in December 2018. This will was purportedly witnessed by two individuals, one of whom was Robyn Peterson. "On September 16, 2019, Brandon Gunwall, as the beneficiary of [Mark's] dogs, petitioned for the December 2018 Will to be admitted to probate." CP at 191. The will was

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<sup>2</sup> Some of these facts are drawn from the trial court's unchallenged findings of fact, which are verified on appeal. *In re Est. of Jones*, 152 Wn.2d 1, 8, 93 P.3d 147 (2004).

<sup>3</sup> Because Mark and Amelia Besola share the same last name, we refer to Mark by his first name to avoid confusion.

admitted to probate on September 26, 2019. Pula replaced Besola as the personal representative of the estate.

Besola filed a petition opposing the probate of the December 2018 will on multiple grounds, including fraud. Pula and counsel for the estate filed counterclaims against Besola.<sup>4</sup>

At some point during the discovery process in the will contest, it was discovered that the December 2018 will had been produced using an online site, FormSwift.com.<sup>5</sup> The trial court issued a subpoena for the FormSwift records potentially related to the purported December 2018 will.

According to the trial court's later findings of fact, FormSwift produced records that included a draft will for Mark and a draft living will for Mark created on April 19, 2019, on a FormSwift account that was in Peterson's name. The records also showed that these items were paid with Peterson's credit card.

On May 28 and July 16, 2021, the trial court entered protective orders covering the records produced by FormSwift. According to Besola, the protective orders required that "[u]nless otherwise agreed in writing by the parties and Robyn Peterson, or unless otherwise ordered by the Court, access, copying, and/or dissemination of" this information was limited. CP at 104 (alteration in original).

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<sup>4</sup> On December 4, 2020, the trial court removed Pula as personal representative after finding reason to believe that revocation was appropriate under RCW 11.28.250. The trial court appointed Michael B. Smith as the new personal representative.

<sup>5</sup> FormSwift "is a legal forms website on which customers can purchase customized estate planning materials, including Last Wills and Testaments." CP at 190.



On August 13, 2021, the trial court issued an order sealing the FormSwift records. The trial court found “that sealing is justified by identified compelling privacy or safety concerns that outweigh the public interest in access to the court record.” CP at 109. The order further stated that the sealed records could not be opened unless allowed by court order.

Four days later, Stuart Morgan, Besola’s counsel in her capacity as the discharged administrator of Mark’s estate, e-mailed trial court staff a proposed stipulation and order to unseal the records sealed by the August 13, 2021 order. In his e-mail, he stated that “[a]ll representatives of parties have signed except for [Daniel Walk, counsel for Gunwall,] who declines to sign but I believe also does not object to entry of the proposed stipulation and order.” CP at 164. Morgan asked that the court advise him if it “would prefer that [he] present this in some different format or manner.” *Id.*

On August 20, 2021, at the trial court’s behest, Besola filed a motion to unseal the records sealed by the August 13, 2021 order under CR 15(e)(3). Besola asserted that “[a]ll counsel of record since August 13 have agreed to stipulate or agree that the FormSwift [records] be unsealed.” CP at 111. Morgan’s supporting declaration stated that he had prepared the stipulation and agreed order and submitted it to the court. But he noted that this stipulation was not signed by Walk, counsel for Gunwall, “who believes his signature is not required.” CP at 116.

The trial court heard this motion on September 3, 2021. During this hearing, the court asked Morgan why he needed access to the sealed records. Morgan responded that he needed to see the records so he could prepare his defense to the counterclaims against Besola. Morgan suggested that the records could be relevant to the issue of whether the December 2018 will was fraudulent and that they would “bear directly on [his] defense of the counterclaims in the case.” Verbatim

Report of Proceedings at 6. But Morgan could not explain exactly how the records related to the defense of the counterclaims beyond the fraud determination because he had never had access to the records.

Tyler Shillito, the attorney representing Besola on the will context, stated that he also needed to have the records unsealed to pursue his case-in-chief and that these records were the most crucial records in the case. Shillito also commented that it was impossible to file a substantive motion about the contents of the records while they remained sealed.

Reminding the trial court that the original reason for the protective order was “to protect Ms. Peterson,” Shillito argued that there was no indication that the sealed records contained information that was “secret or special” with regard to Peterson, such as any personal identification. *Id.* at 7. The trial court acknowledged that if it unsealed the records there would no longer be a protective order and that the purpose of the protective order was “to protect Ms. Peterson.” *Id.* But the trial court stated that the records could contain evidence that Peterson had committed a crime.

When Morgan again suggested that he should be able to see the records to defend against the counterclaims, the trial court stated that counsel had no need to see the records because if Besola’s other counsel succeeded in showing that the December 2018 will was fraudulent, Besola would win her counterclaims. And if the will was not fraudulent, then Besola had “lost that issue” and could not re-litigate it. *Id.* at 12. The trial court also stated that “whatever that document is has got nothing to do with whether or not [Besola] breached any fiduciary duties or otherwise damaged the estate during the time when she acted as personal representative.” *Id.* at 13.



No. 56205-7-11

On September 3, 2021 the trial court denied Besola's motion to unseal the records sealed under the August 13, 2021 order. On September 20, 2021, the trial court denied Besola's motion for reconsideration of that order. And on September 21, 2021, Besola filed a motion for discretionary review of the August 13, 2021 order and the denial of the motion for reconsideration with this court.

Besola's will contest claim was then adjudicated at a bench trial. On November 17, 2021, the trial court issued written findings of fact and conclusions of law, concluding that the December 2018 will was fraudulent.

On December 7, 2021, a commissioner of this court granted Besola's motion for discretionary review.

## ANALYSIS

### I. AUGUST 13, 2021 SEALING ORDER

Besola first argues that the trial court erred when it failed "to identify any privacy or security concerns that were addressed or protected by sealing the Formswift Will Documents prior to entering the August 13, 2021 Order to Seal." Appellant's Opening Br. at 5, 12-13. But Besola did not move for discretionary review of the August 13, 2021 order.

The Rules of Appellate Procedure require that the notice for discretionary review "designate the decision or part of decision which the party wants reviewed." RAP 5.3(a)(3), (b). Because the August 13, 2021 order was not designated in the motion for discretionary review, we decline to address this issue.

## II. DENIAL OF STIPULATED MOTION TO UNSEAL

Besola next argues that the trial court erred when it denied her motion to unseal the FormSwift records despite being presented with a stipulation agreeing to unseal the records that was signed by counsel for all parties. Besola fails to show that the trial court abused its discretion or applied an improper legal rule.<sup>6</sup>

### A. LEGAL PRINCIPLES

In the August 20, 2021 motion, Besola sought to unseal the FormSwift records under GR 15(c)(3), which provides:

*A sealed court record in a civil case shall be ordered unsealed only upon stipulation of all parties or upon motion and written notice to all parties and proof that identified compelling circumstances for continued sealing no longer exist, or pursuant to RCW 4.24, or CR 26(j).*

(Emphasis added.)<sup>7</sup>

The legal standard for sealing or unsealing court records is a question of law which we review *de novo*. *Dredling v. John*, 151 Wn.2d 900, 908, 93 P.3d 861 (2004). We review a trial court's decision to seal or unseal records for abuse of discretion, but if that decision is based on an improper legal rule, we remand to the trial court to apply the correct rule. *Id.* at 907.

In determining whether court records may be sealed from public disclosure, we start with the presumption of openness. *Id.* Our state constitution mandates that "[j]ustice in all cases shall be administered openly, and without unnecessary delay." CONST. art. I, § 10. But while we presume court records will be made open and available for public inspection, court records may be sealed "to protect other significant and fundamental rights." *Dredling*, 151 Wn.2d at 909.

<sup>6</sup> On October 1, 2021, the trial court issued an order modifying the earlier protective orders, and on November 2, 2021, the trial court issued an order sealing what appears to be the same materials now at issue. Besola does not address the effects of these later orders.

<sup>7</sup> We note that Besola's August 20, 2021 motion relied entirely on the stipulation portion of GR 15(c)(3).

*Rufer v. Abbott Labr. Co.*, 154 Wn.2d 530, 540, 114 P.3d 1182 (2005) (alteration in original).

B. ADEQUACY OF STIPULATION

Even assuming the trial court was required to grant the motion to unseal if all parties stipulated to unsealing the record,<sup>5</sup> Besola fails to establish on this record that all parties stipulated to the unsealing of the FormSwill records.

The stipulation that Morgan submitted to the trial court was not signed by Gunwall or Gunwall's counsel. The only parts of the record that address whether Gunwall was a party in this case at the time of the stipulation are (1) Morgan's representation in his declaration supporting his August 20, 2021 motion that Gunwall's counsel did not believe Gunwall was required to sign the stipulation, and (2) a copy of an e-mail from Morgan to court staff attached to the motion for reconsideration in which Morgan stated that Gunwall's counsel declined to sign the proposed stipulation, but Morgan "believe[ed]" Gunwall's counsel also did not object to the entry of the stipulation and order. CP at 164. The statements by Morgan that Gunwall's counsel may have believed Gunwall was not a party at the time of the stipulation do not establish that Gunwall was not a party when the motion to unseal the records was filed. And there is nothing in the record before us from which we can discern whether Gunwall was a party at the relevant time.

Accordingly, because the record does not show that the stipulation was signed by all parties, Besola does not establish that she met the GR 15(v)(3) requirements. And the trial court

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<sup>5</sup> We address this issue below.

did not abuse its discretion when it denied Besola's motion to unseal and the motion for reconsideration.<sup>7</sup>

C GR 15(e)(3)

Furthermore, we disagree with Besola's presumption that GR 15(e)(3) requires the trial court to automatically grant the motion to unseal a record if all parties stipulate

Resolution of this [issue] requires interpretation of a court rule, which is subject to *de novo* review. *State v. Osman*, 168 Wn.2d 632, 637, 229 P.3d 729 (2010). We interpret court rules using the rules of statutory construction. *Wiley v. Rehak*, 143 Wn.2d 339, 343, 20 P.3d 404 (2001). Rules are construed so as to effectuate the drafter's intent, avoiding readings that result in absurd or strained consequences. See *Whatcom County v. City of Bellingham*, 128 Wn.2d 537, 546, 909 P.2d 1303 (1996).

*State v. McEntoe*, 174 Wn.2d 795, 800, 279 P.3d 861 (2012).

"If the rule's meaning is plain on its face, we must give effect to that meaning as an expression of the drafter's intent." *Jafar v. Debb*, 177 Wn.2d 520, 526, 303 P.3d 1042 (2013). When a court rule is ambiguous, "we must discern the drafter's intent by 'reading the rule as a whole, harmonizing its provisions, and using related rules to help identify'" the intended meaning. *Id.* at 526-27 (quoting *State v. Chhom*, 162 Wn.2d 451, 458, 173 P.3d 234 (2007)).

GR 15(e) is entitled, "Grounds and Procedures for Requesting the Unsealing of Sealed Records" (boldface omitted). And, as noted above, GR 15(e)(3) states:

A sealed court record in a civil case shall be ordered unsealed only upon stipulation of all parties or upon motion and written notice to all parties and proof that identified compelling circumstances for continued sealing no longer exist, or pursuant to RCW 4.24, or CR 26(j).

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<sup>7</sup> Although the trial court did not deny the motion on this ground, "we may affirm on any ground supported by the record." *Hoover v. Warner*, 180 Wn. App. 509, 526, 358 P.3d 1174 (2015).

(Emphasis added.) The plain language of this rule does not support Besola's assertion.

GR 15(e)'s caption does not state that it is intended to establish when the trial court must unseal a sealed record—it states that it is establishing the grounds and procedures for requesting unsealing. And the rule itself merely describes the limited circumstances that must exist before the trial court can unseal a record. Thus, GR 15(d) states the mandatory *prerequisites* for unsealing; it is not a directive to the trial court that it must grant the motion to unseal and it does not require the trial court to blindly accept a stipulation.

Additionally, Besola cites no authority establishing that GR 15(e)(3) requires the trial court to grant a motion to unseal based solely on a stipulation when the trial court sealed the record to protect a nonparty, Peterson, who was not a party to the stipulation. And when a party does not cite any authority to support an argument, we assume there is none, *Kunam v. Kmet*, 21 Wn. App. 2d 902, 911, 508-93-1071 (2022).

Accordingly, Besola does not show that the trial court applied an improper legal rule or abused its discretion when it denied the motion to unseal the FarmSwift records based solely on the parties' stipulation or when it denied the motion for reconsideration.

#### D. CONFIDENTIAL INFORMATION

We also disagree with Besola's apparent contention that the trial court erred in denying the motion to unseal because the records in question "contained no information related to Ms. Peterson." Appellant's Opening Br. at 15. Although one of Besola's attorneys who had access to the records stated that the records did not contain any of Peterson's personal information, the trial court's concern was that the records could expose Peterson to criminal prosecution. And Besola does not present any argument demonstrating that this concern was insufficient to support the trial

court's decision to deny Besola's motion to unseal these records.<sup>10</sup> Again, when a party does not cite any authority to support an argument, we assume there is none. *Kanam*, 21 Wn. App. 2d at 911.

#### F. OTHER LITIGATION

We also reject Besola's argument that the trial court should have granted the motion to unseal because she needs these records for use in other litigation, including a federal proceeding. Besola did not make this argument when she moved to unseal the records or when she moved for reconsideration, and we will not fault a trial court for failing to address grounds that were not presented.<sup>11</sup> Accordingly, we will not consider this argument. RAP 2.5(a).

#### III. NOVEMBER 17, 2021 FINDINGS OF FACT AND CONCLUSIONS OF LAW

Besola also argues that the trial court erred when it denied her motion to unseal the FormSwift records after entering the November 17, 2021 findings of fact and conclusions of law because the findings of fact and conclusions of law "eviscerated the concerns expressed by the trial court during the September 3, 2021 hearing as to why it would keep the FormSwift Will Documents sealed." Appellant's Opening Br. at 5, 15.

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<sup>10</sup> We again note that Besola's August 20, 2021 motion relied entirely on the stipulation portion of GR 15(e)(3). But even if Besola had brought the motion under the other prongs of GR 15(e)(3), which would allow the court to unseal records "upon motion and written notice to all parties and proof that identified compelling circumstances for continued sealing no longer exist, or pursuant to RCW 4.24, or CR 26(j)," her argument is unavailing because, as discussed above, the trial court's concern was the possibility that the records could expose Peterson to criminal prosecution, not just disclose her personal information.

<sup>11</sup> The trial court docket suggests that the counterclaims against Besola were voluntarily dismissed. Besola does not address the dismissal of the counterclaims. But if the counterclaims were dismissed, the reason Morgan articulated for needing access to the sealed records are now likely moot.

But the November 17, 2021 findings of fact and conclusions of law did not exist when Besola moved to unseal the FormSwift records on August 20, 2021. And there is nothing in the record showing that Besola renewed her motion to unseal the FormSwift records after the trial court entered the November 17, 2021 findings of fact and conclusions of law. We decline to hold that the trial court erred when it denied the September 2021 motion to unseal or the related motion for reconsideration based on facts that did not exist at the time of these decisions. Furthermore, we decline to consider this argument further because it was never before the trial court and is not a manifest error.<sup>13</sup> RAP 2.5(a)

#### IV. CONSTITUTIONAL PRINCIPLES

Finally, Besola argues that the trial court erred when it denied the motion to unseal the FormSwift records because unsealing these records was consistent “with the constitutional principle that justice in Washington shall be open and free from unreasonable delay to promote public confidence in the fairness and honest[y] of the judicial branch of government” in light of the November 17, 2021 findings of fact and conclusions of law. Appellant’s Opening Br. at 6. But Besola predicates this argument entirely on her assertion that there is no longer any justification for sealing the records following the issuance of the November 17, 2021 findings of fact and conclusions of law. As discussed above, we will not find error based on facts that did not exist when the trial court issued the orders currently before us.

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<sup>13</sup> Nothing in this opinion prevents Besola from presenting this argument in a new motion to unseal these records.



CONCLUSION

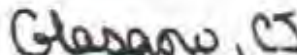
Besola has not demonstrated that the trial court abused its discretion or applied an incorrect legal rule when it denied her August 20, 2021 motion to unseal the FormSwift records or when it denied her motion for reconsideration. Accordingly, we affirm.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.

  
Cruiser, J.

We concur:

  
J, J.

  
Glasgow, CJ

## APPENDIX E

ERIN L. LENNON  
SUPREME COURT CLERK

SARAH R. PENDLETON  
DEPUTY CLERK/  
CHIEF STAFF ATTORNEY

THE SUPREME COURT  
STATE OF WASHINGTON



TEMPLE OF JUSTICE  
P.O. BOX 40929  
OLYMPIA, WA 98504-0929

(360) 357-2077  
e-mail: [supreme@courts.wa.gov](mailto:supreme@courts.wa.gov)  
[www.courts.wa.gov](http://www.courts.wa.gov)

December 29, 2022

LETTER SENT BY E-MAIL

Stuart Charles Morgan  
Grady Heins  
Ledger Square Law, P.S.  
710 Market Street  
Tacoma, WA 98402-3712

Jose F. Vera  
Vera & Associates PLLC  
100 W. Harrison, South Tower, Suite 300  
Seattle, WA 98119-4218

Charles Tyler Shillito  
Andrea Heidi Lauritzen  
Smith Alling PS  
1501 Dock Street  
Tacoma, WA 98402-3209

KARE Kitsap Animal Rescue & Education  
Dianne Canafax, Registered Agent  
122774 NE Seaside Way  
Seabeck, WA 98380

Eric Pula (sent by U.S. mail)  
435 South Fawcett, Apartment 104  
Tacoma, WA 98402

UC Davis Veterinary Catastrophic Need Fund  
Thu Nguyen, Counsel  
1111 Franklin Street, 8th Floor  
Oakland, CA 94607

Re: Supreme Court No. 101531-3 - In the Matter of the Estate of Mark Lester Besola, Amelia Besola v. Eric Pula, et al.  
Court of Appeals No. 56205-7-II

Counsel and Parties:

On December 29, 2022, the Court of Appeals issued an order on the motion for reconsideration. The \$200 filing fee (check #69699) was also received. Accordingly, the Supreme Court will now proceed to considering the petition for review.

Any answer to the petition for review should be served and filed by **January 30, 2023**. The parties are directed to review the provisions set forth in RAP 13.4(d) regarding the filing of any answer to petition for review and any reply to answer.

The petition for review will be set for consideration without oral argument by a Department of the Court; see RAP 13.4(i). If the members of the Department do not

unanimously agree on the manner of the disposition, consideration of the petition will be continued for determination by the En Banc Court.

Usually there is approximately three to four months between receipt of the petition for review in this Court and consideration of the petition. This amount of time is built into the process to allow an answer to the petition and for the Court's normal screening process. At this time, it is not known on what date the matter will be determined by the Court. The parties will be advised when the Court makes a decision on the petition.

Any amicus curiae memorandum in support of or in opposition to a pending petition for review should be served and received by this Court and counsel of record for the parties and other amicus curiae by 60 days from the date the petition for review was filed; see RAP 13.4(h).

Sincerely,



Sarah R. Pendleton  
Supreme Court Deputy Clerk

SRP:bw



## APPENDIX F

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**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF PIERCE**

In the matter of the Estate of  
  
MARK LESTER BESOLA,  
  
Deceased.  
\_\_\_\_\_  
AMELIA BESOLA, individually,  
Petitioner,  
  
v.  
  
ERIC PULA, individually and as  
Personal Representative of the Estate  
of Mark L. Besola; et al.,  
Respondents.  
\_\_\_\_\_  
AMELIA BESOLA,  
Petitioner,  
  
v.  
  
BRANDON GUNWALL, et al.,  
Respondents.

No. 19-4-01902-9  
  
CONSOLIDATED WITH  
No. 19-4-01945-2  
  
FINDINGS OF FACT AND  
CONCLUSIONS OF LAW

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1) **TRIAL**

Date: Petitioner Amelia Besola's will contest claim was adjudicated at a bench trial on February 22, 2021 – March 2, 2021, and November 1 - 2, 2021.

1        Appearances: Petitioner Amelia Besola was represented by her attorneys  
2 C. Tyler Shillito, Andrea H. Brewer, Stuart Morgan, and Jose Vera. Respondent  
3 Michal B. Smith, as Personal Representative of the Estate of Mark Besola was  
4 represented by his attorneys Kathleen Pierce and Daniel Walk during the  
5 February through March portion of the trial, and Neil Dial and Samuel Dart  
6 during the November portion of the trial. Respondent Eric Pula was  
7 represented by his attorney, Kevin Steinecker, Respondent Kelly McGraw was  
8 represented by her attorney, Elizabeth Thompson. Respondent Julia Besola-  
9 Robinson was represented by her attorney Quentin Wildsmith. Respondents  
10 UC Davis Veterinary Catastrophic Need Fund and KARE Kitsap Animal Rescue  
11 & Education were represented by their attorney, Karen Bertram, although they  
12 did not participate in the November portion of the trial.

13        Presiding Judge: The Honorable Bryan Chushicoff.

14        The Court has reviewed all the exhibits admitted at trial, heard the  
15 arguments of counsel, and heard the testimony of the following witness on  
16 behalf of the parties:

- 17
- 18        1.        Brandon Gunwall
- 19        2.        Robyn Peterson
- 20        3.        James Garrett
- 21        4.        Eric Pula
- 22        5.        Kelly McGraw
- 23        6.        Brett Bishop





1           5.     In September 2013, Mark Besola employed attorney Richard  
2 Perednia to draft a will. That Will is not the subject of these proceedings.

3           6.     At the time of his death, Mark Besola's estate was worth  
4 approximately \$5,000,000 and Mark Besola was aware of the extent of his  
5 wealth.

6           7.     Mark Besola had significant health problems. By 2018 he often  
7 depended on a wheelchair for mobility.

8           8.     For some time prior to his death, Mark Besola surrounded himself  
9 with people who moved into his home located on Lake Tapps in Pierce County  
10 and who relied on Mark Besola for their housing and other financial needs.

11          9.     Kelly McGraw lived in one of the two mother-in-law units at Mark  
12 Besola's Lake Tapps home in 2018. She had been living there since 2015. She  
13 regularly paid rent to Mark Besola.

14          10.    Brandon Gunwall, James Garrett (also a renter at the house) and  
15 Eric Pula moved into Mark Besola's Lake Tapps house during 2018.

16          11.    Eric Pula agreed to be a caregiver to Mark Besola in exchange for  
17 room and board in Mark Besola's Lake Tapps house.

18          12.    Brandon Gunwall agreed to do landscaping, clean cars and other  
19 chores at the Lake Tapps house for Mark Besola and his dogs, in exchange for  
20 room and board in Mark Besola's Lake Tapps home.

21          13.    People living at the home would have had access to Mark Besola's  
22 electronic devices and financial information throughout 2018 and early 2019.

1           14.     In the last year of his life, Mark Besola became increasingly  
2 isolated from his family and became increasingly hostile toward his sisters and  
3 they toward him. In late 2018, Mark Besola instituted legal proceedings against  
4 his sister.

5           15.     In August 2018, Amelia Besola obtained a temporary restraining  
6 order to protect herself and her child from Mark Besola.

7           16.     Julia Besola-Robinson blocked Mark Besola from contacting her  
8 electronically.

9           17.     On December 1, 2018, two men entered Mark's Lake Tapps home  
10 and battered Mark Besola and other residents with a baseball bat, Eric Pula  
11 shot and killed one of the intruders and wounded the other.

12           18.     Mark Besola experienced a medical emergency. Mr. Gunwall  
13 transported Mr. Besola to the Auburn Medical Center where he was admitted  
14 on December 30, 2018. He remained in the hospital until his death on January 1,  
15 2019. Despite his history of medical conditions, Mark Besola's death was not  
16 expected.

17           19.     Eric Pula, Eric Pula's girlfriend Lisa Herrera, Brandon Gunwall,  
18 James Garrett and Kelly McGraw continued to occupy Mark Besola's Lake  
19 Tapps home for some time after Mark Besola's death.

20           20.     Among other things, Mark Besola owned a large safe that was in  
21 his Lake Tapps home at the time of his death. Amelia Besola had the  
22 combination for the safe's lock.

1           21. Amelia Besola was appointed personal representative of Mark  
2 Besola's estate on January 3, 2019.

3           22. Amelia Besola, as personal representative, sought access to Mark  
4 Besola's Lake Tapps house in January and February 2019 to gather the Estate's  
5 financial information and records.

6           23. When Amelia Besola, as Personal Representative of Mark Besola's  
7 estate, attempted to access the Lake Tapps home in January and February of  
8 2019, neither James Garrett nor any other resident indicated that Mark Besola  
9 had a will or that James Garrett had ever witnessed Mark Besola sign a will  
10 disinheriting Amelia Besola.

11           24. On February 16, 2019, Amelia Besola accessed, by a court order,  
12 Mark Besola's Lake Tapps House for a second time. Mark Besola's safe was  
13 present during this visit, but someone had already cut an opening in the back  
14 of the safe and removed its contents. The opened safe did not contain a will.

15           25. Amelia Besola, as personal representative of Mark Besola's estate,  
16 served eviction notices to the occupants of Mark Besola's Lake Tapps house on  
17 or about April 4, 2019.

18           26. The Court issued an Order to Show Cause Why Writ of  
19 Restitution Should not be Issued on April 9, 2019, ordering Kelly McGraw, Eric  
20 Pula, and Brandon Gunwall to appear and show cause on April 24, 2019 why the  
21 court should not deliver possession of Mark Besola's Lake Tapps House to the  
22 personal representative of his estate (the "Order to Show Cause").

1           27. Eric Pula and Kelly McGraw were present in court when the April  
2           9, 2019 Order to Show Cause was issued.

3           28. The Order to Show Cause was mailed to Brandon Gunwall, Kelly  
4           McGraw, Eric Pula, Sarah Martin, Megan Doe, and all other occupants at the  
5           Lake Tapps address, and to Kelly McGraw's North Mullen Street address on  
6           April 10, 2019.

7           29. [www.formswift.com](http://www.formswift.com) is a legal forms website on which customers  
8           can purchase customized estate planning materials, including Last Wills and  
9           Testaments ("FormSwift").

10          30. FormSwift's templates are personalized based on the user's  
11          response to questions. FormSwift provides a PDF and Word version of the  
12          document created based on the user's answers that may be exported to and  
13          edited by the user.

14          31. FormSwift stores the initial form created based on the user's  
15          response to the questions. FormSwift's system identifies and tracks such  
16          created legal forms by the date and time such forms are created, by the type of  
17          form created, and the user account id and email that created the form.

18          32. An account was created on the website [www.formswift.com](http://www.formswift.com)  
19          through the use of Robyn Peterson's email, [supabelle7771@gmail.com](mailto:supabelle7771@gmail.com) on April  
20          19, 2019 at 07:57 Greenwich Mean Time ("GMT") (the "FormSwift Account").

21          33. Robyn Peterson's Visa card was used to pay for the FormSwift  
22          Account on April 19, 2019 at 10:10 GMT which required both Ms. Peterson's

1 credit card number and also the CVV number on the back of her card. Creation  
2 of the account resulted in a charge of \$1.95 to Robyn Peterson's Visa card.

3 34. A document titled Last Will and Testament of Mark Lester Besola  
4 was created on the FormSwift Account on April 19, 2019 at 10:23 GMT, (the  
5 "April 2019 Will").

6 35. A document titled Living Will of Mark Lester Besola was created  
7 on the FormSwift Account on April 24, 2019 at 13:57 GMT. This document list  
8 both Eric Pula's name and his cell number active in late April 2019, including  
9 on April 24, 2019.

10 36. The eviction hearing was held on the afternoon of April 24, 2019  
11 to evict Eric Pula, Brandon Gunwall, and Kelly McGraw from Mark Besola's  
12 Lake Tapps home.

13 37. After speaking with James Garrett on the telephone, Eric Pula met  
14 Robyn Peterson at the Pierce County Superior Court to file a will dated  
15 December 6, 2018 with the Superior Court Clerk's office on May 8, 2019 (the  
16 "December 2018 Will").

17 38. Eric Pula represented to the court at a May 14, 2019 hearing  
18 regarding his continued residency that he was still residing at the Lake Tapps  
19 house. If true, he could not have found the December 2018 Will on his "last day  
20 at the lake Tapps house" because he had already filed it on May 8, 2019.

21 39. On September 16, 2019 Brandon Gunwall, as the beneficiary of  
22 Mark Besola's dogs, petitioned for the December 2018 Will to be admitted to  
23 probate.



1           40. On September 26, 2019, the December 2018 Will was admitted to  
2 probate.

3           41. The signatures appearing on the December 2018 Will purporting  
4 to be witnesses are those of James Garrett and Robyn Peterson.

5           42. The substantive contents of the December 2018 Will are strikingly  
6 similar to the April 2019 Will from the FormSwift Account including the name  
7 "Mark Besola."

8           43. No innocent explanation has been offered for why Ms. Peterson  
9 would attempt to "recreate" Mark Besola's Will after his death. It is unlikely Ms.  
10 Peterson would have been able to recreate it in such detail given her testimony  
11 of being relatively unfamiliar with Mark Besola or his private affairs and of  
12 having cursorily looked at the Will. Nor has an explanation been provided for  
13 who, why or how someone in April 2019 would have been able or motivated to  
14 impersonate Ms. Peterson's email and credit card accounts to discredit the  
15 December 2018 Will.

16           44. The December 2018 Will has two different sets of font types and  
17 has a variety of formatting inconsistencies: Different pages of the December  
18 2018 Will were printed using two different printers.

19           45. The April 2019 Will had the same spelling error of a dog's name  
20 which belonged to Mark Besola, misspelling the name as Angle instead of  
21 Angel. This misspelling was carried over to the December 2018 Will.



1           46. The April 2019 Will listed Lisa Herrera as a witness, however, her  
2 name was removed and replaced with Robyn Peterson on the December 2018  
3 Will.

4           47. Lisa Herrera was the live-in girlfriend of Eric Pula and, in April  
5 2019, was 8 months pregnant with his child.

6           48. The April 2019 Will appears to be a draft of the December 2018  
7 Will.

8           49. Eric Pula claims to have found the December 2018 Will in Mark  
9 Besola's safe on the last day he was at Mark Besola's Lake Tapps home before he  
10 was evicted (between April 24, 2019 and May 8, 2019), then waited several days  
11 before filing the December 2018 Will.

12           50. Eric Pula referenced the December 2018 Will at the eviction  
13 hearing on May 14, 2019 to stop the eviction and retain possession of the Lake  
14 Tapps house, claiming he was still residing at the Lake Tapp's home.

15           51. At least one pen stroke of the signature on the Beneficiary  
16 Schedule is inconsistent with Mark Besola's genuine signature. This is either  
17 evidence of someone other than Mark Besola having applied the signature or  
18 possibly the product of a known phenomenon – an optical illusion – observed  
19 (in 2 dimensional photos of three-dimensional) objects (here the object is the ink  
20 applied to the paper) in which case a mistake is made in determining which of  
21 crossing lines of aqueous ink has crossed over/under the other line.

22           52. A "ghost" L appears on the December 2018 Will. This is evidence  
23 of a tracing of the alleged signature of Mark Besola.

1           53.     The alleged signature of Mark Besola on the December 2018 Will  
2 is better than other of his contemporary exemplar known signatures. That is,  
3 less degeneration or tremor related to health or age infirmities is apparent in  
4 the pen strokes of the alleged signature. This is an indicator of a simulated  
5 signature.

6           54.     The alleged signature of Mark Besola on the December 2018 Will  
7 is simulated and was not made by Mark Besola.

8           55.     The December 2018 Will could not have been signed by Mark  
9 Besola because it was created more than four months after Mark Besola died  
10 and backdated.

11          56.     The December 2018 Will and its Beneficiary Schedule is not a valid  
12 (testamentary document).

13          57.     Robyn Peterson (possibly with the aid of others) created the April  
14 2019 Will and the December 2018 Will.

15          58.     Eric Pula, James Garrett, and Robyn Peterson who created, signed,  
16 or filed the December 2018 Will knew it was a false, simulated document and  
17 created, signed, or filed the December 2018 Will with an intention to deceive.

18          59.     The testimony of Eric Pula, James Garrett, and Robyn Peterson  
19 was not credible, especially with respect to James Garrett and Robyn Peterson  
20 being execution witnesses to the December 2018 Will.

21          60.     Eric Pula's representation that he found the December 2018 Will in  
22 Mark Besola's safe is false. That fact was material to this case because it made  
23 credible the claim that the December 2018 Will had been executed during Mark

1 Besola's lifetime. Eric Pula knew that the fact was false and intended for the court  
2 to act on that fact.

3 61. The December 2018 Will did in fact deceive this Court as  
4 evidenced by the Order admitting it to probate.

5 62. The December 2018 Will harmed the true beneficiaries of the  
6 estate of Mark Besola as well as the innocent beneficiaries of the December  
7 2018 Will.

8 63. The original TEDRA Petition contesting the December 2018 Will  
9 sought to invalidate the will based upon (1) lack of mental capacity, (2) undue  
10 influence, (3) insane delusion, (4) Fraud, (5) Unauthorized practice of law, (6)  
11 that Mark Besola had not signed the December 2018 Will, (7) certain  
12 beneficiaries were disinherited for financial exploitation, and (8) the imposition  
13 of a constructive trust. Most of these claims were dismissed on summary  
14 judgment.

15 64. Any conclusion of law in this section shall be properly treated as  
16 such.

### 17 **3) CONCLUSIONS OF LAW**

18 1. The Court has jurisdiction over the parties and the subject matter  
19 of this action; venue is proper in Pierce County, Washington.

20 2. The burden of proof in this matter is by clear, cogent, and  
21 convincing evidence.

22 3. Petitioner has established by clear, cogent, and convincing  
23 evidence that the December 2018 Will is invalid because it is not signed by Mark

1 Besola or anyone else at his direction and the December 2018 Will is the product  
2 of fraudulent conduct.

3 4. Any Finding of Fact in this section shall be properly treated as such.

4 5. The Order Admitting the December 2018 Will to Probate should be  
5 vacated, the letters testamentary issued in favor of Michael Smith shall be  
6 revoked upon proper application to the court, and Michael Smith shall make an  
7 accounting and final report to the court of his affairs prior to his discharge.

8 6. The Pleadings should be/are amended to conform to the proof  
9 offered at trial.

10 DATED: November 16, 2021.

11  
12  
13  
14  
15  
  
16 Judge BRYAN CHUSHCORP

16 cc: Pierce County Clerk for filing  
17 under above cause number

18  
19 Elizabeth Thompson  
20 Neil Dial  
21 Samuel Dart  
22 Quentin Wildsmith  
23 Stuart C. Morgan  
24 Karen Betram  
25 C. Tyler Shillito  
26 Andrea H. Brewer  
27 Jose F. Vera  
28 Kevin T. Steinacker



29  
30

## APPENDIX G

0119



IN THE SUPERIOR COURT OF WASHINGTON, COUNTY OF PIERCE

IN RE ESTATE OF MARK LESTER BESOLA,

Case No. 19-4-01902-9

ORDER TO SEAL

THIS MATTER, having come before the above-entitled Court by stipulation/motion of the parties to seal the following documents and their attachments:

- 1) Declaration of Records Custodian – Formswift

and the Court having read the files and records herein and the Court finding that sealing is justified by identified compelling privacy or safety concerns that outweigh the public interest in access to the court record. Now, Therefore:

IT IS HEREBY ORDERED that the above referenced documents be sealed in the court file and not be opened, except upon Order of the above-entitled Court. In the event of an application for the opening or copying of a sealed document listed above, notice shall be given to the parties or their counsel of record and a hearing shall be noted before the assigned department

DATED this 13th day of August, 2021.

[Signature of Judge Bryan Chushcoff]  
JUDGE BRYAN CHUSHCOFF

Presented by:

[Signature of Tyler Shillito]  
C. TYLER SHILLITO, WSB #36774  
Attorney for Amelia Besola, Petitioner

0119 0001 19030002 08-13-21

## APPENDIX H





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

In the matter of the Estate of  
**MARK LESTER BESOLA,**  
Deceased.

NO. 19-4-01902-9  
CONSOLIDATED WITH:  
19-4-01945-2

**AMELIA BESOLA,**  
Petitioner,

ORDER AWARDING ATTORNEYS' FEES, ~~SANCTIONS~~, AND DIRECTING ENTRY OF FINAL JUDGMENT UNDER CR 54(j)

v.  
ERIC PULA, (individually and as Personal Representative of the Estate of Mark L. Besola; KELLY McGRAW, individually; JULIA BESOLA-ROBINSON, individually, UC DAVIS VETERINARY CATASTROPHIC NEED FUND; KARE KITSAP ANIMAL RESCUE AND EDUCATION; BRANDON GUNWALL, individually,

~~PROPOSED~~  
[Handwritten initials: GP, J, SM, and a circled 19]

Respondents.

**AMELIA BESOLA,**  
Petitioner,

v.  
BRANDON GUNWALL and JOHN DOES 1-20, Respondents; FIDELITY BROKERAGE SERVICES, an Interested Party,

Respondents.

ORDER ON GUNWALL MOTION FOR FEES, SANCTIONS, DISMISSAL, AND CR 54(b)

-1-



1020 "A" Street, Suite 600  
P.O. Box 1533  
Tacoma, Washington 98401  
(253) 627-3131  
Fax: (253) 272-4008



1 Besola's Responses, and Mr. Gunwall's Reply, and having heard argument of counsel and being  
2 fully advised in the premises, and having considered the records and files herein and being fully  
3 advised in the premises, makes the following

4 FINDINGS OF FACT:


5 1. Respondent Gunwall is a prevailing party in this case, having obtained a dismissal  
6 of all claims against him.

7 2. Based upon the facts and circumstances of this case, including the fact that I was  
8 dismissed on summary judgment, it is equitable to award attorneys' fees and costs to the  
9 prevailing party.

10 3. The attorneys' fees as set forth in the supplemental fee declaration of Daniel Walk  
11 dated December 7, 2020 are fair and reasonable both in terms of hours spent and in terms of the  
12 hourly rate.

13 4. Attorneys' fees incurred by Mr. Gunwall for Daniel Walk and Kathleen Pierce in  
14 the amount of \$ 154,130.00 were reasonable and necessary to defend the lawsuit.

15 5. Costs in the amount of \$ 856.34 were reasonable and necessarily  
16 incurred to defend this case.

17 7. ~~The conduct of Tyler Similino, Jose Vera, Des Koller, and Quinnen Wildsmith~~  
18 ~~violated CR 11 in that they deliberately and intentionally filed pleadings to pursue litigation~~  
19 ~~strategy for the express purpose of harassing the Respondent Gunwall and increasing the cost of~~  
20 ~~the litigation.~~ 

21 8. ~~Continuing the litigation by conducting massive discovery and filing repetitive~~  
22 ~~motions after November of 2019, when Penonier and her counsel admitted and acknowledged~~  
23 ~~that there was no evidence to support the claims against Mr. Gunwall and the burden of proving~~

*Handwritten notes:*  
CR  
11  
SAN



1 ~~such claims with clear, cogent and convincing evidence could not be men, constituted harassment~~  
2 ~~and was done for the purpose of increasing the cost of the litigation to Mr. Gunwall.~~

3 9. ~~The claims against Brandon Gunwall were not well grounded in fact and were,~~  
4 ~~therefore, frivolous.~~

5 10. There are multiple claims in this consolidated case against more than one party.

6 11. This Court's order Granting Summary Judgment dismissed all claims against  
7 Respondent, Brandon Gunwall, and represents an adjudication of all claims against him in this  
8 ~~consolidated action.~~ **CASE NUMBER 19-4-01902-9,**

9 12. The remaining claims of Amelia Rexala against all other remaining parties and  
10 their respective counterclaims against her are unaffected by this decision and will proceed to  
11 trial.

12 13. The claims against Brandon Gunwall in the consolidated litigation are segregable  
13 from the other issues in this case and an immediate appeal of the dismissal of all claims against  
14 Brandon Gunwall will not prevent the existing litigation from going forward.

15 14. The harm to Mr. Gunwall, in continuing to be denied access to the non-probate  
16 asset for which he was the named beneficiary, outweighs any benefit achieved by having the  
17 finality of the dismissal await the outcome of multiple claims against the remaining parties  
18 following trial.

19 15. There is no harm or prejudice to the remaining parties to the litigation from a  
20 determination that the dismissal of all claims against Mr. Gunwall is a final judgment.

21 16. No developments or outcome at trial will affect the dismissal of the claims against  
22 Gunwall or render an appeal of the Order Granting Summary Judgment in his favor, moot.

23 17. There is no just reason to delay entry of a final judgment dismissing all claims.

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1 against Brandon Gunwall as set forth in the Order Granting Summary Judgment on November 6,  
2 2020.

3 Based upon the above FINDINGS OF FACT, the Court makes the following  
4 CONCLUSIONS OF LAW:

5 1. Respondent Gunwall is entitled to have Judgment against Amelia Besola for fees  
6 and costs under RCW 11.96A.150 which vests the Court with discretion to award fees in a  
7 TEDRA action to any party and against any party based upon the equities of the case.

8 2. ~~Respondent Gunwall is entitled to have Judgment against Amelia Besola for fees~~  
9 ~~and costs under RCW 11.96A.150 because the claims against him were frivolous.~~ **BSW**

10 3. ~~Sanctions should be issued against the following attorneys for violating CR 11 in~~  
11 ~~the following amounts in favor of the respondent Gunwall:~~ **CGU**

12 ~~Tyler Shillito~~  
13 ~~and Smith Alling PC~~ \$     φ    

14 ~~Jack Vera and~~  
15 ~~Vera and Associates PLLC~~ \$     φ    

16 ~~Des Kollie~~  
17 ~~And Law Offices of Desmond Kollie~~ \$     φ    

18 ~~Quinton Wildsmith and~~  
19 ~~Luke Holzspfer Sperry~~  
20 ~~Attorneys PLLC~~ \$     φ    

21 The Court having made its Findings of Fact and Conclusions of Law, it is hereby

22 ORDERED ADJUDGED AND DECREED that Respondent, Brandon Gunwall, be and  
23 hereby is awarded judgment against the Petitioner Amelia Besola in the amount of

\$ 154,130.00 for attorneys' fees and \$ 856.34 for costs for a total Judgment in

the amount of \$ 154,986.<sup>34</sup> and it is further **TO BEAR INTEREST OF 12% PER ANNUM FROM DATE OF ENTRY.**

~~ORDERED ADJUDGED AND DECREED that Respondent, Brandon Gunwall, be and~~



**BSW**  
**CGU**  
**OTB**  
**OTB**

**SM**  
**OTB**  
**OTB**



1 hereby is awarded judgment against the Respondent Julia Escala Robinson in the amount of  
2 \$ \_\_\_\_\_ for attorneys' fees and \$ \_\_\_\_\_ for costs for a total judgment in  
3 the amount of \$ \_\_\_\_\_ and it is further ~~ORDERED ADJUDGED AND DECREED~~ *DDK* *gsm*

4 ~~ORDERED ADJUDGED AND DECREED~~ that Respondent, Brandon Gunwall, be and  
5 hereby is awarded judgment against the following attorney, for sanctions for violation of CR 11  
6 as follows: *DDK* *gsm*

- 7 ~~Jester Stillin~~ and ~~Smith Alling PC~~ \$ ~~Ø~~
- 8 ~~Jac Vera and~~  
9 ~~Vera and Associates PLLC~~ \$ ~~Ø~~
- 10 ~~Bro Kolke~~  
11 ~~And Law Offices of Desmond Kolke~~ \$ ~~Ø~~
- 12 ~~Quinn Wildsmith and~~  
13 ~~Lasher Holzapfel Sperry~~  
14 ~~& Ebberson PLLC~~ \$ ~~Ø~~


14 And it is further ORDERED ADJUDGED AND DECREED that there is no just reason for delay  
15 and, therefore, the Order Granting Summary Judgment on November 6, 2020 dismissing all  
16 claims against Brandon Gunwall be and hereby is expressly made a FINAL JUDGMENT in  
17 accordance with CR 54(h)

18 DATED this 4 day of December, 2020

**BRYAN E. CHUSHCOFF**


*Bryan E. Chushcoff*  
THE HONORABLE **BRYAN E. CHUSHCOFF**  
DEPUTY CLERK  
IN OPEN COURT  
DEC 04 2020  
PIERCE COUNTY, Clerk  
BY *[Signature]*  
DEPUTY

21 Presented by  
22 *[Signature]*  
23 Daniel Walk, WSBA No. 52017  
Morton McGoldrick, PLLC  
Attorneys for Respondent Gunwall

X   
C. TYLER SHILLITO, WSBA 36374  
ATTORNEY FOR PETITIONER

X   
JOSE F. VERA, WSBA 25534  
ATTORNEY FOR PETITIONER

X   
STUART C. MORGAN, WSBA 26368  
ATTORNEY FOR PETITIONER

X   
DESMOND KOLKE, WSBA 23563  
ATTORNEY FOR PETITIONER

\* MR. QUENTIN WILDSMITH, WSBA 25644 ALSO PRESENT  
VIA TELEPHONE. COUNSEL FOR RESPONDENT JULIA  
BESOLA-ROBINSON.

\* JEFFREY SWENSON ALSO PRESENT IN COURT

\* STEPHANIE BLOOMFIELD, WBBA 24251 AND ANDREA McNEELY  
WBBA 36156, COUNSEL FOR ERIC PULA AS PR ALSO  
PRESENT IN COURT.

\* ELIZABETH THOMPSON, WBBA 32222, COUNSEL FOR ERIC PULA  
INDIVIDUALLY AND KELLY McGRAW, ALSO PRESENT IN COURT.



## APPENDIX I

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

In the Matter of the Estate of

MARK LESTER BESOLA.

Deceased.

AMELIA BESOLA.

Petitioner.

v.

ERIC PULA, individually and as Personal  
Representative of the Estate of Mark L. Besola;  
KELLY McGRAW, individually; JULIA  
BESOLA-ROBINSON, individually; UC  
DAVIS VETERINARY CATASTROPHIC  
NEED FUND; KARE KITSAP ANIMAL  
RESUE AND EDUCATION; BRANDON  
GUNWALL.

Respondents.

AMELIA BESOLA.

Petitioner.

v.

BRANDON GUNWALL; JOHN DOES 1-20;  
and FIDELITY BROKERAGE SERVICES,  
LLC, an Interested Party.

Respondents.

NO. 19-4-01902-9

*Consolidated with No. 19-4-01945-2*

STIPULATION AND ORDER  
UNSEALING DOCUMENTS

[PROPOSED]

STIPULATION AND ORDER UNSEALING DOCUMENTS -

LEDGER SQUARE LAW, P.S.  
710 Market St  
Tacoma, WA 98402  
Phone: (253) 327-1900  
Facsimile: (253) 327-1700


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STIPULATION

COMES NOW the parties to this matter, by and through their respective counsel and hereby stipulate and agree that the 19 pages of documents filed under seal in this matter on August 13, 2021 be unsealed and subsequently filed with the Court.

LEDGER SQUARE LAW, P.S.

LAW OFFICES OF DESMOND KOLKE

By   
Stuart C. Morgan, WSBA #26368  
Grady R. Heins, WSBA # 54262  
Attorneys for Amelia Besola  
Discharged Administrator

By per telephonic approval  
Desmond D. Kolke, WSBA #23763  
Attorney for Amelia Besola

STEINACKER LAW PLLC

SMITH ALLING, P.S.

By electronically approved  
Kevin T. Steinacker, WSBA #35475  
Attorneys for Eric Pula

By electronically approved  
C. Tyler Shillito, WSBA #36774  
Andrea H. Brewer, WSBA #52724  
Attorneys for Amelia Besola, Petitioner

EISENHOWER CARLSON, PLLC

VERA & ASSOCIATES PLLC

By electronically approved  
Neil Armstrong Dial, WSBA #29599  
Samuel J. Dart, WSBA #47871  
Attorneys for Michael B. Smith, Personal Representative

By electronically approved  
Jose F. Vera, WSBA #25534  
Attorney for Amelia Besola

1 MORTON McGOLDRICK, PLLC

LASHER HOLZAPFEL

2  
3 By \_\_\_\_\_  
4 Daniel K. Walk, WSBA #52017  
Attorneys for Brandon Gunwall

By electronically approved  
Quentin Wildsmith, WSBA #25644  
Attorneys for Julia Besola-Robinson

5 LAW OFFICE OF ELIZABETH THOMPSON  
6 PLLC

KUTSCHER HEREFORD BERTRAM  
BURGKART BROWN & CASHMAN

7 By electronically approved  
8 Elizabeth Thompson, WSBA #32222  
9 Attorneys for Kelly McGraw

By electronically approved  
Karen R. Bertram, WSBA #22051  
Attorneys for UC David Veterinary  
Catastrophic Need Fund and KARE


10 **AGREED ORDER**

11 Pursuant to the stipulation of the above-named parties and for good cause appearing  
12 herein, the Court hereby orders the 19 pages of documents previously filed under seal on August  
13 13, 2021 to be unsealed and filed with the Court.

14 DONE IN OPEN COURT this \_\_\_\_\_ day of August 2021.

15  
16 HON. JUDGE BRYAN CHUSHCOFF

17 Presented by:  
18 LEDGER SQUARE LAW, P.S.

19 By   
20 Stuart C. Morgan, WSBA #26368  
21 Crady R. Fleins, WSBA #54262  
22 Attorneys for Amelia Besola  
23 Discharged Administrator  
24  
25  
26

STIPULATION AND ORDER UNSEALING DOCUMENTS-

LEDGER SQUARE LAW, P.S.  
710 Market St.  
Tacoma, WA 98402  
Phone: (253) 327-1900  
Facsimile: (253) 327-1700



1 Approved for Entry, Notice of Presentation Waived

2 SMITH ALLING, P.S.

MORTON McGOODRICK, PLLC

3  
4 By electronically approved  
5 C. Tyler Shilling, WSBA #36774  
6 Andrea H. Brewer, WSBA #52724  
Attorneys for Amelia Besola, Petitioner

By \_\_\_\_\_  
Daniel K. Walk, WSBA #52017  
Attorneys for Brandon Gunwall

7 VERA & ASSOCIATES PLLC

LAW OFFICE OF ELIZABETH THOMPSON  
PLLC

8  
9 By electronically approved  
10 Jose F. Vera, WSBA #25534  
Attorney for Amelia Besola

By electronically approved  
Elizabeth Thompson, WSBA #32222  
Attorneys for Kelly McGraw

11 LAW OFFICES OF DESMOND KOLKE

LASHER HOLZAPFEL

12  
13 By electronically approved  
14 Desmond D. Kolke, WSBA #23563  
Attorney for Amelia Besola

By electronically approved  
Quentin Wildsmith, WSBA #25644  
Attorneys for Julia Besola-Robinson

15 STEINACKER LAW PLLC

KUTSCHER HEREFORD BERTRAM  
BURKART BROWN & CASHMAN

16  
17 By electronically approved  
18 Kevin T. Steinacker, WSBA #35475  
Attorneys for Eric Pula

By electronically approved  
Karen R. Bertram, WSBA #22051  
Attorneys for UC David Veterinary  
Catastrophic Need Fund and KARE

19 EISENHOWER CARLSON, PLLC

20  
21 By electronically approved  
22 Neil Armstrong Dial, WSBA #29599  
23 Samuel J. Dart, WSBA #47871  
Attorneys for Michael B. Smith, Personal  
24 Representative

25  
26  
STIPULATION AND ORDER UNSEALING DOCUMENTS -

LEDGER SQUARE LAW, P.S.  
710 Market St.  
Tacoma, WA 98402  
Phone: (253) 327-1900  
Facsimile: (253) 327-1700

**SMITH ALLING, P.S.**

**January 30, 2023 - 2:16 PM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division II  
**Appellate Court Case Number:** 56205-7  
**Appellate Court Case Title:** In Re Estate of Mark Lester Besola, Amelia Besola, Petitioner  
**Superior Court Case Number:** 19-4-01902-9

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- stu@ledgersquarelaw.com
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