

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION III

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Division III  
State of Washington

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In re the Guardianship of:

JAMES D. CUDMORE, Incapacitated Person,

JOHN C. BOLLIGER, Appellant,

and

TIM LAMBERSON, Respondent.

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**APPELLANT'S REPLY BRIEF**

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### *Introduction*

By way of analogy, envision a pillow filled with feathers. Each of those feathers represents a *truth* regarding Mr. Cudmore's guardianship case. When all of the feathers remain bundled up together in the pillow, this Court can properly understand how best to decide the case on appeal. However, if a party in a case takes the pillow to the top of a tall mountain on a very windy day, and slices open the pillow with a knife, and shakes the pillow so that all the truth feathers become dispersed by the winds – long and far over the countryside – then the Court no longer has all the truth feathers bundled up for consideration together. That is what Mr. Meehan has pulled off to date in this case below. When that happens, it takes a lot of time and effort for the other party to search around, find all of the truth feathers, put them back inside the pillow, and sew up the slice – so that this Court will have all of the truth feathers all bundled up again for consideration together by the Court. That is what Mr. Bolliger had to undertake with his appellant's brief ("AB"). The truth feathers now are all before the Court.

In his AB, Mr. Bolliger demonstrated that Mr. Meehan, Mr. May, and Ms. Woodard teamed up – and then tacitly colluded and cooperated with each other throughout Mr. Meehan's guardianship case against Mr. Cudmore – (1) for their initial purpose to get rid of Mr. Cudmore's chosen and hired attorney to defend him against the case, Mr. Bolliger, (2) in order to further their paramount purpose solely to unlawfully [AB, fn. 13] nullify Mr. Cudmore, with his **testamentary capacity**, disinheriting Mr. Meehan's client, Mr. Lamberson, from Mr. Cudmore's ≈ \$450,000.00 Estate. In order to achieve the foregoing, Mr. Meehan, Mr. May, and Ms. Woodard executed their

**predatory litigation tactics** against Mr. Cudmore and Mr. Bolliger, each recounted in [AB, p. 22, starting with “*Fourth, . . .*,” through p. 26 – and their fns. 15-18] and each of which constitutes **conduct unbecoming court professionals in guardianship cases** – for which all three team members here should be held accountable. As for Mr. Meehan, he **grossly exceeded his extremely limited** role as a guardianship petitioner’s attorney – Guardianship of Matthews, 156 Wn.App. 201, 232 P.3d 1140 (2010) – in orchestrating the absolute adjudicative disaster which has mushroomed into this appeal and the two, linked appeals. Although this is not the forum for it, Mr. Meehan should face **disbarment** for so **deceptively misleading and confusing the trial court** into allowing Mr. Meehan and Mr. Lamberson to set up their theft of Mr. Cudmore’s nearly half-a-million-dollars testamentary prerogative – under the **guise of their sham guardianship case** against Mr. Cudmore. Mr. Bolliger respectfully requests that the Honorable Court hold in particular that, at the **7/19/13** initial guardianship hearing, by orally delivering his **material factual lie** [AB, ¶ 15 and its fn. 4] and his **frivolous legal argument** [AB, ¶ 6 and ¶ 16 and its fn. 5] to Judge Mendoza – both without **any** supporting briefing or documentation whatsoever – Mr. Meehan **intentionally and unconscionably** steered this case off its ethical course.

For the 1 month and 25 days following the **7/19/13** initial guardianship hearing, **mentally competent** Mr. Cudmore **continually solicited** Mr. Bolliger to get his case back on its righteous factual and legal track [AB, § 2]. Mr. Bolliger should not have been punished under CR 11 for seriously trying to so assist Mr. Cudmore.

**A. Mr. Meehan's FF No. 1**

In his AB, Mr. Bolliger demonstrated why the Court should strike from Mr. Meehan's FF No. 1 the misleading phrase "at that point an allegedly incapacitated person": because, as a legal matter, pursuant to RCW 11.88.045(1)(a) (with emphases added),

[AIPs] shall have the right to be represented by willing counsel of **their choosing at any stage in guardianship proceedings.** . . . .

In his respondent's brief ("RB"), Mr. Meehan refused (waived) addressing that dispositive argument. Instead – citing Mitchell v. Wash. State Inst. Of Pub. Policy, 153 Wn.App. 803, 815, 225 P.3d 280 (2009) – Mr. Meehan disingenuously argued that "[t]he Court does not strike findings due to assertions that a finding which is supported by substantial evidence is 'misleading.'" However, Mitchell did not broadly hold that a Court may not strike misleading language from a finding. Rather, Mitchell held only that **Mr. Mitchell's assertion** – that finding no. 9 **in that case** was misleading – **was factually incorrect**. Because the phrase here under discussion conjures wrongdoing on Mr. Bolliger's part by contradicting the law set forth in RCW 11.88.045(1)(a), respectfully, the phrase should be stricken from FF No. 1.

**B. Mr. Meehan's FF No. 2**

In his AB, Mr. Bolliger demonstrated why the Court should strike from Mr. Meehan's FF No. 2 the erroneous conclusion of law "because Mr. Bolliger was going to have to be a witness in the case": because (as discussed in [CP 28-31 – and ¶ 16 and its fn. 5 of the AB]), it was clear error for Judge Mendoza to deny Mr. Cudmore's own choice for his attorney on grounds that Mr. Bolliger "might have to be a testifying witness" in the case.

Mr. Bolliger was not a “necessary witness” under RPC 3.7, he never was going to be called by anybody as a witness, and, in fact, he never was called by anybody as a witness. Therefore, Mr. Meehan’s RPC 3.7 assertion to Judge Mendoza was a **frivolous legal argument** – and Judge Mendoza should have so regarded it. In his RB (and before the trial court), Mr. Meehan refused (waived) addressing that dispositive argument. Instead, in his RB, Mr. Meehan argued that Judge Mendoza disagreed with Mr. Bolliger. That merely is circular reasoning and, if followed, would mean there is no need for appellate courts. Mr. Meehan further disingenuously argued that – by assisting Mr. Cudmore with his re-seeking of permission from Judge Mendoza for Mr. Cudmore to be defended against the guardianship case by the attorney of his own choice and hire (as was his entitlement under RCW 11.88.045(1)(a)) – Mr. Bolliger was “ignoring” the court’s **7/19/13** initial order forcing Mr. Cudmore to be defended by Ms. Woodard. With Mr. Cudmore’s motions and declarations, Mr. Cudmore and Mr. Bolliger weren’t ignoring that order; they were properly **addressing** that very order pursuant to the Civil Rules. Remember, Judge Mendoza’s oral ruling appointing Ms. Woodard at the very end of that same **7/19/13** initial guardianship hearing, was as follows (with emphases added):

At some point later perhaps **Mr. Bolliger you might be involved . . . as the attorney with motions and briefing** but **at this point** I’m going to appoint Rachel Woodard. [7/19/13 RP, p. 20]

In his RB, Mr. Meehan refused (waived) addressing that crucial fact, too. Because the phrase here under discussion states an erroneous conclusion of law, respectfully, the phrase should be stricken from FF No. 2.

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### C. Mr. Meehan's FF Nos. 12, 13, 14, And 15

In his AB, Mr. Bolliger demonstrated why the Court should strike from Mr. Meehan's FF Nos. 12, 13, 14, and 15 the misleading statement "the Court quashed the subpoenas issued by Mr. Bolliger as invalid." CR 11 fees against Mr. Bolliger were unjustified on this issue because (1) Mr. Meehan failed to follow the procedure outlined in Biggs v. Vail, 124 Wn.2d 193, 876 P.2d 448 (1994) for mitigating his perceived need for CR 11 sanctions, (2) instead, Mr. Meehan went straight to incurring the unnecessary expense of filing his motion to quash, and, (3) then, after quickly receiving a letter from Mr. Bolliger that he would sign an order to quash, Mr. Meehan ignored that approach and instead undertook the additional unnecessary expense of going to a quashing hearing. Then, Mr. Meehan didn't file his CR 11 motion until **12/13/13** [CP 679-720] – i.e., **a full 3 months after** Mr. Bolliger's last involvement in this case (on **9/13/13**). Thus, Mr. Meehan's, Mr. May's, and Ms. Woodard's claimed fees relating to this issue were not "reasonably expended." Biggs, 124 Wn.2d at 201. In his RB, Mr. Meehan refused (waived) addressing those dispositive arguments. Instead, Mr. Meehan falsely alleged that Mr. Bolliger didn't present those arguments below. Yet, he did [CP 328-34]. Mr. Meehan also wrongly argued that Mr. Bolliger could not have been an attorney in the case. Again, however, Judge Mendoza's oral ruling appointing Ms. Woodard at the very end of the **7/19/13** initial guardianship hearing, was as follows (with emphases added):

At some point later perhaps **Mr. Bolliger you might be involved . . . as the attorney with motions and briefing** but **at this point** I'm going to appoint Rachel Woodard. [7/19/13 RP, p. 20]

In his RB, Mr. Meehan refused (waived) addressing that crucial fact, too.<sup>1</sup> It is incompatible with Judge Mendoza's allowance – that Mr. Bolliger still could be involved “as the attorney with motions and briefing” – for Mr. Meehan now to assert that Mr. Bolliger could not have been an attorney in the case. Because the phrase here under discussion conjures wrongdoing on Mr. Bolliger's part which is not supported by the record, respectfully, the phrase should be stricken from FF Nos. 12, 13, 14, And 15.

**D. Mr. Meehan's FF No. 5 And CL No. 5**

In his AB, Mr. Bolliger demonstrated why the Court should strike FF No. 5 and CL No. 5 in their entirety: because – whereas the FF and CL ascribe wrongdoing on Mr. Bolliger's part for not providing a copy of Mr. Cudmore's new Will to Mr. Meehan's team member, Ms. Woodard, “on August 15, 2013” – Mr. Cudmore communicated he did not want anything produced to Ms. Woodard with his **8/18/13** handwritten instruction (with emphasis added):

**I, James Cudmore, want John Bolliger for my attorney and not Rachel Woodard. [CP 52]**

After Mr. Bolliger explained in his **8/20/13** email to Ms. Woodard that reason for his declining to produce a copy of Mr. Cudmore's new Will to her [CP 300], Ms. Woodard never filed a motion to compel, or in any other way ever complained to Mr. Bolliger, regarding his declination to produce Mr.

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<sup>1</sup> Respectfully, the 7/12/16 *Unpublished Opinion* in the linked 32043-III appeal asserts that, in the 7/19/13 order appointing Ms. Woodard as Mr. Cudmore's attorney, Judge Mendoza “add[ed] a handwritten notation to his order that ‘John Bolliger's motion for appointment as Mr. Cudmore's counsel is denied.’” Judge Mendoza didn't handwrite that notation – Mr. Bolliger did. He did that because he knew that Mr. Cudmore was going to want to seek reconsideration/revision/appeal (as necessary) of Judge Mendoza's erroneous disregard of RCW 11.88.045(1)(a) – which entitles AIP Mr. Cudmore to be defended against the guardianship case by his own chosen and hired attorney. In handwriting that notation, Mr. Bolliger merely wanted a clearly challengeable order.

Cudmore's new Will to her. Two months later, on **10/15/13**, Mr. Bolliger received written notice from Mr. Cudmore that he now wanted Mr. Bolliger to release a copy of his new Will to Ms. Woodard, after all. So, Mr. Bolliger appropriately provided it to Ms. Woodard **the very next day**. Thus, Mr. Bolliger's temporarily declining to produce Mr. Cudmore's new Will to **Ms. Woodard** was in accordance with Mr. Cudmore's instructions and the law. See RPC 1.6(a):

A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent [or inapplicable].

This entire issue was driven by Mr. Meehan's desperate desire to get a copy of Mr. Cudmore's new Will. In that regard, in his AB, Mr. Bolliger also cited the Court's decision in Guardianship of York, 44 Wn.App. 547, 552, 723 P.2d 448 (Div. 3 1986), which holds as follows with emphases added):

. . . . First, **a will has no legal significance before the testator's death**, nor is it an asset of the ward's estate. Thus, **prior to the initiation of probate proceedings, a court has no jurisdiction to compel surrender of a will at the guardian's request**. . . .

In his RB, Mr. Meehan refused (waived) addressing those dispositive arguments. Instead, Mr. Meehan disingenuously argued that Mr. Bolliger willfully violated the **9/5/13** court order to produce Mr. Cudmore's file to Ms. Woodard. Mr. Meehan knows that is not accurate. What **is** accurate is that, on **9/9/13**, Mr. Bolliger filed Mr. Cudmore's short *Motion for Reconsideration* of that order [CP 101-08] – in which he properly raised the many **meritorious** reasons why the order was erroneous and therefore should

be reconsidered.<sup>2</sup> Yet, by the date of the **10/25/13** hearing on the *Motion for Reconsideration*, Mr. Bolliger already had provided a copy of Mr. Cudmore's Will to Ms. Woodard (9 days earlier) in response to Mr. Cudmore's **10/15/13** request that he do so mentioned above – so, the Will issue already was moot. As Mr. Bolliger declared [CP 317]:

41. The very next day – on **[10/26/13]** – Bolliger wrote an email addressed to both GAL Mr. May and attorney Ms. Woodard, documenting their assertions to him (the day before) that they do not need any further documentation from Bolliger's files in response to the **[10/25/13]** order obtained by Mr. Meehan. A copy of Bolliger's **[10/26/13]** email is attached hereto as [CP 354]. A copy of Mr. May's **[10/27/13]** email response

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<sup>2</sup> The following three paragraphs (6-8, and their fn. 1) from Mr. Cudmore's *Motion for Reconsideration* discuss just one example (with original emphases and emphasis added):

6. The aforementioned motion to compel was brought by Mr. Meehan, who officially represents only the guardianship petitioner, Mr. Lamberson. With the motion, Mr. Meehan was seeking Mr. Bolliger's documents responsive to Mr. Meehan's *SDT* to be produced to **himself** (i.e., to Mr. Meehan and his client, Mr. Lamberson). **Mr. Meehan's motion did not seek to have Mr. Bolliger's documents produced to attorney Ms. Woodard or to GAL Mr. May. Indeed, neither Ms. Woodard nor Mr. May has ever brought a motion before the court seeking production of Mr. Bolliger's documents from his Mr. Cudmore files.**

7. **On August 30, 2013**, at the culmination of the hearing on the matter, the trial court – by and through the Honorable Robert G. Swisher – orally ruled that Mr. Bolliger must provide a copy of Mr. Cudmore's Will, etc. to **attorney Ms. Woodard and GAL Mr. May** before the next scheduled hearing on September 6<sup>th</sup>.<sup>1</sup> Judge Swisher further orally ruled that **Ms. Woodard and Mr. May are not to share the produced documents with Mr. Meehan and Mr. Lamberson – the party who actually brought the motion.**

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Fn. 1 Because Mr. Meehan's motion to compel never contemplated seeking the relief the trial court ended up providing Mr. Meehan – that Mr. Bolliger's documents from his Ms. Cudmore files must be produced to **Ms. Woodard and Mr. May** – in opposing Mr. Meehan's motion, Mr. Bolliger (on Mr. Cudmore's behalf) never had any opportunity to be heard on the issue of compelling production of his Mr. Cudmore documents to **Ms. Woodard and Mr. May**. This unfolding of events obviously violates Mr. Cudmore's Constitutional procedural due process rights.

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8. **On September 5, 2013**, Mr. Bolliger received service of a written order, prepared by Mr. Meehan and signed by the trial court that same date. Mr. Meehan did not allow Mr. Bolliger to review the proposed order prior to presentment, Mr. Meehan did not note up the proposed order for presentment, Mr. Meehan procured the trial court's *ex parte* signature on the proposed order without notifying Mr. Bolliger he was going in *ex parte*, and the trial court signed the proposed order despite it not having been reviewed by Mr. Bolliger. If Mr. Bolliger had been allowed to be part of the judge-signing-the-order process, he would have objected to the court providing relief which never was moved for (as explained in ¶¶ 6-7 and fn. 1 above) – and he would have objected to the fact that the proposed order **does not prohibit disclosure of produced documents by either of Ms. Woodard or Mr. May to Mr. Meehan and Mr. Lamberson** [CP 597], [as Judge Swisher orally ruled at the **8/20/13** hearing]. Mr. Meehan wrongly made sure Mr. Bolliger never had an opportunity to raise those objections.

Many other examples are set forth in Mr. Cudmore's *Motion for Reconsideration*.

(providing Bolliger the requested confirmation) is attached hereto as [CP 356]. A copy of Ms. Woodard's [10/28/13] email response (providing Bolliger the requested confirmation) is attached hereto as [CP 358-59]. So, Mr. Meehan's vast litigation efforts, to require Bolliger to produce documents from his Mr. Cudmore files to Mr. May and to Ms. Woodard, wasn't necessary, after all. Mr. Meehan should have checked this all out with Mr. May and Ms. Woodard in the first place.

Thus, Mr. Bolliger never violated any court order. Moreover, Mr. Meehan's aforementioned efforts were (1) completely unnecessary, (2) unlawful under this Court's Guardianship of York, supra decision, and (3) as discussed in the AB, grossly exceeded the role of a guardianship petitioner's attorney under Guardianship of Matthews, supra: after filing the guardianship petition, the petitioner and his attorney should just step back – and certainly not orchestrate the case. For those reasons, respectfully, FF No. 5 and CL No. 5 should be stricken in their entireties.

**E. Mr. Meehan's FF Nos. 3, 4, 6, 8, And 10 And His CL No. 6**

In his AB, Mr. Bolliger demonstrated why the Court should strike from Mr. Meehan's FF Nos. 3, 4, 6, 8, and 10 and CL No. 6 the misleading statement to the effect that “[Mr. Cudmore's CR 54(b) motion for revision] requested the same relief recently considered and denied by the Court”: because Mr. Cudmore and Mr. Bolliger reasonably believed – on grounds that Judge Mendoza's order on reconsideration was silent on Mr. Cudmore's alternative request to certify for immediate appeal under CR 54(b) – that Mr. Cudmore's alternate request was not denied but, instead, inadvertently was not addressed by Judge Mendoza. In order to **clarify** the matter, Mr. Cudmore's renewed request under CR 54(b) therefore was proper. Moreover, the entire purpose of Mr. Cudmore's CR 54(b) motion for revision was to seek to remedy the case's **seminal issue** that Judge Mendoza essentially

wrote RCW 11.88.045(1)(a) out of existence by denying Mr. Cudmore his right to be defended against the guardianship case by the attorney of his own choice and hire. In his RB, Mr. Meehan refused (waived) addressing those dispositive arguments. Because Mr. Meehan's sole argument in his RB (that the FFs here at issue correctly state that Mr. Cudmore's underlying motion for reconsideration had been denied) doesn't reach the incorrect essential thrust of the FFs and CL here at issue – that Mr. Cudmore's renewed CR 54(b) request was improper – respectfully, the phrases here under discussion should be stricken from FF Nos. 3, 4, 6, 8, and 10 and CL No. 6.

**F. Mr. Meehan's FF No. 9**

In his AB, Mr. Bolliger demonstrated why the Court should strike from Mr. Meehan's FF No. 9 the final sentence “[t]he Court struck the hearing in question”: because it misrepresents that the hearing was stricken **by the court** because of some substantive wrongdoing on Mr. Bolliger's part. However, the hearing was stricken **by the Clerk** – and only because of a mere administrative reason: Mr. Bolliger inadvertently had noted the 9/13/13 hearing for the wrong docket date [AB, App., pp. 33-36]. In his RB, Mr. Meehan refused (waived) addressing that dispositive argument. Instead, Mr. Meehan unresponsively stated only that “Bolliger acknowledges . . . the hearing . . . was stricken.” As such, respectfully, the final sentence of FF No. 9 should be stricken.

**G. Mr. Meehan's CL Nos. 4, 6, 7, And 8**

In his AB, Mr. Bolliger demonstrated why the Court should strike from Mr. Meehan's CL Nos. 4, 6, 7, and 8 the factually and legally incorrect phrase “was not warranted by law or fact because [Mr. Bolliger] was no longer an

attorney for a party in the matter” or a variant thereof. In his RB, Mr. Meehan’s sole counter was to cite a case (with egregiously inapposite facts) for the proposition that Mr. Bolliger’s belief – that, after the **7/19/13** initial guardianship hearing, he was allowed to assist Mr. Cudmore with his re-seeking of permission from Judge Mendoza to be defended against the guardianship case by the attorney of his own choice and hire (as was his entitlement under RCW 11.88.045(1)(a)) – was “objectively unreasonable.” OK, let’s address that issue.

As only a partial recap, (1) on **7/2/13, mentally competent** Mr. Cudmore first met with Mr. Bolliger to discuss having him prepare new estate planning documents – and a new Will to disinherit Mr. Lamberson and his siblings, (2) that **same date**, Mr. Cudmore informed Mr. Lamberson he was going to disinherit him, (3) Mr. Lamberson and Mr. Meehan never filed a guardianship case before that news – rather, they filed their guardianship case **in response to that news** 10 days later, on **7/12/13**, (4) on **7/4/13**, Mr. Cudmore hired Mr. Bolliger, with a written fee agreement, to prepare his new estate planning documents and his new Will according to his instructions, (5) on **7/8/13**, Mr. Cudmore reviewed three new estate planning documents which Mr. Cudmore had instructed Mr. Bolliger to prepare for him – and signed the same, (6) Mr. Cudmore exercised impressive independent activities and he had his situation all squared away (living/care arrangements and power of attorney documents) – so, a guardianship against him was entirely unnecessary, (7) on **7/18/13**, Mr. Cudmore’s personal physician of 14 years, Dr. Vaughn, declared Mr. Cudmore to have **testamentary capacity**, (8) that **same day**, Mr. Cudmore hired Mr. Bolliger, with another written fee agreement, to defend him against

the guardianship case, and (9) that **same day**, Mr. Bolliger filed the required RCW 11.88.045(2) petition to so defend Mr. Cudmore. Meanwhile, Mr. Cudmore and Mr. Bolliger became aware that (10) on **7/12/13**, ignoring the LGAL rule for having Court Administration provide the next-in-rotation person to be the GAL for the case, Mr. Meehan hand picked Mr. May to be Mr. Cudmore's GAL – and secured that appointment with an ex parte order (without providing Mr. Cudmore or Mr. Bolliger any notice of his ex parte presentation) and, (11) on **7/18/13**, Mr. May, in turn, hand picked Ms. Woodard to be Mr. Cudmore's attorney in the case, by unlawfully filing an RCW 11.88.045(2) petition therefor. Moreover, Mr. Cudmore (12) had never met or communicated with Ms. Woodard and (13) wanted to assert his RCW 11.88.045(1)(a) entitlement to be defended against the case by the attorney of his own choice and hire – not by a hand-picked teammate (Ms. Woodard) of (a) his opposing party's (Mr. Lamberson's) attorney (**Mr. Meehan**) and (b) Mr. Meehan's hand-picked GAL (**Mr. May**). [App. hereto, p. 1] Thus, by the end of the day on **7/18/13** (i.e., the day before the **7/19/13** initial guardianship hearing), Mr. Cudmore and Mr. Bolliger were very concerned that (14) Mr. Meehan and Mr. Lamberson were prosecuting their sham guardianship case against Mr. Cudmore, solely to unlawfully try to nullify Mr. Cudmore disinherit Mr. Lamberson and his siblings from Mr. Cudmore's ≈ \$450,000.00 Estate<sup>3</sup> and, (15) in gangster fashion, Mr. Meehan was

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<sup>3</sup> As it turned out, that concern of Mr. Cudmore and Mr. Bolliger was **well founded**. In the **12/27/13** final guardianship order which Mr. Meehan prepared and presented for signature and entry, he unlawfully inserted the following language [CP 387-88]:

The Last Will and Testament of James D. Cudmore executed on July 26, 2013 . . . [is] hereby declared to be invalid. The Last Will and Testament of James D. Cudmore executed on January 30, 2008 is valid and is Mr. Cudmore's last will and testament.

[cont'd]

assembling a team to oversee and control Mr. Cudmore throughout their sham guardianship case. The next day, (16) Mr. Bolliger appeared at the 7/19/13 initial guardianship hearing on Mr. Cudmore's behalf, (17) to present argument that he wanted to be defended against the case by Mr. Bolliger, not by Ms. Woodard, who didn't even appear at the hearing. As Mr. Bolliger discussed in his AB, the foregoing facts – in particular, those enumerated (1), (4), (5), (8), (9), (12), (13), (16), and (17) – demonstrate that, until the end of the 7/19/13 initial guardianship hearing, Mr. Bolliger already was Mr. Cudmore's sole attorney of record for the case. Cheek v. ESC, 107 Wn.App. 79, 84, 25 P.3d 481 (Div. 3 2001) (defining "attorney of record").<sup>4</sup>

With that partial recap now recalled, the heart of the answer to Mr. Meehan's "objectively unreasonable" allegation is found in Judge Mendoza's oral ruling appointing Ms. Woodard at the very end of the 7/19/13 initial guardianship hearing, as follows (with emphases added):

At some point later perhaps **Mr. Bolliger you might be involved . . . as the attorney with motions and briefing** but **at this point** I'm going to appoint Rachel Woodard. [7/19/13 RP, p. 20]

This appeal contests the propriety of the trial court imposing CR 11 fees against Mr. Bolliger on grounds that, during the ensuing 1 month and 25 days, Mr. Bolliger assisted Mr. Cudmore with redressing his righteous

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As Mr. Bolliger discussed in his AB, it was unlawful for Mr. Meehan to insert his purported 2013-Will-invalidation language into the final guardianship order – because, prior to the death of a testator, a guardianship court **has no subject matter jurisdiction** to inquire into the validity of the testator's Will, in order to determine the testamentary capacity of the testator or whether the testator was subject to undue influence. Pond v. Faust, 90 Wn. 117, 155 P. 776 (1916). As Mr. Bolliger also explained in his AB, based upon that unlawful language in the 12/27/13 final guardianship order, Mr. Meehan and Mr. Lamberson presently are trying to probate Mr. Cudmore's 2008 Will, which Mr. Cudmore had revoked with the new Will he instructed Mr. Bolliger to prepare for him in 2013.

<sup>4</sup> Those particular facts – coupled with the RCW 11.88.045(1)(a) mandate – are the reason Mr. Bolliger argued in his AB that "**it should have been a mere ministerial act** for Judge Mendoza to appoint Mr. Cudmore's own chosen and hired attorney, Mr. Bolliger, to defend Mr. Cudmore against Mr. Meehan's guardianship case" going forward.

aggrievement about Judge Mendoza initially forcing him to be defended against the case by Mr. Meehan's and Mr. May's team member, Ms. Woodard – in clear contravention of RCW 11.88.045(1)(a). Mr. Meehan asserts it was “objectively unreasonable” for Mr. Bolliger to do that. In replying “no,” Mr. Bolliger first points out that Judge Mendoza's aforementioned words assert that Mr. Bolliger might continue to be involved in the case “as the attorney with motions and briefing.” Mr. Cudmore and Mr. Bolliger clearly understood Judge Mendoza to have meant that, going forward, they could re-seek permission from Judge Mendoza for Mr. Cudmore to be defended against the guardianship case by the attorney of his own choice and hire (as was his entitlement under RCW 11.88.045(1)(a)), and not by Ms. Woodard.<sup>5</sup> Mr. Bolliger also points out that Mr. Cudmore's and his understanding in that regard was bolstered by the fact that Judge Mendoza's aforementioned words further indicate that his appointment of Ms. Woodard was limited by his phrase “at this point.” In other words, Mr. Cudmore and Mr. Bolliger clearly understood Judge Mendoza to have meant that he later could be persuaded to change his initial appointment of Ms. Woodard. (See, again, fn. 1 above.) Moreover, during that 1 month and 25 days, **even Ms. Woodard never complained** that Mr. Cudmore and Mr. Bolliger were seeking to assert Mr. Cudmore's RCW 11.88.045(1)(a) right not to be represented by her. In her 8/21/13 email to Mr. Bolliger, she said, “I know that you will continue to fight to become [Mr. Cudmore's] counsel.” [CP 300]

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<sup>5</sup> For the 1 month and 25 days here at issue, that is all Mr. Cudmore and Mr. Bolliger did with Mr. Cudmore's *Motion for Reconsideration*, his follow-on CR 54(b) motion for revision, and his supporting declarations: **re-seek such permission from Judge Mendoza** (with the obviously reasonable additional request to allow Mr. Cudmore to personally provide his desired live testimony on the issue to Judge Mendoza, as RCW 11.88.045(3) – “The [AIP] is further entitled to testify and present evidence . . . .” – authorizes Mr. Cudmore to do).

Based upon the foregoing facts and Judge Mendoza's aforementioned oral ruling, Mr. Bolliger respectfully submits that it was "objectively reasonable" for Mr. Bolliger to assist Mr. Cudmore with his re-seeking of permission from Judge Mendoza for Mr. Cudmore to be defended against the guardianship case by the attorney of his own choice and hire (as was his entitlement under RCW 11.88.045(1)(a)). As such, respectfully, the phrases here under discussion should be stricken from CL Nos. 4, 6, 7, and 8.

**H. Mr. Meehan's Request For Fees On Appeal Should Be Denied**

This appellate number, 322068-III, has involved two separate appeals, each arising from the same trial court case:

1. The *first* appeal, wherein Mr. Cudmore was the named appellant, with Mr. Bolliger representing Mr. Cudmore on appeal. With that first appeal, Mr. Cudmore sought to overturn the unmerited guardianship against him.
2. This *second* appeal, wherein Mr. Bolliger is the named appellant, with Mr. Bolliger representing himself on appeal. With this second appeal, Mr. Bolliger seeks to overturn CR 11 fees the trial court entered against him on grounds that – for the 1 month and 25 days following the **7/19/13** initial guardianship hearing – Mr. Bolliger assisted Mr. Cudmore with his re-seeking of permission from Judge Mendoza for Mr. Cudmore to be defended against the guardianship case by the attorney of his own choice and hire.

Thus, whereas the two appeals both arose from the same trial court case, they clearly are separate appeals, in which separate relief was sought on behalf of separate appellants. The two, separate appeals next are addressed.

**1. With Respect To The First (The Former) Appeal, Mr. Meehan Is Not Entitled To Fees On Appeal**

**a. Mr. Meehan Let His Former Request For Fees Lapse In The First Appeal**

In the *first* appeal (Mr. Cudmore's appeal of the unmerited guardianship), Mr. Meehan's last major brief, titled *Memorandum in Support of Position That Appellant Lacks Standing to Appeal . . .*, was filed with the Court on **10/30/14**. In that brief, Mr. Meehan deceptively mischaracterized Mr. Bolliger, and not Mr. Cudmore, as the appellant. In any event, in that final brief (p. 10), Mr. Meehan stated as follows:

Pursuant to RAP 18.9, Lamberson requests an award of fees as a result of Bolliger's frivolous appeal of various issues upon which he lacks standing because he is not an aggrieved party. Lamberson requests that the Court condition Bolliger's further participation in the review process upon timely payment of such fees to Lamberson. RAP 18.9(a).

In her **12/16/14 Commissioner's Ruling**, which ends with the words "this appeal filed by Mr. Bolliger is dismissed," the Honorable Joyce J. McCown declined to award Mr. Meehan his requested fees for that *first* appeal. (No briefing had yet been filed by either party with respect to the *second* appeal.) Thereafter, Mr. Meehan never followed up with a motion to modify commissioner's ruling (or an appeal). Thus, Mr. Meehan's current request for fees is redundant to his foregoing request for fees, which the Court declined to award and which declination Mr. Meehan waived challenging. Thus, with respect to the *first* appeal, Mr. Bolliger respectfully requests that the Court deny Mr. Meehan's redundant request for fees on this ground.

**b. Mr. Bolliger's Filings And Arguments In The First Appeal Always Were Well-Founded In Fact**

Mr. Bolliger always scrupulously provided the Court the material facts

and their peculiar details underlying the *first* appeal. In his RB, Mr. Meehan never assailed any of those facts which Mr. Bolliger catalogued from the record. Rather, Mr. Meehan chose to avoid discussing those facts (apparently hoping this Court would not be paying attention to his avoidances).

**c. Mr. Bolliger's Filings And Arguments In The First Appeal Always Were Well-Grounded In Law**

In his AB, Mr. Bolliger explained in detail how – with their **predatory litigation tactics** against Mr. Cudmore and Mr. Bolliger – Mr. Meehan, Mr. May, and Ms. Woodard **deliberately and materially misled and confused the trial court judges** into committing errors, recalled in the following fn.<sup>6</sup>

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<sup>6</sup> **Before The 7/19/13 Initial Guardianship Hearing.** Judge Spanner erred as follows. (1) By entering an order forcing Mr. Cudmore to be overseen in Mr. Meehan's guardianship case by **Mr. Meehan's hand-picked team member, Mr. May** – instead of by a truly independent GAL – **in violation of the next-in-the-rotation, GAL-selection process set forth in LGAL 5(a)(2)(A)** [AB, ¶ 8].

**At The 7/19/13 Initial Guardianship Hearing.** Judge Mendoza erred as follows. (2) By refusing to rule on Mr. Bolliger's evidentiary objections about **Mr. Meehan's material factual lie** – that Mr. Bolliger's separate clients Gregg, Dona, and Larry Belt had attempted to financially exploit Mr. Cudmore at Edward Jones by “changing his beneficiary designations on his accounts” and “mak[ing] all of these different financial arrangements and adjustments” – **in the absence of any declaration from Edward Jones actually so alleging** [AB, ¶ 15 and its fn. 4]. (3) By accepting **Mr. Meehan's frivolous legal argument** that, pursuant to RPC 3.7, Mr. Bolliger should be disqualified from defending Mr. Cudmore because he “might have to be a testifying witness” in the case [AB, fn. 1] – **in the absence of any supporting briefing on the subject** [AB, ¶ 16 and its fn. 5]. (4) By refusing to appoint Mr. Cudmore's own chosen and hired attorney, Mr. Bolliger, to defend him against Mr. Meehan's guardianship case – and, instead, by entering an order forcing Mr. Cudmore to be defended against Mr. Meehan's guardianship case by **Mr. Meehan's and Mr. May's hand-picked team member, Ms. Woodard**, (a) with whom Mr. Cudmore never had met or communicated, (b) who had not filed the required RCW 11.88.045(2) petition to be appointed, and (c) who was not even at the hearing – **in violation of RCW 11.88.045(1)(a) and (2)** [AB, ¶ 18].

**After The 7/19/13 Initial Guardianship Hearing.** Judges Mendoza (5-7), Mitchell (8-11), and Spanner (12-14) erred as follows. (5) By refusing to expressly address the specific content (merits) of Mr. Cudmore's *Motion for Reconsideration* discussing the case's RCW 11.88.045(1)(a) seminal issue, thereby preventing the case's RCW 11.88.045(1)(a) seminal issue first to be resolved before the case proceeded to its merits [AB, ¶ 20]. (6) By refusing to expressly address Mr. Cudmore's CR 54(b) request in his *Motion for Reconsideration*, thereby further preventing the case's RCW 11.88.045(1)(a) seminal issue first to be resolved before the case proceeded to its merits [AB, ¶ 20]. (7) By refusing to allow a hearing on Mr. Cudmore's CR 54(b) motion for revision, thereby preventing Mr. Cudmore from providing his own, live testimony on the case's RCW 11.88.045(1)(a) seminal issue [AB, ¶ 24 and its fn. 6]. (8) By entering a final guardianship order without first obtaining a medical report from Mr. Cudmore's Dr. Vaughn – **in violation of RCW 11.88.045(4)** [AB, ¶ 19 in fn. 6 and final sentence of fn. 6]. (9) By accepting argument from Mr. Meehan and Ms. Woodard (while Mr. May signified his approval thereof with his silence) that they were presenting their final guardianship order **with (their 17, separate references to) Mr. Cudmore's competent assent** – yet, by instead entering a final guardianship order which judicially established Mr. Cudmore as **mentally incapacitated** [AB, ¶ 32 and its fn. 11]. (10) By entering a final guardianship order which contained false findings of fact, stating that Mr. Cudmore was overcome by “undue influence” when he executed, and that he “lacked the capacity” to execute, the power of attorney documents he instructed Mr. Bolliger to prepare

The trial court allowed all of those wrongful outcomes to occur. What in the world happened? What happened is what was described in the AB and in the *Introduction* section above. In particular are Mr. Meehan's **material factual lie** [AB, ¶ 15 and its fn. 4] and his **frivolous legal argument** [AB, ¶ 6 and ¶ 16 and its fn. 5] – both of which he unethically delivered to Judge Mendoza at the 7/19/13 initial guardianship hearing. Mr. Meehan's foul falsehoods were a dark calumny and character assassination attacking the Belt family's and Mr. Bolliger's completely proper involvement with Mr. Cudmore. As intended by Mr. Meehan, his falsehoods followed Mr. Bolliger around like a rabid dog during the ensuing 1 month and 25 days of the case: (1) they **unjustifiably poisoned the local judges** against Mr. Cudmore's chosen and hired attorney, Mr. Bolliger, for the guardianship case and (2) they **directly misled Judge Mendoza** to erroneously enter a VAPO against Mr. Bolliger to cap off that 1-month-and-25-day period. Judge Mendoza erred by naively accepting Mr. Meehan's filthy falsehoods as verities.<sup>7</sup>

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for him 5 months earlier – where those findings of fact are contrary to the overwhelming weight of the evidentiary record described above and the issues of “undue influence” and “lack of capacity” never were litigated in this case [AB, ¶ 33 and its fn. 12]. (11) By entering a final guardianship order which contained decree language which purports, but is **legally ineffective, to invalidate his new Will** which Mr. Cudmore had instructed Mr. Bolliger to prepare for him 5 months earlier [AB, ¶ 33 and its fn. 13: *Pond v. Faust, supra, et al.*]. (12) By refusing to address the institutional problem occurring in the superior court that guardianship-case GALs were hand picking attorneys for AIPs [AB, ¶ 26 and its fn. 8]. (13) By holding that – during the 1 month and 25 days after the 7/19/13 initial guardianship hearing when Mr. Bolliger assisted Mr. Cudmore with redressing his grievance about the case's RCW 11.88.045(1)(a) seminal issue – Mr. Bolliger's legal work on behalf of Mr. Cudmore should be portrayed by branding Mr. Bolliger an “officious intermeddler” – where that is overwhelmingly contradicted by the evidence, because Mr. Cudmore **continually solicited** Mr. Bolliger to assist him [AB, § 2]. (14) By holding that, on grounds of branding Mr. Bolliger an “officious intermeddler,” Mr. Bolliger's legal work on behalf of Mr. Cudmore should be punished by imposing \$ 9,782.75 in CR 11 sanctions against Mr. Bolliger – where that is overwhelmingly contradicted by the evidence, because Mr. Cudmore **continually solicited** Mr. Bolliger to assist him [AB, § 2].

<sup>7</sup> Mr. Meehan delivered his **material factual lie** to Judge Mendoza without providing him or Mr. Bolliger any supporting declaration from Edward Jones. Mr. Meehan just blurted out his **material factual lie** for the first time during his oral argument. Mr. Bolliger properly objected on hearsay grounds, yet, **Judge Mendoza ignored ruling on Mr. Bolliger's hearsay objections.** [7/19/13 RP, p. 3, line 21 to p. 5, line 23] Wouldn't any appellate court hold that to be error on Judge Mendoza's part?

[cont'd]

For the *first* appeal (and during the underlying case) here under discussion, Mr. Bolliger described Mr. Cudmore's unmitigated entitlement – to be defended against the guardianship case by the attorney of his own choice and hire as prescribed in RCW 11.88.045(1)(a) – as the **seminal issue** of the case. Mr. Bolliger calls that the seminal issue because, logically, it should have been conclusively decided by the courts (i.e., with a judgment which was fully final, valid, and on the merits) before the guardianship case was allowed to proceed even to its next step.<sup>8</sup> However, Judge Mendoza erroneously concluded that, after he initially forced Mr. Cudmore to be defended against the case by Ms. Woodard in clear contravention of RCW 11.88.045(1)(a), **Mr. Cudmore forever after could do nothing about that.** Judge Mendoza's conclusion judicially destroys both the statute and reason.

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Mr. Meehan delivered his **frivolous legal argument** (that Mr. Bolliger “might have to be a testifying witness” in the case) to Judge Mendoza without providing him or Mr. Bolliger any prior briefing on the subject. Mr. Meehan just blurted out his **frivolous legal argument**, too, for the first time during his oral argument. [7/19/13 RP, pp. 9 and 18] Thereafter, Mr. Bolliger provided Judge Mendoza the legal authorities demonstrating that Mr. Meehan's **frivolous legal argument** clearly and unmistakably was wrong – because Mr. Bolliger was not an RPC 3.7 “necessary witness” for the case. [CP 28-31] Yet, **Judge Mendoza never expressly addressed Mr. Bolliger's clear and unmistakable briefing.** Wouldn't any appellate court hold that to be error on Judge Mendoza's part? (It must here be added that – both below and in his briefing during the *first* appeal – Mr. Meehan studiously avoided providing any response to Mr. Bolliger's clear and unmistakable briefing on the subject, either.)

<sup>8</sup> Mr. Bolliger respectfully asserts that – if that seminal issue conclusively had been decided (as RCW 11.88.045(1)(a) requires) in Mr. Cudmore's favor (i.e., if he had been allowed to be defended against the guardianship case by Mr. Bolliger, instead of by Mr. Meehan's and Mr. May's hand-picked team member, Ms. Woodard) **before** the case was allowed to proceed any further,

- (1) a guardianship against Mr. Cudmore would not have been granted at the end of the case,
- (2) there would be no order entered in the case which unlawfully [AB, fn. 13] invalidated Mr. Cudmore's 2013 Will (and declared his revoked 2008 Will to instead be his valid Will), and,
- (3) therefore, there would not be nearly 3 years later (i.e., presently) a fight in the superior court between the beneficiaries of Mr. Cudmore's 2013 Will and the beneficiaries of Mr. Cudmore's 2008 Will as to which Will actually should be probated. (Instead, Mr. Cudmore's 2013 Will already would have been probated to completion by now.)

In addition, Mr. Meehan would have been curtailed from bringing his frivolous VAPO cases against Mr. Bolliger (see linked appeal no. 32043-3) and Gregg Belt (see linked appeal no. 33193-8). All of those wrongful outcomes would have been avoided. As revealed in [AB, § 2], Mr. Cudmore **continually solicited** Mr. Bolliger to avoid those wrongful outcomes for him. The trial court should have been vigilant to avoid those wrongful outcomes.

Respectfully, Commissioner McCown propagated Judge Mendoza's destruction of the statute and reason by dismissing the *first* (Mr. Cudmore's) appeal on purported grounds that his attorney, Mr. Bolliger, did not have "standing." Mr. Bolliger's standing should never have been an issue, because Mr. Cudmore (not Mr. Bolliger) was the party appellant for the *first* appeal. Mr. Bolliger was situated no differently than any other appellate attorney representing a client on appeal. All 3 cases cited by Commissioner McCown in her 12/16/14 *Commissioner's Ruling* dismissing the *first* appeal were inapposite to that dispositive fact. **Thus, the unjust consequence of Commissioner McCown's dismissal of the *first* appeal is that – even unto this very day – no appellate judicial officer ever has addressed the merits of the case's seminal issue: Judge Mendoza's (1) denial of Mr. Cudmore's RCW 11.88.045(1)(a) entitlement to be defended against the guardianship case by the attorney of his own choice and hire and (2) permanent shackling of Mr. Cudmore, with no avenue to pursue his statutory right.** As he did with Judge Mendoza and Commissioner McCown, Mr. Meehan (who deceptively raised the false "standing" issue with Commissioner McCown in the first place) now would have the three Honorable Judges deciding this appeal also be lured into ignoring both the statute and reason.

Thus, all of the filings and arguments which Mr. Bolliger presented on Mr. Cudmore's behalf during that *first* appeal were well-grounded in law. As such, respectfully, they should not subject Mr. Bolliger to CR 11 sanctions.

**d. Mr. Bolliger Did Not Engage In Delay Or Any Other Improper Activity In The First Appeal**

As a purported basis for claiming entitlement to fees with respect to the

*first* appeal, Mr. Meehan claims that Mr. Bolliger “presented himself in a variety of fashions on appeal.” However, Mr. Meehan previously raised that allegation in his previous request for fees in the *first* appeal. Part of Mr. Bolliger’s past response to that allegation is reproduced in the following fn.<sup>9</sup>

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<sup>9</sup> In Mr. Cudmore’s 12/4/14 *Appellant’s Amended Reply Brief Addressing Appealability Under Guardianship of Lasky*, 54 Wn.App. 841, 776 P.2d 695 (1989), Mr. Bolliger wrote as follows (original emphases):

It is true that Mr. Bolliger mistakenly stated as quoted in an early declaration (and thereafter repeated it, in cut-and-paste fashion, a few times). However, those were merely inadvertent scrivener’s errors on Mr. Bolliger’s part.

The material facts are as follows. Mr. Bolliger filed Mr. Cudmore’s *Notice of Appeal* for this case on 1/24/14. Mr. Bolliger filed his *Notice of Intent to Withdraw* from representing Mr. Cudmore any further in the linked Gregg Belt VAPO case (appeal no. 32327-7) three days later: on 1/27/14. Even though Mr. Bolliger withdrew from representing Mr. Cudmore any further in the linked Gregg Belt VAPO case, **Mr. Bolliger never has withdrawn from representing Mr. Cudmore in this guardianship case.** Moreover, in the *Notice of Appeal* that Mr. Bolliger filed for this case on 1/24/14, Mr. Bolliger set forth as follows:

The alleged incapacitated person and his undersigned attorney seek review by Division III of Court of Appeals of the following orders and judgments of the Superior Court[.]

Further, in Mr. Bolliger’s signature block for that *Notice of Appeal*, **Mr. Bolliger identifies his law firm as the “Attorneys for Mr. Cudmore.”** Finally, in each of the following filings for this appellate case, Mr. Bolliger indicates he is representing Mr. Cudmore in this appeal:

#### **Trial Court**

- *Designation of Clerk’s Records and Exhibits* (June of 2014),
- *First Supplemental Designation of Clerk’s Records and Exhibits* (July of 2014),
- *Memorandum of Law and Declaration of John C. Bolliger in Opposition to Mr. Meehan’s Motion to Require Appellants to Pay for Unspecified and Irrelevant Hearing Transcripts* (Sept. of 2014), and
- *Second Supplemental Designation of Clerk’s Records and Exhibits* (October of 2014).

#### **Court of Appeals**

- *Motion to Stay Present Appeal Until Appeal is Filed in a Companion Superior Court Case* (February of 2014),
- *Motion to Withdraw Motion to Stay* (March of 2014),
- *Motion to Consolidate* (April of 2014),
- *Opposition to Motion for Permission to Enter Trial Court Decision Post-Judgment* (April of 2014),
- *Reply in Support of Motion to Consolidate* (May of 2014),
- *Statement of Arrangements* (June of 2014),
- *Amended Statement of Arrangements* (June of 2014),

Mr. Meehan also argues that, in Mr. Bolliger’s “original statement of arrangements, Bolliger sought ‘only the first session’ of the [12/27/13 final] guardianship hearing.” However, that was because the order which emanated from the second session of that hearing was not being appealed by Mr. Cudmore. It therefore was irrelevant to his appeal of the entirely separate order which emanated from the first session of that hearing.

Mr. Meehan also argues that “Bolliger was not the attorney of record for Cudmore.” Mr. Bolliger has fully answered that incorrect allegation in his AB and above (including the immediately preceding subsection).

Mr. Meehan also argues that Mr. Bolliger’s Lasky opening and reply briefs in the *first* appeal were overlength. Yet, Mr. Bolliger addressed that matter in the 12/9/14 *Appellants’ Motion for Leave to File Overlength Briefs* – and, during 12/10/14 oral argument on the Lasky briefing, Commissioner McCown asserted that she’d read everything and granted the same.

As shown, Mr. Meehan’s request for fees on appeal for the *first* appeal is

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- *Statement of Arrangements* (July of 2014),
  - *Statement of Arrangements* (August of 2014),
  - *Motion for 30-Day Extension of Time to File Appellants’ Brief* (August of 2014),
  - *Motion for Permission to Receive Copies of Sealed Documents From the Clerk’s File* (August of 2014),
  - *Reply in Support of Motion for Permission to Receive Copies of Sealed Documents From the Clerk’s File* (September of 2014),
  - *Appellant’s Brief Addressing Appealability Under Guardianship of Lasky, 54 Wn.App. 841, 776 P.2d 695 (1989)* (October of 2014), and
  - *Appellant’s Reply Brief Addressing Appealability Under Guardianship of Lasky, 54 Wn.App. 841, 776 P.2d 695 (1989)* (December of 2014).

In addition, the **substantive content** of Mr. Bolliger’s filings in this case leave no doubt that Mr. Cudmore is not Mr. Bolliger’s former client – and instead that, for purposes of this appeal, Mr. Cudmore is Mr. Bolliger’s continuing client. As such, Mr. Cudmore and Mr. Bolliger respectfully request that this Court accord Mr. Meehan’s aforementioned assertion no practical effect whatsoever.

without merit. Moreover, it was raised by Mr. Meehan previously in the *first* appeal. However, as discussed above, in her **12/16/14 Commissioner's Ruling**, Commissioner McCown declined to award Mr. Meehan fees for the *first* appeal – and Mr. Meehan waived challenging Commissioner McCown's declination. Thus, it is Mr. Meehan who redundantly is wasting the Court's time and Mr. Bolliger's briefing space with issues concluded in the *first* appeal. Mr. Bolliger never has been paid anything for his work on the Cudmore cases. Mr. Bolliger never has had any incentive to cause delay. Nobody, more than Mr. Bolliger, looks forward to this tragic saga's proper end.

**2. Mr. Meehan Did Not Request Any Fees On Appeal Pursuant To RAP 18.1(b) – With Respect To This Second Appeal**

A concerted reading of Mr. Meehan's RB, § I (pp. 21-31), reveals that Mr. Meehan's request for fees on appeal relates only to the details and subject matter of the *first* appeal (which was addressed in the preceding §§ H.1.a.-d.). In his 11 pages, Mr. Meehan's request for fees on appeal addresses nothing about the details or subject matter of this *second* appeal. In that regard, see, e.g., Pruitt v. Douglas County, 116 Wn.App. 547, 560-61, 66 P.3d 1111 (Div. 3 2003), in which the Court held as follows (with emphases added):

The landowners do set forth a separate section, albeit in one sentence, with citation to RAP 18.1 (procedure for requesting fees) and RAP 14.3 (allowable costs). **But they do not provide argument or the underlying grounds of fees as required by RAP 18.1(b). The procedure outlined in RAP 18.1(b) is mandatory.** [Citations omitted.] **And the showing here is not enough.** [Citation omitted.]

The request for fees is therefore denied.

Likewise, because Mr. Meehan does not provide in his RB any argument or underlying grounds for fees on appeal with respect to this *second* appeal (Mr. Bolliger's personal appeal of the CR 11 fees imposed by the trial court), Mr.

Bolliger respectfully submits that the Court should deny Mr. Meehan's request for fees on appeal – with respect to this *second* appeal, as well.

## I. CONCLUSION

If the APR 5(e) *Oath of Attorney* means nothing – so that (1) it may be ignored by attorneys like Mr. Meehan and Ms. Woodard and (2) attorneys like Mr. Bolliger who obey it may be punished therefor – we may as well stop administering the *Oath*. If the court rules, statutes, and decisional law discussed in the AB and above are not authoritative, after all, attorneys like Mr. Meehan and Ms. Woodard are free to run roughshod over capable, but unprotected, seniors like then-85-year-old Mr. Cudmore – as they obviously did in this case. If we are going to let our GALs tacitly collude as Mr. May did below, we can well wonder “Why should we have GALs for our guardianship cases, anyway?”

Here, Mr. Meehan, Mr. May, and Ms. Woodard tacitly acted in concert to impose an absolutely frivolous guardianship against Mr. Cudmore – solely so they could insert language into their final guardianship order purporting to nullify Mr. Cudmore disinheriting Mr. Lamberson from Mr. Cudmore's ≈ \$450,000.00 Estate. Clearly, the three and Mr. Lamberson couldn't persuade Mr. Cudmore to revoke his 2013 Will in any of the legally acceptable ways set forth in RCW 11.12.040(1). So, in order to achieve their desired outcome, the three team members executed their array of predatory litigation tactics against Mr. Cudmore and Mr. Bolliger – so as to expel Mr. Cudmore's chosen and hired attorney, Mr. Bolliger, from the case and thereby force total oversight and control of Mr. Cudmore to be exercised solely by the three team members themselves – in violation of RCW 11.88.045(1)(a) & (b).

This disastrous case represents a shameful tragedy of wrongdoings and errors below – all instigated and orchestrated by Mr. Meehan, with the willing participation of his team members Mr. May and Ms. Woodard. Mr. Bolliger respectfully submits that CR 11 fees shouldn't have been imposed against Mr. Bolliger – to “reimburse” Mr. Cudmore’s Estate for **its** having to pay Mr. Meehan, Mr. May, and Ms. Woodard for **them** executing their predatory litigation tactics to oppose precisely those legal services which mentally competent Mr. Cudmore **continually solicited** Mr. Bolliger to perform for him. That result essentially would have Mr. Bolliger paying the Estate of Mr. Cudmore for legal work Mr. Cudmore hired Mr. Bolliger to perform for Mr. Cudmore. On this particular record, that makes no sense. Based upon foregoing, Mr. Bolliger respectfully prays for:

1. A holding reversing the trial court’s imposition of \$ 9,782.75 in CR 11 fees against Mr. Bolliger for the purpose of “reimbursing” Mr. Cudmore’s Estate [AB, § 4] – and ordering the Estate to repay the \$ 3,575.32 which Mr. Meehan and his firm garnished Mr. Bolliger therefor [AB, ¶ 36], with interest.<sup>10</sup>
2. A holding imposing CR 11 sanctions against Mr. Meehan, Ms. Woodard, and their firms for their **predatory litigation tactics** against Mr. Bolliger and his client – executed by them to unethically sever Mr. Cudmore from his lawful attorney – which predatory litigation tactics **frivolously and needlessly** caused Mr. Bolliger to have to expend tremendous amounts of unpaid time defending himself and his deserving client against this case.<sup>11</sup>
3. A holding denying Mr. Meehan’s request for fees on appeal.

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<sup>10</sup> Indeed, in a perfect world, this Court would hold that Mr. Meehan’s, Mr. May’s, and Ms. Woodard’s predatory litigation tactics were so egregious as to require them to disgorge their fees back to Mr. Cudmore’s Estate, with interest. See *Behnke v. Ahrens*, 172 Wn.App. 281, 298, 294 P.3d 729 (2012) (“Disgorgement of fees is a reasonable way to discipline specific breaches of professional responsibility, and to deter future misconduct of a similar type. ‘Such an order is within the inherent power of the trial court to fashion judgments.’”).

<sup>11</sup> As Mr. Bolliger’s 5/27/16 *Appellant’s Brief* (p. 47) reveals, Mr. Bolliger served his *Appellant’s Brief* on Ms. Woodard. Ms. Woodard ignored filing a *Respondent’s Brief* addressing Mr. Bolliger’s CR 11 issue against her and her firm. On 7/8/16, Mr. Bolliger emailed Ms. Woodard about that. [App. hereto, p. 2] To date, Ms. Woodard also has ignored responding to Mr. Bolliger’s 7/8/16 email.

DATED this 26 day of July, 2016.

**BOLLIGER LAW OFFICES**

By: \_\_\_\_\_

John C. Bolliger, WSBA No. 26378

Attorneys for Appellant

**DECLARATION**

I, John C. Bolliger, declare as follows:

1. I am the appellant in this appeal, I have personal knowledge of the facts set forth above, and, if called to testify about the same, I can and will competently do so.

2. I swear under penalty of perjury under the laws of the state of Washington the foregoing is true and correct.

DATED this 26 day of July, 2016.

Kennewick, WA  
City, state where signed

\_\_\_\_\_  
John C. Bolliger



# Appendix

Guardianship  
Petitioner  
(represented by  
Mr. Meehan)

VS.

AIP  
(Mr. Cudmore)

AIP's GAL  
(Mr. May)

RCW 11.88.045(1)(a)?

Hand Picked by  
Mr. Meehan

AIP's  
Chosen and  
Hired Attorney  
(Mr. Bolliger)

AIP's Wrongly  
Appointed Atty.  
(Ms. Woodard)

Hand Picked by  
Mr. Meehan and Mr. May

—

Subj: **Guardianship of Cudmore**  
Date: 7/8/2016 9:27:16 A.M. Pacific Daylight Time  
From: [Jcbolliger@aol.com](mailto:Jcbolliger@aol.com)  
To: [rwoodard@powellandgunter.com](mailto:rwoodard@powellandgunter.com)

Hi, Rachel:

On May 27, 2016, I sent you -- via Pronto legal delivery service -- your copy of my *Appellant's Brief* in the above-referenced appeal, No. 32206-8. In that brief, I requested that the Court of Appeals approve CR 11 fees against you and your firm.

Given that your copy of my *Appellant's Brief* went out that Friday morning, May 27th, you should have received it the very same day -- but, in any event, no later than Monday, May 30th. Even taking that latter date, the 30-day period for you to provide me a copy of your *Respondent's Brief* lapsed on June 29th (i.e., as of today, that was 9 days ago). However, I never have received a copy of your *Respondent's Brief*. Please advise as to whether you intend to file one. If you already have filed one, please provide me a copy of it immediately. Thank you for your professional courtesies, Rachel.

Sincerely,

John C. Bolliger, Attorney at Law  
**BOLLIGER LAW OFFICES**  
5205 W. Clearwater Ave.  
Kennewick, WA 99336

509-340-3740 -- phone  
509-734-2591 -- fax

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