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Division II
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SUPREME COURT
STATE OF WASHINGTON
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100766-3

WASHINGTON STATE SUPREME COURT

CHARLES FEICK.
Petitioner,

v.

THE BRUTSCHE FAMILY REVOCABLE TRUST,
THE ESTATE OF LEOPOLD CHANNING BRUTSCHE,
MICHAEL BRUTSCHE, MARTHA CARR, CHARLES
CARR, CREATIVE SOLUTIONS EQUIPMENT, INC,
Respondents.

ON APPEAL FROM GRAYS HARBOR COUNTY
SUPERIOR COURT
Hon. David L. Mistachkin

Appellant's Petition for Review

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I. Identity of Petitioner

Appellant Charles respectfully asks this court to accept review of the Court of Appeals decision designated in Part B of this petition.

II. Court of Appeals Decision

Charles Feick respectfully requests review of the Washington State Court of Appeals for Division II Unpublished Opinion dated January 25, 2022¹.

A review of the Order Granting Overlength Brief and Order Denying Motion for Reconsideration dated February 22, 2022².

A review of the Order Denying Motion to Publish dated February 22, 2022³.

III. Issues Presented for Review

1. Whether the Washington State Court of Appeals for Division II erred in allowing the Brutsche Family Revocable Trust standing to respond for the receiver in corporate disputes under RCW 7.60.190(e).
2. Whether the Washington State Court of Appeals for Division II lacked jurisdiction to hear the appeal, because the Brutsche Family Revocable Trust lacked standing to respond for the receiver in corporate disputes under RCW 7.60.190(e).

¹ Appendix 1, WA COA II Division II Case No. 54963-8, Unpublished Opinion, January 25, 2022.

² Appendix 2, WA COA II Division II Case No. 54963-8, Order Granting Overlength Brief and Order Denying for Reconsideration, February 22, 2022.

³ Appendix 3, WA COA II Division II Case No. 54963-8, Order Denying Motion to Publish, February 22, 2022.

3. Whether the Court of Appeals for Division II erred when it failed to rule the trial court failed gave plain effect to the statutory meaning of RCW 7.60.190(e).
4. Whether the Washington State Court of Appeals for Division II erred in upholding the trial court's ruling that a Trust could file a receivership rather than a Trustee.
5. Whether the Court of Appeals for Division II erred when it failed to rule the trial court failed gave plain effect to the statutory meaning of RCW 7.60.110 (1) and RCW 7.60.110 (2).
6. Whether the Court of Appeals for Division II erred when it failed to rule the trial court failed gave plain effect to the statutory meaning of RCW 7.60.160.
7. Whether the Court of Appeals for Division II erred when it failed to rule the trial court failed gave plain effect to the statutory meaning of RCW 7.60.160 (2).
8. Whether the Court of Appeals for Division II erred when it combed through the record to make arguments not made by any party.
9. Whether the Court of Appeals for Division II erred when it made arguments on behalf of the respondents who had waived the issue at the trial court.

IV. Statement of the Case

This appeal is filed by Charles Feick, who alleges that he and the Green Harvest Corporation shareholders were cheated out of sure profit, by the shady business tactics of the defendants, who were his business partners, as well as being GHC Shareholders.

Feick alleges the Brutsche Family Revocable Trust, Leopold Channing Brutsche, Michael Brutsche, Martha Carr, and Charles Carr, conspired to remove him from the Green Harvest Corporation (the “GHC”) and take over the Green Harvest Cannabis Company (the “GHCC”) after WSLCB Licensing had occurred.

The defendants did in fact, perform an ultra-vires Board of Directors takeover, one day after WSLCB Licensing that lasted for 24 days. During these 24-days the defendants voted out two GHC Directors, added a family member to the GHC Board that was not WSLCB DocuSign vetted, created injury to public record per RCW 40.16.010, embezzled and drained the GHC/GHCC business operational account, abandoned the SEC, WA-DFIS, WSLCB, and Shareholder approved Business Plan, after which, they resigned, and walked away from the GHC/GHCC for 16 months until they were served with this complaint.

Defendant Leopold Channing Brutsche, the sole Trustee for the Brutsche Trust, died after the petition for general receivership was filed. Steve Krohn, the Brutsche Trust CPA, was elected as the new sole Trustee. Steve Krohn, who lives in the State of California, does

not qualify as a Washington State resident to hold stock in a WA WSLCB licensed marijuana company as a True Party of Interest

The Trial Judge, the trial Court Clerk, and the Receiver did not assign adjunct case numbers to separate the direct claims from the derivative claims in this case per the statutory authority of the RCW 7.60.160(2), the Receivership Statute.

2) Litigation by or against a receiver is adjunct to the receivership case. The clerk of the court shall assign a cause number that reflects the relationship of any litigation to the receivership case. All pleadings in adjunct litigation shall include the cause number of the receivership case as well as the adjunct litigation number assigned by the clerk of the court. All adjunct litigation shall be referred to the judge, if any, assigned to the receivership case.

A. Company History

On October 19, 2011, the Plaintiff Charles Feick, Founder, incorporates the Green Harvest Corporation, a Washington Domestic Profit Corporation, UBI # 603-156-475, dba The Green Harvest Cannabis Company, to engage in the business activity and expectancy

of producing and processing marijuana in the State of Washington when it becomes legal to do so under the law.

From October 19, 2011, to November 6, 2012, Feick researches and writes the Washington State WSLCB Producers License Application which he presented to WSLCB Board Members on February 7, 2013. This document became the WSLCB research template for Chapter 314-55 WAC and the WSLCB DocuSign applicants questionnaire.

On March 19, 2013, Feick President of the N.W.G.A. I-502 Producer, Processor, Retailer, State Operations, in conjunction with Dana Luce G.O.A.T. Labs I-502 product testing, and Justin Dufour Viridian Sciences I-502 product tracking systems, demonstrated Feick's I-502 Producer to Processor to Retailer to WA State Taxation Model at WSLCB Headquarters at 3000 Pacific Avenue Olympia WA.

From December 13, 2013, to February 15, 2014, Charles Feick came in contact with Charles Carr, Martha Carr, Leopold Channing Brutsche, the Trustee for the Brutsche Family Revocable Trust, and Steve Krohn, the CPA for the Trust.

On February 15, 2015, Steve Krohn approves of the Brutsche Trust, Leopold Brutsche, and Martha Carr's equity investment in the GHC/GHCC. This begins the WSLCB DocuSign True Party of Interest eligibility process to own equity in a WSLCB Marijuana License.

On or about February 16, 2015, Charles Feick meets Gershom Spengler and initiates negotiations to sell GHC/GHCC to the Spengler Group. On October 2015 Spengler Group makes an offer of 2.1 Million dollars for GHC/GHCC WSLCB Licenses and the site property .

The defendants the Brutsche Trust, Leopold Channing Brutsche, and Steve Krohn, CPA bungled the Spengler Group offer losing the opportunity to acquire sure and easy profit, without incurring any of the site buildout site expenses the defendants now complain about. (CP 20)

The defendants then began a process of inflating Feick's trust notes and saddling the company with debt, by handing over critical positions for the company build-out, to friends and family members, who bilked and mismanaged the company, while delaying the opening

of the GHCC. This was a critical and defining moment for the company that harmed Feick directly and derivatively along with the other shareholders. (CP 23)

On July 24, 2017, Martha Carr sent notice to Feick for what is the start of a precontrived process to remove Charles Feick from GHC/GHCC. The defendant's create injury to public record with filings to the WA Secretary of State, and the Washington State Liquor and Cannabis Board. The defendants abandoned the SEC-WSLCB-Shareholder approved Business Plan and drained the money from the GHC/GHCC Operational bank account. (CP 698-699)

On August 17, 2017, the defendants were unable to establish Federal and WSLCB I-502 legitimacy and resigned to abandon the GHC/GHCC until they were served with the complaint on December 5, 2018. (CP 701)

On December 5, 2018, Feick facilitated the Annual GHC Shareholder meeting to provide corporate performance reports and to address company issues. The Shareholders arrived for the meeting and Feick served the Shareholder's Verified Derivative and Direct on the defendants the Brutsche Trust, Leopold Channing Brutsche, and

Michael Brutsche at the conclusion of the meeting. Martha Carr and Charles Carr were served that afternoon.

On December 19, 2018, Feick filed the Amended Shareholder's Verified and Direct Complaint to better define his direct claims and provided Certificate of Service to all defendants.

Feick alleges the Brutsche Family Revocable Trust, Leopold Channing Brutsche, Michael Brutsche, Martha Carr, and Charles Carr conspired to remove Feick from the company and take over the Green Harvest Corporation and the Green Harvest Cannabis Company.

Feick filed a direct and derivative action against the defendants and alleged the declaration of Keith Dahl⁴ and the actions of the defendants prove his allegations (CP 868-871)

B. Case History

On December 5, 2018, Feick filed the original complaint and served it upon the defendants at a board meeting (CP 631-671) On December 19, 2018, Feick filed an Amended Shareholder's Verified Derivative and Direct Complaint. (CP 674-716)

⁴ Plaintiff's Motion for Summary Judgement for Direct Claims dated 1/29/21, Declaration of Keith Dahl dated February 10, 2019. CP 868 – CP 871.

On March 27, 2019, the Brutsche Trust filed its Petition for Appointment of General Receiver to appoint RTC as receiver of the Corporation (the "Petition"), which motion was also served on the WSLCB as required by law. (CP 1-17)

On June 6, 2019, represented by Attorney Amos Hunter and Attorney Brad Drury, Feick files a response in opposition to the Petition. (CP 18-99)

On June 19, 2019, after hearing argument, and with no opposition from the WSLCB, the trial court grants the Order for Appointment of General Receiver appointing RTC to serve as receiver of the Corporation to preserve, liquidate, and dissolve the Corporation. (CP 117, CP 118-133.)

On June 28, 2019, Feick's counsel filed a Motion for Reconsideration. On July 9, 2019, the trial court denied the Motion for Reconsideration. (CP 136-210, CP 221)

On April 28, 2020, RTC files a Motion for Authorization to Allow an Application for Assumption of License asking the Court to approve the sale of the Corporation's cannabis licenses.

On June 4, 2020, the RTC, (the “Receiver”) filed a Notice of Hearing for a Motion for Authorization to Allow an Application for Assumption of License (the WSLCB/GHC Marijuana-Producer/Processor License #413339) noted for June 29, 2020. The Order was signed by Grays Harbor Superior Court Judge Mistachkin on June 29, 2020, granting the application of the assumption of the WSLCB/GHC Marijuana License #413339 to Jimmy O’s Grow LLC in Burlington Washington. (CP 1211-1214)

On July 14, 2020, the RTC filed a Notice of Hearing for Receiver’s Motion to Approve Settlement Agreement and Dismissal of Derivative Claims noted for August 24, 2020. (CP-222-228.)

On July 24, 2020, Feick filed a Notice of Hearing for Plaintiff’s Motion Opposing Defendant’s Proof of Claims in General Receivership noted for August 24, 2020. On August 24, 2020, Feick struck and re-noted the Motion for August 31, 2020.

On August 4, 2020, Feick filed a Notice of Hearing for Plaintiff’s Motion to Terminate General Receivership Pursuant to RCW 7.60.290(5) and for CR 11 Sanctions noted for August 17, 2020. (CP 240-256.)

On August 11, 2020, Feick filed a Notice of Hearing for Plaintiff's Motion to Vacate Order Pursuant to CR 60B(4),(11), and CR 12H(3), and for CR 11 Sanctions noted for August 24, 2020. (CP-298-316.)

On August 17, 2020, the trial court allowed the jurisdiction and standing arguments brought by Feick, against the Trust et al, and ruled both Feick motions would be heard on August 24, 2020, including the Receiver's Motion Approving Settlement Agreement and Dismissal of Derivative Claims. The trial court struck the Defendant's responses calling for CR 11 sanctions to Feick's motions.

On August 19, 2020, per the language in RCW 7.60.190(e), Feick files Plaintiff's Response and Opposition to Receiver's Motion to Approve Settlement Agreement and Dismissal of Derivative Claims. (CP 407-415)

On August 20, 2020, the Defendant Brutsche Trust filed the Brutsche's Response to Plaintiff's Motion Opposing Defendant's Proof of Claims in General Receivership. The Brutsche Trust has now answered with a response brief that should have been written and filed by the Receiver. This is a violation of RCW 7.60.190(e) because the

receiver statute is specific citing that only the receiver has standing to answer the plaintiff's briefs.

On August 20, 2020, the Defendant Brutsche Trust filed the Brutsche's Response to Plaintiff's Motion to Terminate General Receivership Pursuant to RCW 7.60.290 and for CR 11 Sanctions and Motion to Vacate Order Pursuant to CR 60B(4),(11) and CR 12H(3), and for CR 11 Sanctions. Clearly, the Brutsche Trust has now become counsel for the receivership and is now co-receiver answering litigation on behalf of the court appointed receiver⁵. (CP 456-526)

On August 19, 2020, per the language in RCW 7.60.190(e), Feick files Plaintiff's Response and Opposition to Receiver's Motion to Approve Settlement Agreement and Dismissal of Derivative Claims. (CP 407-415)

On August 24, 2020, the trial court did not rule on the merits of the Trust's standing. The Receiver's Motion to Approve Settlement Agreement and Dismissal of Derivative Claims was granted. Feick's Motion Opposing Defendant's Proof of Claims in General

⁵ Appendix 4, The Brutsche's Response to Plaintiff's Motion to Terminate General Receivership Pursuant to RCW 7.60.290 and for CR 11 Sanctions and Motion to Vacate Order Pursuant to CR 60B(4),(11) and CR 12H(3), and for CR 11 Sanctions dated August 20, 2020.

Receivership noted for August 31, 2020, was struck by the trial court. (CP 553-554.)

On September 1, 2020, Feick filed a Notice of Discretionary Review for trial court orders dated June 19, 2019, and August 25, 2020, at Grays Harbor Superior Court.

On September 23, 2020, the WA COA II assigned Case No. 54963-8 and converted the Notice of Discretionary Review to a Notice of Appeals as a matter of right.

On October 8, 2020, Feick filed the Motion for Emergency Stay of Enforcement of Trial Court Rulings Pursuant to RAP 8.1(b)(3) in WA COA II Case No. 54963-8.

On October 15, 2020, the Brutsche Trust filed an Answer to Appellant's Motion for Emergency Stay.

On October 19, 2020, Feick filed the Plaintiff's Reply to Defendant's Answer to Motion for Emergency Stay.

On October 21, 2020, the WA COA II Commissioner's Ruling Denying Motion for Emergency Stay.

On October 22, 2020, Feick filed a Motion to Reconsider of the trial court's two rulings on October 12, 2020. (CP 558-629.)

On October 23, 2020, the trial court denied the Motion to Reconsider. (CP 630.)

On November 2, 2020, Feick filed a Motion to Modify the Commissioner's Ruling Pursuant to RAP Rule 17.7.

On November 13, 2020, the Brutsche Trust filed the Response to Motion to Modify Commissioner's Ruling Pursuant to RAP Rule 17.7.

On November 20, 2020, Feick filed Plaintiff's Reply to Brutsche Trust's Response to Motion to Modify Commissioner's Ruling Pursuant to Rap Rule 17.7.

On November 20, 2020, Feick filed an Amended Notice of Discretionary Review for trail court orders dated October 12, 2020, and October 23, 2020.

On December 15, 2020, the WA COA II Perfection Letter assigning Case No. 55213-2 consolidating with Case No. 54963-8.

On January 28, 2021, the WA COA II Commissioner's Ruling Denying Motion to Modify Commissioner's Ruling.

On February 3, 2021, Feick filed the Appellant's Opening Brief.

On March 23, 2021, the defendant Brutsche Trust filed the Respondent Brutsche Brief and Motion to Dismiss.

On April 23, 2021, Feick filed the Appellant's Reply Brief.

On January 28, 2022, the WA COA II Commissioner's filed an Unpublished Opinion in Case No. 54963-8 consolidated with Case No. 55213-3.

On February 14, 2022, Feick filed the Appellant's Motion for Reconsideration and Motion to Publish.

On February 22, 2022, the WA COA II Commissioner's Order Denying Motion for Reconsideration and Order Denying Motion to Publish.

On March 24, 2022, Feick filed the Petition for Review at Washington State Supreme Court.

V. Argument Why Review Should Be Accepted

A. Standard for review.

RAP Rule 13.4(b) governs acceptance of review by the Washington State Supreme Court as shown below:

(b) Considerations Governing Acceptance of Review. A petition for review will be accepted by the Supreme Court only:

(1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or

(2) If the decision of the Court of Appeals is in conflict with another decision of the Court of Appeals; or

(3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or

(4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.

B. Review should be accepted pursuant to RAP Rule 13.4(b)(1).

Feick respectfully argues review should be accepted because the decision meets the criteria in RAP Rule 13.4(b)(1), because the ruling conflicts with previous Supreme Court precedent on statutory interpretations, standing and jurisdiction, interpretations of RAP rules, and making arguments for counsel not found on the record..

Feick respectfully argues that the Court of Appeals for Division II erred when it did not uphold Washington State Supreme Court Case Law In *Lowman v. Guie*, 130 Wash. 606, 607, 228 P. 845 (1924) (holding that under Washington incorporation statutes, a “common-law trust” is not a corporate entity), holding A trust is not an entity

distinct from its trustees and capable of legal action on its own behalf. To date, all briefs filed by the Trust's attorneys have a fatal flaw in that they seek relief for the trust and not the trustee.

Feick also respectfully argues the Washington State Court of Appeals for Division II rulings failed to uphold previous Supreme Court case precedence for giving effect to the plain meaning of RCW 7.60.110 (1), RCW 7.60.110 (2), RCW 7.60.160, RCW 7.60.160(2) and RCW 7.60.190 (e) found in Supreme Court cases *Agrilink Foods, Inc. v. Dep't of* , 153 Wn.2d 392,396, 103 P.3d 1226 (2005), *Doe v. Wash. State Dep't of Fish & Wildlife*, 5 Wn. App. 2d 1038, 5 Wash. App. 2d 1038 (Wash. Ct. App. 2018), *Federal Home Loan Bank v. Credit Suisse Securities (USA) LLC*, 194 Wn.2d 253 (2019) *Freedom Found. v. Teamsters Local 117 Segregated Fund*, 197 Wash. 2d 116, 480 P.3d 1119 (Wash. 2021), *State v. Dennis*, 191 Wn.2d 169, 421 P.3d 944, (Wash Ct App. 2018), *State v. Yancey*, 434 P.3d 518 (Wash. 2019) *TracFone Wireless, Inc. v. Dept. of Revenue*, 170 Wn.2d 273,281,242 P.3d 810 (2010), when it ruled the receiver statute was only intended for actions and suits by the receiver and not pending actions brought by a shareholder, and when it ruled a shareholder

could take over the receivership to address filings under RCW 7.60.190(e).

The Washington State Court of Appeals for Division II rulings Also failed to uphold previous Supreme Court case precedence for interpreting a statute and giving legislative intent found in of Ecology v. Campbell & Gwinn, LLC, 146 Wn. 2d 1,9-10, 43 P.3d 4 (2002) Lake v. Woodcreek Homeowners Ass 'n, 169 Wn.2d 516,526, P.3d 1283 (2010) and State v. Wolvelaere, 461 P.3d 1173 (2020), when it ruled the receiver statute was only intended for actions and suits by the receiver and not pending actions brought by a shareholder, and when it ruled a shareholder could take over the receivership to address filings under RCW 7.60.190(e).

The Washington State Court of Appeals for Division II rulings failed to uphold previous Supreme Court case precedence for interpreting a statute and not adding words in the Supreme Court ruling in Dot Foods, Inc. v. Washington Dept. of Revenue, 166 Wn.2d 912, 920, 215 P.3d 185 (2009), when it ruled the receiver statute was only intended for actions and suits by the receiver and not pending actions brought by a shareholder, and when it ruled a

shareholder could take over the receivership to address filings under RCW 7.60.190 (e).

The Washington State Court of Appeals for Division II rulings failed to uphold previous Supreme Court case precedence for interpreting a statute and rendering portions meaningless and superfluous in the Supreme Court rulings in *Freedom Found. v. Teamsters Local 117 Segregated Fund*, 197 Wash. 2d 116, 480 P.3d 1119 (Wash. 2021), and *State v. Peterson*, 498 P.3d 937 (Wash. 2021), when it ruled the receiver statute was only intended for actions and suits by the receiver and not pending actions brought by a shareholder, and when it ruled a shareholder could take over the receivership to address filings under RCW 7.60.190(e).

The Washington State Court of Appeals for Division II rulings failed to uphold previous Supreme Court case precedence for interpreting a statute leading to an absurd result in the Supreme Court rulings in *Freedom Found. v. Teamsters Local 117 Segregated Fund*, 197 Wash. 2d 116, 480 P.3d 1119 (Wash. 2021), *G-P Gypsum Corp. v. Dep't of Revenue*, 169 Wn.2d 304, 313, 237 P.3d 256 (2010), *State v. Numrich*, 197 Wash. 2d 1, 480 P.3d 376 (Wash. 2021), and

Tingley v. Haisch 156 Wn.2d 1035, 134 P.3d 1171 (2006), when it ruled the receiver statute was only intended for actions and suits by the receiver and not pending actions brought by a shareholder, and when it ruled a shareholder could take over the receivership to address filings under RCW 7.60.190 (e).

The Washington State Court of Appeals for Division II rulings failed to uphold previous Supreme Court case precedence for standing and jurisdiction in the Supreme Court rulings in Reagles v. Simpson, 72 Wn.2d 577, 434 P.2d 559 (1967), Branson v. Port of Seattle 152 Wn. 2d 862 (Wash. 2004) Crosby v. Spokane County, 87 Wn. App. 247, 87 Wash. App. 247, 941 P.2d 687 (Wash. Ct. App. 1997) Randy Reynolds & Associates, Inc. v. Harmon, 193 Wn.2d 143, 152–53, 437 P.3d 677, 682 (2019), High Tide Seafoods v. State, 725 P. 2d 411, (Wash. 1986) and Lane v. City of Seattle, 164 Wn.2d 875, 883, 194 P.3d 977 (2008), when it allowed the Trust to file appeal briefs for shareholder filings sent to the receiver under RCW 7.60.190(e).

The Washington State Court of Appeals for Division II rulings also failed to uphold previous Supreme Court case precedence for constructing arguments for counsel in Supreme Court cases in

Murphy v. Lint (In re Estate of Lint), 135 Wn.2d 518, 957 P.2d 755, (1998), In re Discipline of Whitney, 155 Wn.2d 451, 120 P.3d 550, (2005), when the Court of Appeals for Division II constructed arguments for the respondents.

The Washington State Court of Appeals for Division II rulings also failed to uphold previous Supreme Court rulings in State v. Stump, 185 Wn.2d 454, 464, 374 P.3d 89 (2016), and Randy Reynolds & Associates, Inc. v. Harmon, 193 Wn.2d 143, 152-53, 437 P.3d 677, 682 (2019), when the Court decided to make arguments not made by any party and not found in the trial court record, violating RAP 2.5 (a), RAP 10.3(a)(6), and RAP 12.1.

C. Review should be accepted pursuant to RAP Rule 13.4(b)(2).

Feick respectfully argues review should be accepted because the decision meets the criteria in RAP Rule 13.4(b)(2), because the ruling conflicts with previous Court of Appeals precedent on statutory interpretations regarding legislative intent found in their rulings State v. Kozey, 183 Wn. App. 692, 334 P.3d 1170 (2014), State v. Wilkens, 200 Wash. App. 794, 403 P.3d 890, 200 W. App. 794 (Wash. Ct. App. 2017), and State v. Wofford, 148 Wn. App. 870, 201 P.3d 389 (2009),

when it ruled the receiver statute was only intended for actions and suits by the receiver and not pending actions brought by a shareholder, and when it ruled a shareholder could take over the receivership to address filings under RCW 7.60.190(e).

Feick also respectfully argues the Washington State Court of Appeals for Division II rulings failed to uphold its own previous case precedence for giving effect to the plain meaning of RCW 7.60.110 (1), RCW 7.60.110 (2), RCW 7.60.160, RCW 7.60.160 (2) and RCW 7.60.190 (e), found in their rulings in *Allen v. State*, 19 Wn. App. 2d 895, 498 P.3d 552, (Wash. Ct. App 2021), *Grays Harbor Energy v. Grays Harbor County*, 151 Wn. App. 550, 151 Wash. App. 550, 213 P.3d 609 (Wash. Ct. App. 2009), *State v. Skrobo*, 485 P.3d 333 (2021), and *Doe v. Wash. State Dep't of Fish and Wildlife*, 5 Wn. App. 2d 1038, 5 Wash. App. 2d 1038 (Wash. Ct. App. 2018).

The Washington State Court of Appeals for Division II rulings failed to uphold its own previous case law precedence for interpreting a statute and not adding words in their previous rulings in *Kilbourne v. Dep't of Ret. Sys.*, 16 Wn. App. 2d 44, 479 P.3d 377 (2021), and *In re: Pers. Restraint of Williams*, 18 Wn. App. 2d 707, 493 P.3d 779,

(2021), when it ruled the receiver statute was only intended for actions and suits by the receiver and not pending actions brought by a shareholder, and when it ruled a shareholder could take over the receivership to address filings under RCW 7.60.190(e).

The Washington State Court of Appeals for Division II rulings failed to uphold its own case law precedence for interpreting a statute and rendering portions meaningless and superfluous in their rulings in *Peterson v. Wash. State Dep't of Labor & Indus.*, 17 Wash. App. 2d 208, 485 P.3d 338, 17 Wn. App. 2d 208 (Wash. Ct. App. 2021) and *Aventis Pharm., Inc. v. Wash. Dep't of Revenue*, 428 P.3d 389 (Wash. Ct. App. 2018), when it ruled the receiver statute was only intended for actions and suits by the receiver and not pending actions brought by a shareholder, and when it ruled a shareholder could take over the receivership to address filings under RCW 7.60.190(e).

The Washington State Court of Appeals for Division II rulings failed to uphold its own well settled case law precedence for interpreting a statute without leading to an absurd result in their rulings in *Protect the Peninsula's Future v. Growth Mgmt. Hearings Bd.*, 185 Wash. App. 959, 344 P.3d 705, 185 Wn. App. 959 (Wash.

Ct. App. (2015), *Sherry v. State, Emp't Sec. Dep't*, 498 P.3d 580 (Wash. Ct. App. 2021), *State v. Albright*, 143 Wn. App. 1054, 143 Wash. App. 1054 (Wash. Ct. App. 2008) and *State v. Madrid* 192 P.3d 909 (Wash. Ct. App. 2008), when it ruled the receiver statute was only intended for actions and suits by the receiver and not pending actions brought by a shareholder, and when it ruled a shareholder could take over the receivership to address filings under RCW 7.60.190(e).

The Washington State Court of Appeals for Division II rulings failed to uphold its previous case law precedence for standing and jurisdiction in their rulings in *Nickum c. City of Bainbridge Island*, 153 Wn. App. 366, 153 Wash. App. 336, 223 P.3d 1172) Wash. Ct. App. 2009), when it allowed the Trust to take over briefing for the for the response to Feick's filing under RCW 7.60.190(e) and made its own arguments why the Trust was able to file a response on behalf of the receiver.

D. Review should be accepted pursuant to RAP Rule 13.4 (b)(4).

Feick respectfully argues that his petition is of substantial public importance for litigants with pending litigation prior to a

corporate receivership. The public needs to know that any pending litigation that they have could be ignored or improperly controlled by a receiver under the current ruling by the Court of Appeals in this case.

It would also be of substantial public importance for the public to know that they could be sanctioned thousands of dollars for exercising their rights as they appear in the receiver statute without an appellate court publishing its decision and giving the proper precedence to their interpretation of the statutes which were the underlying cause for sanctions.

It would also be of substantial public importance for the public to know that if they are outspent on lawyers who have documented positions of influence at the Washington State Bar Association, that statutes will not be properly interpreted, and, that the Appellate case law precedence will not be upheld, and, that the Appellate courts will not consider arguments not made at the trial court to be waived and conceded, and, that the RAP rules can be ignored, and, that the Appellate court will construct arguments for opposing counsel, and,

that the Appellate courts will sanction a pro se defendant without publishing the statutory interpretation it has based its sanctions upon.

Put simply, the public needs to know the appellate court can sanction a poor person and then bury its special class rulings in an unpublished decision, without burying the previous sanctions with it.

It would be an injustice for this court to deny review of the very statutes that this very court has relied upon for sanctioning the petitioner, Feick. Allowing the decision on the statutes in this case to go unpublished is tantamount to admitting Feick should not have been sanctioned by this court.

VI. Conclusion

Feick respectfully requests review be granted because the petition meets all the criteria in outlined in RAP Rule 13.4 (b)(1), (2), and (4).

I Charles Feick swears that this petition complies with RAP
18.17 (10) and contains 4,822 words.

Respectfully Submitted, this 24th day of March 2022.

By: Charles Feick pro se
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the date set forth below, I served the Appellant's Petition for
3 Review, to the following Parties:
4

5 Brian Esler via Hand Delivery
6 brian.esler@millermash.com via U.S. Mail
7 Miller Nash Graham & Dunn, LLP via Facsimile
8 2801 Alaskan Way via E-mail
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15 4100 194TH St. S.W. Suite 208 via E-mail
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17 Receiver for The Green Harvest Corporation, 95 US HWY 101 Hoquiam, WA

18 William J. Stewart via Hand Delivery
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CERTIFICATE OF SERVICE - 1

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March 24, 2022
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CERTIFICATE OF SERVICE - 2

APPENDIX 1

January 25, 2022

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

CHARLES FEICK, individually, derivatively
on behalf of Nominal Defendant, THE GREEN
HARVEST CORPORATION,

Appellant,

v.

THE BRUTSCHE FAMILY REVOCABLE
TRUST, THE ESTATE OF LEOPOLD
CHANNING BRUTSCHE, MICHAEL
BRUTSCHE, MARTHA CARR, CARLES
CARR, CREATIVE SOLUTIONS
EQUIPMENT, INC.,

Respondents,

and

THE GREEN HARVEST CORPORATION,

Nominal Defendant.

No. 54963-8-II
(Consolidated with 55213-2-II)

UNPUBLISHED OPINION

PRICE, J. — In a derivative suit brought on behalf of the Green Harvest Corporation, Charles Feick appeals the superior court’s approval of a settlement agreement, appointment of a general receiver, denial of his motions to vacate and terminate the receivership, and denial of his motion for reconsideration. In response, the Brutsche Family Revocable Trust, the Estate of Leo Brutsche, and Michael Brutsche (collectively referred to as the Brutsches) bring a motion to dismiss Feick’s appeal and request attorney fees. We deny the Brutsches’ motion to dismiss and

request for attorney fees, but we also disagree with each of Feick's arguments and affirm the superior court.

FACTS

I. BACKGROUND

Green Harvest was a Washington corporation that held a cannabis producer and processor license. Charles Feick founded Green Harvest and sought out investors. In addition to being a shareholder, Feick served as the president and sole manager of Green Harvest.

The Brutsche Family Revocable Trust (Trust), through its trustee Leo Brutsche¹, became a shareholder in and loaned money to Green Harvest. The Trust also leased Green Harvest the property used for its operations.

Despite substantial investment and loans from shareholders, Green Harvest was not profitable, was accumulating debt, and was not making payments on its obligations. None of the shareholders had received any return on their investments or payments on their loans. Eventually, several shareholders became concerned with Feick's management of Green Harvest as he was continually requesting additional funds from shareholders and allegedly instructing vendors to seek payment directly from the Trust instead of Green Harvest.

¹ Since the commencement of this action, Leo Brutsche has died, and his interests now belong to the Estate of Leo Brutsche.

In 2017, due to these concerns, members of the board of directors, Leo Brutsche² and Martha Carr, removed Feick as president and installed Michael Brutsche in that role.³ Michael stepped down as president after ten days, and then both Leo and Martha resigned from the board of directors.

In response to the directors' actions, Feick submitted complaints to the Washington State Liquor and Cannabis Board (WSLCB) as well as the attorney general and attempted to bring criminal charges against several of the shareholders. The Trust tried to resolve the conflicts between Feick and the shareholders through mediation, but Feick refused to participate. The Trust also repeatedly requested copies of Green Harvest's records and asked Feick to retain counsel for Green Harvest. Feick neither provided the records nor retained counsel.

In December 2018, Feick brought a derivative action pro se on behalf of Green Harvest against the Brutsches as well as against Martha Carr, Charles Carr, and Creative Solutions Equipment, Inc.⁴ The same day, Feick sent an email to the parties saying, "This is now attrition and I will employ all my resources and legal networking to do all I can do to compell [sic] your clients to pay for their crimes against [Green Harvest] and its [s]hareholders." Clerk's Papers (CP) at 1010.

² Due to the fact that multiple individuals involved in this litigation share the same last name, certain persons are referred to using their first names. No disrespect is intended.

³ Martha Carr was also a shareholder in Green Harvest. Michael Brutsche was Leo Brutsche's grandson and assisted him in managing the Trust.

⁴ Charles Carr is Martha Carr's son. Feick has accused him of participating in stealing money from Green Harvest. Charles owns Creative Solutions Equipment, Inc., and it appears from the record that Green Harvest purchased equipment from them.

After realizing he could not represent Green Harvest pro se, Feick amended his complaint to include individual causes of action along with the derivative suit. He raised many claims including corporate looting and waste, embezzlement, and breach of fiduciary duty.

After Feick brought the action, Green Harvest defaulted on its lease agreement with the Trust. Additionally, Green Harvest had a tax lien pending against it and failed to retain insurance. The WSLCB also informed Feick that Green Harvest's cannabis license had expired due to a failure to pay the renewal fees and provide fingerprints.

The Trust again requested that Feick retain counsel for Green Harvest to assist in management and legal decision making and requested access Green Harvest's records. Feick again neither retained counsel nor permitted the Trust to access the records.

II. APPOINTMENT OF GENERAL RECEIVER

About four months after Feick brought his lawsuit, the Trust filed a motion requesting the superior court appoint a general receiver over Green Harvest to liquidate Green Harvest's assets and dissolve it. The Trust argued that because of Green Harvest's failed financial status, dissolution was necessary and a receiver was required to protect and realize any remaining value. Based on the information available to the Trust, Green Harvest was being managed solely by Feick and there was no acting board of directors. The Trust further understood that a board of directors had not met in about two years. The Trust asserted that the majority of Green Harvest's shareholders favored appointment of a receiver. The shareholders believed that Feick posed a danger to the interests of Green Harvest and were concerned with the potential legal and financial risks he had incurred for Green Harvest as well as its shareholders.

Feick responded to the Trust's motion by agreeing that a receiver was necessary but arguing that the superior court should appoint a *custodial* receiver rather than a *general* receiver. He maintained the superior court should not appoint a general receiver unless Green Harvest's situation failed to improve such that "dissolution and liquidation of [Green Harvest's] assets appear[ed] to be the only reasonable course." CP at 22-23.

The superior court granted the Trust's motion and appointed Research Transition Consultants, LLC (Receiver) as the general receiver for Green Harvest.

III. SUBSEQUENT PROCEEDINGS

After its appointment, the Receiver found a potential buyer for Green Harvest's cannabis license. Because the cannabis license was tied to the Trust's real property, the Receiver believed that the value of the license would be greater if it could be offered with the property. The Receiver reached a settlement agreement with the Brutsches that allowed the Receiver to sell the rights to the cannabis license to the buyer while the Trust would simultaneously sell the property associated with those license to the buyer. The Receiver requested the superior court approve such a sale, and the request was granted. Feick did not object to the sale.

The sale of the cannabis license and the property was contingent on the superior court also approving the settlement agreement between Green Harvest and the Brutsches. The terms of the settlement agreement provided that Green Harvest's assets would be sold and the Receiver would dismiss the derivative claims brought on behalf of Green Harvest against the Brutsches. All remaining causes of action against Feick would be assigned to the Brutsches. In exchange, the Brutsches agreed to continue to allow Green Harvest's holdover tenancy and to sell the property

connected to the cannabis license. The Brutsches also agreed to release Green Harvest from indemnification and tenant payment obligations.

Feick opposed the motion to approve the settlement agreement, arguing that the Receiver failed to pursue debts owed to Green Harvest and the sale price for the cannabis license was too low. Feick also filed a motion to terminate the receivership and a motion to vacate the original receivership order.

In August 2020, the superior court considered both of Feick's motions together with the Receiver's motion to approve the settlement agreement. The superior court first denied Feick's motions to terminate and vacate the receivership. The superior court determined that when the Trust petitioned for a receivership, Green Harvest was not financially sound, had substantial debts, and the financial interests of its shareholders and creditors were in jeopardy. The superior court further found that there was no basis for exercising its discretionary authority to terminate the receivership because there had been no showing of misrepresentation, wrongdoing, bad faith, or other circumstances justifying termination. The superior court then approved the settlement agreement and dismissed all derivative claims asserted on behalf of Green Harvest against the Brutsches.

Feick filed a motion to reconsider pursuant to CR 59, arguing that the superior court erred in failing to assign an adjunct case number to Feick's action as required by RCW 7.60.160(2). Feick appeared to argue that because there was no adjunct case number assigned and no stay of proceedings, the Brutsches and the Receiver did not have standing to make certain arguments and the superior court did not have either standing or jurisdiction to make its decisions. The superior court denied Feick's motion to reconsider.

Feick filed a notice of discretionary review to this court, which we accepted as a notice of appeal. Feick seeks review of multiple orders related to the August 2020 hearing: (1) the order approving the settlement agreement, (2) the order denying his motions to vacate and terminate the general receivership, and (3) the order denying his motion for reconsideration. Feick also includes a request to review the initial order appointing the Receiver made in 2019 and raises additional arguments about various issues.

In addition to their substantive response, the Brutsches move to dismiss Feick's appeal, arguing that Feick's claims are untimely and frivolous.

ANALYSIS

I. BRUTSCHES' MOTION TO DISMISS

The Brutsches bring a motion to dismiss Feick's appeal of the initial 2019 order appointing the Receiver arguing that it is untimely and frivolous. We deny the motion to dismiss.

The Brutsches claim that arguments regarding the order appointing the Receiver cannot be raised on appeal here because that type of order is appealable as a matter of right. Because Feick failed to file his request for review until more than one year after the appointment of the Receiver, according to the Brutsches, his request is untimely. We reject this argument.

A party may, but need not, seek interlocutory review of an order appointing a receiver by filing a notice of discretionary review of that decision within 30 days after entry of the order. RAP 2.2 and 2.3. We then have discretion to grant interlocutory review or not after applying the standard established under RAP 2.3. Alternatively, a party may include an order appointing a receiver as an order designated for appeal when the party appeals as a matter of right after a final

judgment under RAP 2.2. *See* RAP 2.4. Feick chose the latter option, and his appeal of the order appointing the receiver was not untimely.

The Brutsches next broadly argue that we should dismiss all Feick’s claims because they are frivolous. “ ‘[A]n appeal is frivolous if there are no debatable issues upon which reasonable minds might differ, and it is so totally devoid of merit that there was no reasonable possibility of reversal.’ ” *Green River Cmty. Coll. Dist. No. 10 v. Higher Educ. Pers. Bd.*, 107 Wn.2d 427, 442-43, 730 P.2d 653 (1986) (quoting *Streater v. White*, 26 Wn. App. 430, 434-35, 613 P.2d 187 (1980)). As discussed below, Feick’s arguments are not totally devoid of merit. Therefore, we deny the motion to dismiss.

II. APPOINTMENT OF GENERAL RECEIVER

Feick argues that the superior court erred in appointing a general receiver. We disagree.

A. LEGAL PRINCIPLES

A “receiver” is “a person appointed by the court as the court’s agent, and subject to the court’s direction, to take possession of, manage, or dispose of property of a person.” RCW 7.60.005(10). A receiver may be appointed “in any action involving any dispute with respect to the ownership or governance of [any public or private] entity[] or upon the application of a person having an interest in such an entity when the appointment is reasonably necessary to protect the property of the entity or its business or other interests.” RCW 7.60.025(1)(u).

A receiver can be either a general receiver or a custodial receiver. RCW 7.60.015. “A receiver must be a general receiver if the receiver is appointed to take possession and control of all or substantially all of a person’s property with authority to liquidate that property and, in the case of a business over which the receiver is appointed, wind up affairs.” RCW 7.60.015.

A custodial receiver “is appointed to take charge of limited or specific property of a person or is not given authority to liquidate a property.” RCW 7.60.015.

A superior court’s decision to appoint a receiver is reviewed for an abuse of discretion. *Mony Life Ins. Co.*, 135 Wn. App. 948, 952, 148 P.3d 1065 (2006). “A [superior] court abuses its discretion when its decision is ‘manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons.’ ” *Id.* at 952-53 (internal quotation marks omitted) (quoting *T.S. v. Boy Scouts of Am.*, 157 Wn.2d 416, 423, 138 P.3d 1053 (2006)).

B. APPLICATION

Feick argues that the superior court erred in granting the petition for a general receivership and that it should have instead appointed a custodial receiver.⁵ He maintains that Green Harvest was in a good position and appointment of a general receiver was not necessary. We disagree.

Prior to appointing the Receiver, the superior court considered evidence that Green Harvest was insolvent, not being properly managed, defaulted on its lease, and at risk of losing its remaining assets. Evidence was presented that Green Harvest was seeking to avoid its obligations to its vendors by instructing them to seek payment from the Trust. Moreover, dissolution, a result favored by the majority of shareholders, required the appointment of a general receiver. A custodial receiver would not have had the authority to sell assets and dissolve Green Harvest. *See* RCW 7.60.015. Because there was evidence that a comprehensive management approach was

⁵ Feick also argues that the superior court should not have created a receivership at all. However, because Feick actually argued for a custodial receivership below, that argument fails under the invited error doctrine. *See Angelo Prop. Co., LP v. Hafiz*, 167 Wn. App. 789, 823, 274 P.3d 1075 (2012).

necessary, including the possible dissolution of Green Harvest and liquidation of its assets, the superior court did not abuse its discretion in appointing a general receiver.

III. MOTIONS TO VACATE & TERMINATE RECEIVERSHIP

Feick argues that the superior court erred in denying his motions to vacate and terminate the receivership. We disagree.

A. LEGAL PRINCIPLES

A receiver may be appointed by the superior court when dissolution of a private entity is sought if an appointment is requested by “a person having an interest in such an entity.” RCW 7.60.025(u). The superior court also has the authority to terminate a receivership. RCW 7.60.290(5). We review a decision of whether to terminate a receivership for an abuse of discretion. *Bero v. Name Intelligence, Inc.*, 195 Wn. App. 170, 179, 381 P.3d 71 (2016).

B. APPLICATION

Feick appears to argue that the superior court erred in denying his motion to terminate and his motion to vacate the receivership under RCW 7.60.290(5) because the receivership was procured wrongfully or in bad faith. Regarding both motions, Feick claims that because the Trust and its trustee misrepresented themselves as parties of interest that could request a receivership, the superior court should have terminated and vacated the receivership. We disagree.

The Trust had an interest in Green Harvest because it was a shareholder, and the trustee had authority to act on behalf of the Trust. This interest in Green Harvest permitted the Trust, through its trustee, to initially request the receivership. Accordingly, we find that the superior court did not abuse its discretion by denying Feick’s motions to terminate and vacate the receivership.

IV. MOTION FOR RECONSIDERATION

Feick argues that the superior court should have granted his motion for reconsideration of the superior court's approval of the settlement and denial of his motions to vacate and terminate the receivership. Feick asserts that the superior court was divested of jurisdiction when it (1) failed to stay the case pursuant to RCW 7.60.110(1)(a)), and (2) failed to assign an adjunct case number (which Feick asserts is required under RCW 7.60.160(2)).⁶ We disagree.

First, RCW 7.60.110(1)(a) provides that an order appointing a general receiver operates as a stay of “[t]he commencement or continuation . . . of a judicial, administrative, or other action or proceeding *against the person over whose property the receiver is appointed* that was or could have been commenced before the entry of the order of appointment, or to recover a claim against the person that arose before the entry of the appointment.” (Emphasis added.) Such a stay automatically expires 60 days after the appointment of a receiver. RCW 7.60.110(2).

Feick does not provide authority to support his argument that a failure to issue a stay under this statute divested the superior court of jurisdiction. Assuming violating the statute could have this result, the superior court did in fact order a stay of proceedings under RCW 7.60.110 as part of its order appointing a receiver. Consistent with the statute, the stay expired after 60 days, making it largely inapplicable because Feick's complaints are rooted in actions occurring well outside this statutory period. Because the superior court's stay satisfied the requirements of the statute, Feick's argument fails.

⁶ Feick also couches his arguments in terms of divestment of the superior court's “standing” to issue its orders. Appellant's Opening Br. at 26-28, 32-41. Feick, however, does not explain or provide authorities supporting his allegation of the superior court's lack of “standing.” Therefore, we do not further address it. *See* RAP 10.3(a).

Feick's argument also fails because his application of the statute is overly broad. Feick appears to argue that the superior court should have stayed all proceedings indefinitely. However, in addition to only requiring a stay for 60 days, the statute only applies to actions in which the entity in receivership is a defendant (as in a proceeding "against the person over whose property the receiver is appointed"). RCW 7.60.110. Because the case below was originally postured as a shareholder derivative suit, Green Harvest is more properly aligned as a plaintiff. Green Harvest was listed as a nominal defendant in the action, but nothing on the record indicates that Green Harvest has substantively acted as a defendant. In fact, Green Harvest entered into a settlement agreement as a plaintiff with the defendants. Because the statute does not apply as urged by Feick, the superior court's failure to order a stay could not have affected its jurisdiction.

Second, relying on RCW 7.60.160(2), Feick also argues the superior court was divested of jurisdiction because it failed to assign an adjunct case number. The statute provides:

Litigation by or against a receiver is adjunct to the receivership case. The clerk of the court shall assign a cause number that reflects the relationship of any litigation to the receivership case. All pleadings in adjunct litigation shall include the cause number of the receivership case as well as the adjunct litigation number assigned by the clerk of the court. All adjunct litigation shall be referred to the judge, if any, assigned to the receivership case.

RCW 7.60.160(2).

On its face, the provision requires the superior court to assign an adjunct case number to litigation "by or against a receiver." RCW 7.60.160(2). The statute ensures that litigation involving a receiver remains separate from the case in which a receiver is actually appointed. RCW 7.60.160(2). It applies only to situations where a receiver is an actual party to the litigation, either as a plaintiff or a defendant. RCW 7.60.160(2).

Here, again, Feick provides no support for his argument that the superior court's jurisdiction is affected by violating this statute. But even if that is the result, like the stay provision discussed above, the statute does not apply in this case. Although the Receiver was appointed as part of this action, there is no litigation by or against the Receiver at issue. The Receiver is neither a plaintiff nor a defendant in this action. Because the Receiver is not a party to this action, the superior court was not required to assign an adjunct case number.

Since the statutory provisions for stays and adjunct case numbers in receiverships do not apply, we find that the superior court did not err in denying Feick's motion for reconsideration.

V. ADDITIONAL ARGUMENTS

Feick makes several additional arguments that are not adequately supported to permit our review. For example, Feick argues that the superior court erred in finding that the Trust had standing "to file a legal action representing [Green Harvest] as a true party of interest." Opening Br. at 39. Feick's arguments in support of this contention are muddled, and he fails to point to facts in the record that support this contention. Therefore, we decline to address this issue. *See* RAP 10.3(a).

Feick also appears to argue that the superior court erred in approving the settlement agreement because the sale price for the cannabis license was too low, even though he failed to object to the approval of the sale below. Feick offers no legal citations to support addressing his unpreserved argument. Therefore, we decline to address it. *See* RAP 10.3(a).

Feick next argues that the superior court erred in permitting the Trust and Bill Stewart⁷ to supposedly act as “co-receivers” along with the Receiver for Green Harvest. Feick fails to point to facts in the record that support his contention that they were acting as co-receivers for the Green Harvest. Therefore, we decline to address this argument. *See* RAP 10.3(a).

Finally beyond his arguments against the motion for reconsideration, Feick persists in his global position about “adjunct case numbers” to argue that all the superior court rulings “on receivership, the settlement and the real estate owned by the Trust” should be vacated for a lack of standing and jurisdiction. Opening Br. at 26. Again, Feick provides no authority indicating this would be the result from an “adjunct case number” violation but, as explained above, because this case did not involve litigation by or against the Receiver, the statute requiring adjunct case numbers does not apply.

VI. ATTORNEY FEES & SANCTIONS

The Brutsches request that we impose sanctions and award attorney fees pursuant to RAP 18.9 because Feick’s appeal was frivolous. Martha Carr, in her joinder of the Brutsches’ motion to dismiss, also requests that she be awarded her attorney fees under RAP 18.9.⁸ We deny the respondents’ requests.

⁷ Bill Stewart is Martha Carr’s attorney.

⁸ Charles Carr also requests his attorney fees on appeal. However, because he fails to properly devote a section of his brief to this request, we do not address it. RAP 18.1(b). *See Stiles v. Kearney*, 168 Wn. App. 250, 267, 277 P.3d 9 (2012) (“Argument and citation to authority are required under the rule to advise the court of the appropriate grounds for an award of attorney fees and costs.”).

No. 54963-8-II
(Consol. with 55213-2-II)


Sanctions and attorney fees may be imposed under RAP 18.9(a) where we find that an appeal is frivolous. RAP 18.9(a). “ ‘[A]n appeal is frivolous if there are no debatable issues upon which reasonable minds might differ, and it is so totally devoid of merit that there was no reasonable possibility of reversal.’ ” *Green River Cmty. Coll. Dist. No. 10*, 107 Wn.2d at 442-43 (quoting *Streater*, 26 Wn. App. at 434-35).

Although Feick’s arguments on appeal are weak and baseless at points, they are not so totally devoid of merit that there was no reasonable possibility of reversal. Therefore, we deny the respondents’ requests for attorney fees and sanctions.

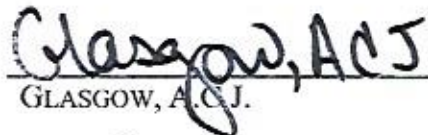
CONCLUSION

In conclusion, we deny the Brutsches’ motion to dismiss and affirm the superior court.

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.


PRICE, J.

We concur:


GLASGOW, A.C.J.


WORSWICK, J.

APPENDIX 2

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

Filed

Washington State
Court of Appeals
Division Two

DIVISION II

CHARLES FEICK, individually, derivatively
on behalf of Nominal Defendant, THE GREEN
HARVEST CORPORATION,

Appellant,

v.

THE BRUTSCHE FAMILY REVOCABLE
TRUST, THE ESTATE OF LEOPOLD
CHANNING BRUTSCHE, MICHAEL
BRUTSCHE, MARTHA CARR, CARLES
CARR, CREATIVE SOLUTIONS
EQUIPMENT, INC.,

Respondents,

and

THE GREEN HARVEST CORPORATION,

Nominal Defendant.

No. 54963-8-II
(Consolidated with 55213-2-II) February 22, 2022

ORDER GRANTING MOTION TO FILE
OVER-LENGTH BRIEF
AND
ORDER DENYING MOTION
FOR RECONSIDERATION

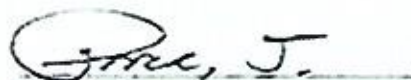
Appellant moves for reconsideration of the Court's January 25, 2022, opinion. He has also filed a motion to file an over-length brief for his motion for reconsideration.

The motion to file an over-length brief is granted, and is accepted for filing. Upon consideration, the Court denies the motion for reconsideration. Accordingly, it is

SO ORDERED.

PANEL: Jj. GLASGOW, WORSWICK, PRICE

FOR THE COURT:


PRICE, J.

APPENDIX 3

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

Filed
Washington State
Court of Appeals
Division Two

CHARLES FEICK, individually, derivatively
on behalf of Nominal Defendant, THE GREEN
HARVEST CORPORATION,

Appellant,

v.

THE BRUTSCHE FAMILY REVOCABLE
TRUST, THE ESTATE OF LEOPOLD
CHANNING BRUTSCHE, MICHAEL
BRUTSCHE, MARTHA CARR, CARLES
CARR, CREATIVE SOLUTIONS
EQUIPMENT, INC.,

Respondents,

and

THE GREEN HARVEST CORPORATION,

Nominal Defendant.

No. 54963-8-II February 22, 2022
(Consolidated with 55213-2-II)


ORDER DENYING MOTION TO
PUBLISH

Appellant moves for publication of the Court's January 25, 2022, opinion. Upon
consideration, the Court denies the motion. Accordingly, it is

SO ORDERED.

PANEL: Jj. GLASGOW, WORSWICK, PRICE

FOR THE COURT:


PRICE, J.

APPENDIX 4

SUPERIOR COURT OF WASHINGTON FOR GRAYS HARBOR COUNTY

CHARLES FEICK, Individually,
derivatively on behalf of Nominal
Defendant The Green Harvest Corporation,

Plaintiff,

v.

THE BRUTSCHE FAMILY
REVOCABLE TRUST, LEOPOLD
CHANNING BRUTSCHE, MICHAEL
BRUTSCHE, MARTHA CARR,
CHARLES CARR, CREATIVE
SOLUTIONS EQUIPMENT, INC.,

Defendants,

and

THE GREEN HARVEST
CORPORATION,

Nominal Defendant.

Case No. 18-2-00991-14

**THE BRUTSCHES' RESPONSE TO
PLAINTIFF'S MOTION TO TERMINATE
GENERAL RECEIVERSHIP PURSUANT
TO RCW 7.60.290 AND FOR CR 11
SANCTIONS AND MOTION TO VACATE
ORDER PURSUANT TO CR 60B(4), (11),
AND CR 12H(3), AND FOR CR 11
SANCTIONS**

I. INTRODUCTION

Defendants the Brutsche Family Revocable Trust (the "Trust"), the Estate of Leo Brutsche (the "Estate"), and Michael Brutsche ("Brutsche") (collectively, the "Brutsches") hereby respond to Plaintiff Charles Feick's Motion to Terminate General Receivership Pursuant to RCW 7.60.290 and for CR 11 Sanctions that was filed on August 10, 2020 (the "Motion to

1 have burdened the Trust with considerable unnecessary expense and forced the Trust's counsel to
2 travel twice to improper hearings that Plaintiff refused to reschedule.

3 Accordingly, during the hearing on August 17, 2020, the Trust raised its right to
4 an award of sanctions against Plaintiff, and the Court directed Plaintiff to produce a sworn
5 declaration attesting to his current finances. The Trust continues to reserve its right to seek an
6 award of sanctions pursuant to CR 11.

7 **III. CONCLUSION**

8 For the reasons stated above, this Court should deny the Motions.

9 DATED this 20th day of August, 2020

MILLER NASH GRAHAM & DUNN LLP

11 *s/ Justin C. Sawyer*

12 Brian W. Esler, WSB No. 22168

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16 *Of Attorneys for The Brutsche Family Revocable
17 Trust, the Estate of Leo Brutsche, and Michael
18 Brutsche*

CHARLES FEICK

March 24, 2022 - 1:53 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 54963-8
Appellate Court Case Title: Charles Feick, App v. The Brutsche Family Revoc. Trust, et al., Resps
Superior Court Case Number: 18-2-00991-6

The following documents have been uploaded:

- 549638_Petition_for_Review_20220324134024D2023419_7208.pdf
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- Brian@budsberg.com
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- jakeflothe@gmail.com
- sealitsupport@millernash.com
- stewartlaw@live.com
- trustee@budsberg.com

Comments:

Hi Chris, Here is the Petition for Review in Case No. 54963-8. I will wait for the Supreme Court Clerk's Letter for the PRV Fee. Your the Best Chris, Thank You, Charles Feick

Sender Name: charles feick - Email: thekonakid5@gmail.com

Address:

1001 Lincoln Street Apt. B-302

B-302

Hoquiam, WA, 98550

Phone: (360) 774-9269

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