

**FILED  
Court of Appeals  
Division II  
State of Washington  
1/30/2023 2:18 PM**

**FILED  
SUPREME COURT  
STATE OF WASHINGTON  
1/30/2023  
BY ERIN L. LENNON  
CLERK**

101531-3

**No. 56205-7-II**

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IN THE SUPREME COURT OF THE STATE OF WASHINGTON

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Dr. AMELIA BESOLA, Administrator and Petitioner,

Appellant,

v.

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

Respondents.

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APPELLANT'S MOTION FOR PERMISSION TO INCLUDE  
MATERIALS NOT INCLUDED IN THE RECORD ON REVIEW

[treated as a Motion to Supplement the Record](#)

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

### **STATEMENT OF THE RELIEF SOUGHT**

Pursuant to RAP 10.3(a)(8) Petitioner Dr. Amelia Besola (“Petitioner”) seeks permission from this Court to provide materials not contained in the record on review as an appendix.

Petitioner filed her Appendix with her Petition for Review on January 30, 2023. Petitioner is filing this motion requesting permission to file her Appendix H with material not designated in the Clerk’s Papers and wishes to obtain permission from the Court to review those materials.

### **STATEMENT OF RELEVANT FACTS**

Petitioner requests permission from this Court to include the following material from Pierce County Superior Court cause number 19-4-01902-9 which were inadvertently omitted from the pleadings designated as Clerk’s Papers:

1. Order Awarding Attorneys’ Fees And Directing Entry of Final Judgment Under CR 54(b) dated December 4, 2020.

A true and accurate copy of the proposed appendices is attached as **Exhibit A**.

This document is a part of the trial court record currently in front of the Court for review but was inadvertently not included in the Clerk's Papers Designation for this matter. Further, there is no harm or prejudice to the Respondent as he will receive a copy of the Appendices and has previously reviewed these documents.

#### **GROUND AND ARGUMENT FOR EXTENSION**

RAP 10.3(a)(8) permits a party to submit an appendix to its brief. However, an "appendix may not include materials not contained in the record on review without permission from the appellate court..." *Id.*

Petitioner seeks the Court's permission to provide materials contained in the trial record which were inadvertently omitted from the Clerk's Papers. A sufficiently complete record on review permits the Court to enter a decision on the merits of the issues presented for review. *See generally* RAP 9.10.

Supplementation of the record to include this document may be accomplished by granting permission to the Petitioner to include the document in the Appendix H to Appellant's Petition for Review. Even if the appendices are arguably improper, the information provided therein are not new and are provided so the Court has a complete record before it.

Therefore, Petitioner respectfully requests the Court grant permission for Petitioner to rely on the filed Appendix containing necessary materials not contained in the record on review.

### **CONCLUSION**

This Court should grant the motion and permit Petitioner to rely on the Appendix previously filed with her brief.

If the Court is not amenable to granting permission for the supplement and instead requests a revised Petition for Review to be filed, then Petitioner respectfully requests an extension to file a revised brief 20 days after the entry of supplemental Clerk's Papers of the proposed Appendix H.

Submitted January 30, 2023.

Respectfully submitted,

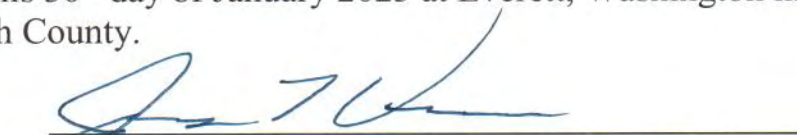


Jose F. Vera, WSBA # 25534  
Vera & Associates PLLC  
100 W. Harrison Street, Suite  
300  
Seattle, WA 98119  
P. (206) 793-8318

### **CERTIFICATE OF WORD COUNT**

The undersigned certifies that the foregoing Motion to Supplement Record is 14 point, New Times Roman font and contains 429 words.

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

  
\_\_\_\_\_  
Jose F. Vera, Attorney at Law WSBA #25534

## CERTIFICATE OF SERVICE

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

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

Stuart C. Morgan ☒ Email  
Grady R. Heins  
Ledger Square Law, P.S.  
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Attorneys for Amelia Besola  
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Desmond Kolke  
Law Offices of Desmond Kolke  
1201 Pacific Avenue, Suite 600  
Tacoma, WA 98402  
Attorney for Amelia Besola  
[ddklawoffice@gmail.com](mailto:ddklawoffice@gmail.com)

Email

DATED this 30th day of January, 2023.

*/s/ Lisa Lefebvre*  
\_\_\_\_\_  
Lisa Lefebvre, Legal Assistant

**Ex. A**





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

In the matter of the Estate of

MARK LESTER BESOLA,

Deceased.

---

AMELIA BESOLA,

Petitioner,

v.

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

Respondents.

---

AMELIA BESOLA,

Petitioner,

v.

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

Respondents.

NO. 19-4-01902-9

CONSOLIDATED WITH:  
19-4-01945-2

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

~~PROPOSED~~  
*9/1*  
*12* *13* *SM*



0127

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12/7/2020

JUDGMENT SUMMARY

Judgment Creditor: Brandon Gunwall

Attorney for Creditors: Daniel Walk

Judgment Debtor: Judgment Amount 34

Amelia Besola: \$ 154,986.00

~~Julia Besola:~~ \$ ~~0~~

~~Tyler Shillito and Smith Alling PS~~ \$ ~~0~~

~~Jose Vera and Vera and Associates, PLLC~~ \$ ~~0~~

~~Doc Kolke And Law Offices of Desmond Kolke~~ \$ ~~0~~

~~Quinten Wildsmith and Lasher Holzappel Sperry & Ebberson PLLC~~ \$ ~~0~~

Date of Judgment: December 4, 2020

TO BEAR INTEREST AT 12% PER ANNUM FROM DATE OF ENTRY

This matter having come on for hearing upon the motion of Respondent Brandon Gunwall's Motion for attorneys' fees, sanctions, and a determination of final judgment following the granting of the defendants' motion for summary judgment to dismiss, and the Court having considered the Declaration of Daniel Walk dated November 16, 2020, the Fee Declaration of Daniel K. Walk dated November 16, 2020, the Declaration of Tyler Shillito dated December 1, 2020, the Declaration of Jose Vera dated November 30, 2020, the Declaration of Quinten Wildsmith dated December 1, 2020, the Supplemental Declaration of Daniel Walk dated December 2, 2020, and the Amended Fee Declaration of Daniel K. Walk dated December 2, 2020, the court having reviewed Mr. Gunwall's Motion for Attorneys' Fees, Amelia and Julia



Handwritten initials: SM, CF, GV

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12/7/2020

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

4 FINDINGS OF FACT:

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

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

10 3. The attorneys' fees as set forth in the supplemental fee declaration of Daniel Walk  
11 dated December 2, 2020 are fair and reasonable both in terms of hours spent and in terms of the  
12 hourly rate.

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

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

*TO BEAR INTEREST OF 12% PER ANNUM  
FROM DATE OF ENTRY.*

17 ~~7. The conduct of Tyler Shillito, Jose Vera, Das Kolke, and Quinten Wildemith~~  
18 ~~violated CR 11 in that they deliberately and intentionally filed pleadings to pursue a litigation~~  
19 ~~strategy for the express purposes of harassing the Respondent Gunwall and increasing the cost of~~  
20 ~~this litigation.~~

*(Handwritten initials and scribbles)*

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

*Handwritten initials: JCB, SM*



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02773020

1 ~~such claims with clear, cogent and convincing evidence could not be met, constituted harassment~~

2 ~~and was done for the purpose of increasing the cost of the litigation to Mr. Gunwall~~

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

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

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

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

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

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

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

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

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

*DDH*  
*Syl*  
*CR*  
*SMCR*



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12/7/2020

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

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

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

8 ~~2. Respondent Gunwall is entitled to have Judgment against Amelia Besola for fees~~  
9 ~~and costs under RCW 4.84.185 because the claims against him were frivolous.~~ DSK

10 ~~3. Sanctions should be issued against the following attorneys for violating CR 11 in~~  
11 ~~the following amounts in favor of the respondent Gunwall:~~ SM  
GC  
ATZ  
ATZ  
M

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

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

*SM*

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

18 ~~Quinton Wildsmith and~~  
19 ~~Laeher Holzapfel Sperry~~  
20 ~~& Peterson PLLC~~ \$     φ    

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

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

\$ 154,130.00 for attorneys' fees and \$ 856.34 for costs for a total Judgment in  
the amount of \$ 154,986.<sup>34</sup> and it is further **TO BEAR INTEREST OF 12% PER ANNUM FROM DATE OF ENTRY.**

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

*SM  
GC  
ATZ  
GC*



11/13/20 12:47:20 PM

1 hereby is awarded judgment against the Respondent Julia Decola Robinson in the amount of  
2 \$ \_\_\_\_\_ for attorneys' fees and \$ \_\_\_\_\_ for costs for a total Judgment in  
3 the amount of \$ \_\_\_\_\_ and it is further

*[Handwritten initials/signatures]*

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

- 7 ~~Kyler Shilliro~~ and ~~Smith Alling PS~~ \$ Ø
- 8 ~~Jose Vera and~~  
9 ~~Vera and Associates PLLC~~ \$ Ø
- 10 ~~Des Kolke~~  
11 ~~And Law Offices of Desmond Kolke~~ \$ Ø
- 12 ~~Quinten Wildsmith and~~  
13 ~~Lasher Holzapfel Sperry~~  
14 ~~& Ebberson PLLC~~ \$ Ø

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

18 DATED this 4 day of December, 2020.

**BRYAN E. CHUSHCOFF**

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

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

0132

X 

C. TYLER SHILLITO, WSBA 36874  
ATTORNEY FOR PETITIONER

4606

X 

JOSE F. VERA, WSBA 25534  
ATTORNEY FOR PETITIONER

12/7/2020

X 

STUART C. MORGAN, WSBA 26368  
ATTORNEY FOR PETITIONER

X 

DESMOND KOLKE, WSBA 23563  
ATTORNEY FOR PETITIONER

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

\* JEFFREY SWENSON ALSO PRESENT IN COURT

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

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

**SMITH ALLING, P.S.**

**January 30, 2023 - 2:18 PM**

**Transmittal Information**

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

**The following documents have been uploaded:**

- 562057\_Motion\_20230130141649D2121179\_7426.pdf  
This File Contains:  
Motion 1 - Other  
*The Original File Name was Motion for Permission Appendix H.pdf*

**A copy of the uploaded files will be sent to:**

- amy@ledgersquarelaw.com
- andrea@smithalling.com
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- grady@ledgersquarelaw.com
- josefvera@msn.com
- josevera@veraassociates.com
- stu@ledgersquarelaw.com
- thu.nguyen@ucop.edu

**Comments:**

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Sender Name: Julie Perez - Email: julie@smithalling.com

**Filing on Behalf of:** Charles Tyler Shillito - Email: tyler@smithalling.com (Alternate Email: lisaL@smithalling.com)

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