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Court of Appeals No. 83714-1-1

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SUPREME COURT  
OF THE STATE OF WASHINGTON

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SARA MAYNARD, an individual, et al,

*Petitioners,*

v.

ESTATE OF HELEN BEARDSLEE MAYNARD, et al,

*Respondents.*

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AMENDED PETITION FOR REVIEW

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A. IDENTITY OF PETITIONER

Petitioners Sara Maynard, as an Individual (hereinafter “Appel. Sara”), and Petitioner Estate of Elizabeth Brooks (hereafter “Estate Brooks”), by and through Sara Maynard in her capacity as Administratrix of the Estate of Elizabeth Brooks, ask for review of the Court of Appeals decision / opinion terminating review set forth in Part B.

Petitioner Sara Maynard has been represented by counsel for several years in various areas of the underlying trial court matters to the instant action. Said counsel selected for the matter in the Court of Appeals contracted Covid, and was thus delayed in filing a notice of appearance, but will soon appear in the instant Supreme Court matter.

B. COURT OF APPEALS DECISION

Division I of the Court of Appeals filed its opinion on May 1, 2023, and subsequent denial of motion for reconsideration was filed on May 22, 2023. A copy of the opinion and the order denying petitioner’s motion for reconsideration is attached herewith in the Appendix A.

### C. ISSUES PRESENTED FOR REVIEW

1. Whether the Court of Appeals Division I, and the trial court in the instant matter effectively announced new standards (i) for what constitutes a frivolous claim under RCW 4.84.185 and (ii) for award attorney's fees under that statute, and whether the Supreme Court should accept review to clarify and modify those effective new standards before adverse impacts arise. (CP 1 - 720).

2. Whether the policy implications of the Court of Appeals Division I decision and the trial court's decision will cause a chilling effect among practitioners, particularly plaintiff's attorneys, who because of the ruling may be reluctant to pursue equitable claims upon grounds for relief that may be found within the interstices of case law or based on reasoning where even courts may disagree (CP 1 - 720).

3. The Court of Appeals decision is in conflict with Supreme Court Precedent 13.4 (b)(1).

4. The Court of Appeals Opinion dated May 1, 2023 erroneously states that Appellant Sara “improperly misrepresented” her reasons for filing her Amended Opening Brief on December 30, 2022. This statement is shown to be incorrect by Appellant Sara’s motion to file said amended opening brief dated January 3, 2023 which was allowed by the Court of Appeals. A significant question of law of the United States is involved and needs review to clarify. (Appendix C herewith).

5. The trial court’s and the Court of Appeals’ granting of CR 11 sanctions against Appel. Sara is erroneous, and denotes that the courts did not review and consider the over 100 pages of evidentiary exhibits and declarations of eyewitnessing attorneys filed with the court. (CP 368 – 377; CP 437-540; CP 254-335; CP 385-391; CP 420-436; CP 457-462; CP 439-440).

6. Respondents McConnell erroneously claimed that all of Appellant Sara’s categories of items raised in the derivative



Creditor Complaint matter are identical to items raised in a different and separate matter. (See Appendix D).

7. The trial court (Cahan, J.), and Court Appeals have negated to regard the demands of trial court Order (Watness, J.) dated April 11, 2018 in the estate of Mother Helen Sr.'s probate matter (No. 05205), and as such were caused to erroneously rule Appellant Sara to be vexatious. This in itself demonstrates the trial court repeatedly entered conflicting Orders in both the underlying and derivative matters. (C 249 – 253; and Appendix D).

8. Appel. Sara's CP pleadings and over 100 evidentiary exhibits in the derivative trial court matter (CP 1 - 720) show that the trial court's Judgment and Order dated January 14, 2022 was erroneously derived, and not supported by facts and law. (CP 412 – 419; CP 1 – 720; and Appendix D herewith). A significant question of law is involved and needs review to clarify.

9. Appel. Sara's CP pleadings and evidentiary exhibits from the derivative trial court matter show that the trial court's Judgment and Order Vexatious Litigant dated January 14, 2022 is unfounded and is erroneous in regard to Respondent McConnell, as Appel. Sara had never filed a prior civil complaint against McConnell as an individual. Additionally, issues of Res Judicata and Statute Limitations do Not apply to eleven (11) of the fifteen (15) categories of items requested to be returned in said derivative trial court Creditor Complaint as said items are different from the predominant issues of breach of fiduciary duty raised in the separate "No. 22827" matter, and different from items raised in the Estate Mother Helen Sr. "No. 05205" matter. (CP 1 – 20; and CP 254 – 335; and CP 385 – 391; and CP 368 – 377; and CP 427 – 540); and (Appendix D herewith). A significant issue of law is involved and needs review to clarify.

10. Appel. Sara's CP pleadings and evidentiary exhibits from the derivative matter show that the trial court's Order Vexatious Litigant dated January 14, 2022 regarding Respondent Estate Helen Maynard Jr. is erroneous, and does not have supporting grounds, due in part to the fact that Appel. Sara has been caused to file only one (1) other complaint regarding said Estate Helen Jr., which contains entirely different issues in nearly all sections of same. (CP 1 - 720).

## D. STATEMENT OF THE CASE

### 1. Procedural Background

The instant Washington case evolved from a number of California Restraining Orders against Respondent McConnell, and which later evolved into the derivative Washington Creditor Complaint against the Estate Helen Jr., after Helen Jr. was found dead in her home while alone with her husband McConnell. Appel. Sara had been shown and informed that Helen Jr. and McConnell had been arguing over a divorce and money matters for an extended period of time. Said lower court Creditor Complaint was filed by the appellants / plaintiffs Sara Maynard (“Appel. Sara”) and Estate of Elizabeth Brooks (“Estate Brooks”) on December 7, 2020 under case No. 20-2-17513-7 SEA. (CP 1 - 20). As noted herewith above, the instant case is a very simple creditor complaint, which simply requested the return of fifteen (15) different categories of personal property items, which pursuant agreements witnessed by attorneys between Sara and sister Helen Maynard Jr. were

stored by Helen Jr. in trust on behalf of Sara and the Estate Elizabeth Brooks at the request of Sara. Eleven (11) of said fifteen (15) categories of items had always belonged to Sara, and some belonged to the Estate Elizabeth Brooks. (CP 437 thru 540). Said items never belonged to any other members of the Maynard family, nor to any other persons, and thus said property items were Not, and could Not, be raised in the probate of Sara's mother's estate, Estate Helen Maynard Sr. case No. 16-4-05205-1 SEA, nor in the probate of Sara's father's estate, Estate John C. Maynard case No. 00-4-045524 SEA, nor in the separate and different breach fiduciary civil matter (No. 22827). (CP 1 - 20; CP 437 - 540).

2. Based upon physician's 2014 evaluation of mental incompetence, Mother Helen Sr. was not competent to write any note in 2016 changing the status of anything, nor the status of Nana's ring as was falsely claimed by Sara's brother John Maynard Jr.. (CP 461; CP 465; CP 467; CP 468; CP 500).

a) John Maynard Jr. was the representative for Mother Helen Sr.'s estate, and in 2019 had used a fraudulent document during said estate probate to steal this ring. After Estate Mother Sr. probate closed, Sara and experts discovered said document was fraudulent. This in turn thereby caused an unjust enrichment at later date in regard to the Estate Helen Jr., as Helen Jr. had taken this ring in conspiracy with John Jr., , which in turn caused this one (1) issue to be raised later in regard to the Estate Helen Jr.. Prior to death, Helen Jr. had confessed to this fraud on the part of John Jr. and herself, and had agreed to testify to same prior to her death in 2020. (See Sara Amended Reply Brief dated February 6, 2023 in instant Court Appeals No. 83714-1).

3. After Sara filed derivative Creditor Complaint, December 2020, Sara's attorney who previously eyewitnessed Sara's numerous transactions and agreements between Helen Jr. and Sara, contracted Covid thereby leaving Sara as a Pro Se litigant during discovery. (CP 368-377).

a) Sara has no computer nor I-Phone, and was stuck in Washington during the Pandemic with few documents. During discovery Appel. Sara filed one motion and produced documents, February 16, 2021 and April 7, 2021, and provided answers interrogatories April 20, 2021. During discovery Appel. Sara served only one discovery request, a request for production documents, September 1, 2021. Shortly thereafter, Appel. Sara was informed that McConnell had viciously destroyed, and sold, and given away to others all Appel. Sara's and Estate Brooks' personal property items, in order to prevent said items from being returned to rightful owners Appel. Sara and Estate Brooks.

b) Respondent McConnell refused to produce absolutely anything in response to Appel. Sara's request for documents, and instead McConnell filed motion summary judgment on September 21, 2021 intentionally attempting evade said same Appel. Sara's request productions documents. (CP 152-168).

4. Based upon above, on October 20, 2021, long prior to trial date, Appel. Sara filed Notice of Voluntary Dismissal without prejudice. (CP 68 thru 97). It is not possible to continue litigation for the return of personal property items which no longer exist. McConnell had forced litigation under false pretenses. As said same dismissal was filed long prior to trial date, there is no prevailing party in the trial court matter. On October 21, 2021, Appel. Sara filed Plaintiffs Voluntary Dismissal Without Prejudice. (CP 98).

5. Order Of Dismissal (CP 102), closed Creditor Complaint in entirety, November 2, 2021. Despite same, McConnell's counsel filed very late motion, November 29, 2021 for fees and vexatious order including motion summary judgment.

a) December 2, 2021, trial court through use of assigned judge's bailiff notified Respondent McConnell's counsel twice that trial court Creditor Complaint matter was closed in entirety on November 2, 2021, and



McConnell's counsel was Not allowed to file further motions in trial court matter. (CP 171 and 172).

b) Despite same, McConnell's counsel violated said same court Notices, and on December 6, 2021 McConnell's counsel filed a second very late and improper motion Defendants Updated Motion For Award Fees And Vexatious Order including Motion Summary Judgment. (CP 171; CP 172).

6. Due to McConnell's destruction of Appel. Sara's property items, and due to above said very late and improper McConnell's Updated Motion Fees and Vexatious Order including Motion Summary Judgment, Appel. Sara in response was forced to file numerous pleadings and evidentiary exhibits in the trial court matter all which included "Request Oral Argument". (CP 152 – 168; CP 169 – 253; CP 254 – 335; CP 385 – 391; CP 368 – 377; CP 382- 384; CP 368 – 381; CP 336 – 367).

7. Despite nine (9) Requests Oral Argument in Appel. Sara's pleadings in response to McConnell's late and improperly filed Updated Motion Fees and Motion Summary Judgment, the trial court on January 14, 2022 refused to allow oral argument at hearing on all above, nor allowed hearing on McConnell's Updated Motion Fees and Motion Summary Judgment. The Court (Cahan, J.) signed Judgment and Order admitting negating to review numerous Appel. Sara's above pleadings and evidentiary exhibits, and awarded attorney fees, costs, under CR 11, RCW 4.84.185, and/or RCW 11.96A.150 (CP 412 - 418). All Appel. Sara's above referenced pleadings and evidentiary exhibits were critical in order for the Court to consider said Creditor Complaint. (Appendix D); (CP 336 - 367; CP 368 - 377).

8. "Sara's "Motion for Reconsideration Including Exhibits A - E" January 24, 2022. (CP 420 - 540).

9. Sara's Motion Reconsideration was denied February 1, 2022. (CP 541). Shortly thereafter Judge Cahan permanently removed herself from the bench. As such, said Judgment and Order issue had been signed under improper circumstances.

10. Appel. Sara's Notice Appeal was filed February 11, 2022.

11. Court Appeals unpublished Opinion dated May 1, 2023, is an almost duplicate of Respondents Reply Brief and denoted Court Appeals had Not reviewed Appel. Sara's Amended Opening Brief dated December 30, 2022 and Appel. Sara's Motion To File same.

12. Appel. Sara filed "Motion for Reconsideration", May 22, 2023. (Court Appeals No. 837141, Appellant Motion Reconsideration ; and CP 132 - 148; CP 249 - 251;

CP 254 - 335; CP 336 - 367; CP 368 - 377; CP 378 - 381;  
CP 385 - 391; CP 420 - 436; CP 437 - 540; CP 543 - 660).  
(*In re Marriage Littlefield*, 133 Wn. 2d 39, 47, 940 P. 2d 1362  
(1997)); ( *Kelly – Hansen* 87 Wn. App. at 330- 331);  
(*McCarthy*, 152 Wn. App. at 745, 46, 218 P. 3d at 208, 428,  
430).

13. Court Appeals Denied Appel. Sara's Motion  
Reconsideration, June 1, 2023. (Appendix B; Appendix D).

## E. ARGUMENT

1. Review Should be Granted as the Court Appeals Decision Substantially Alters the Standard Set by Supreme Court Precedent for What Constitutes a Frivolous Claim.

The Court of Appeals decision conflicts with Supreme Court precedent by effectively announcing new standards for what constitutes a frivolous claim under RCW 4.84.185 and for awarding attorney's fees under that statute.

Under RCW 4.84.185, a prevailing party in a civil action is entitled to seek fees for defending a frivolous action. The instant Creditor Complaint for Damages was voluntarily dismissed by Appel. Sara during the course of discovery prior to trial upon Appel. Sara being informed that Respondent McConnell had destroyed and sold and given away to others all personal property items belonging to Appel. Sara, as witnessed by attorneys, which Appel. Sara was attempting to retrieve from her sister Helen Jr.'s estate. As such, there is no prevailing party in the instant matter.

An 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 “*Tiffany Family Trust v. City of Kent*,” 155 Wn. 2d 225, 241, 119 P. 3d 325 (2005)”. “All doubts as to whether the appeal is frivolous should be resolved in favor of the appellant”. Id.

As to whether an action is frivolous, “the action or lawsuit is to be interpreted as a whole.” “*Biggs v. Vail*”, 119 Wn. 2d 129, 136, 830 P. 2d 350 (1992). Where three of four claims are judged to be frivolous but the fourth claim is not, the action as a whole is not frivolous and it is improper to grant attorney fees under RCW 4.84.185. *Biggs*, 119 Wn. 2d at 137.

Appel. Sara has a rational and legal basis to argue that her claims for the return of her personal property items, and for monies owed to Sara by sister Helen Jr., and for personal

property items and monies owed to the Estate Brooks, as is witnessed by attorney, and pursuant agreements between Sara and Helen Jr. updated periodically when necessary through 2019 and 2020, as is witnessed by attorney. McConnell and the Estate Helen Jr.'s refusal to return Sara's personal property items creates an unjust enrichment for McConnell and Estate Helen Jr., as Sara was advised by counsel, and which comes directly within the scope of "*Slough v. Calderbank*", No. 68155-9-1 (Wash Ct. App. Dec 23, 2013) (unpublished) based on Supreme Court case law which concluded that the Supreme Court case of "*Olsen v. Roberts*", 42 Wn. 2d 862, 865, 259 P. 2d 418 (1953) is binding precedence that this court must follow". Appel. Sara's case as a whole is therefore not frivolous. The trial court's awarding of attorney's fees under RCW 4.84.185 was an abuse of discretion. Accordingly, since Sara relied upon the advice of her attorney, and upon the Slough decision to base her argument, this court should not find that argument frivolous. The advice Sara received

from her attorneys was cited to the trial court, and to the Court of Appeals (CP 1 thru 720).

2. Review Should be Granted as the Petition Involves an Issue of Substantial Public Interest that Should be Determined by the Supreme Court. RAP 13.4. (b)(4).

A predictable consequence of the Court Appeals' ruling is the chilling effect that will be felt among members of the Bar, particularly plaintiff's attorneys, who because of the ruling, may be reluctant to pursue equitable claims upon grounds of relief that are often found within the interstices of case law or in areas where even courts disagree upon matters such as what is a claim to specify property, when and whether a claim arose after the decedent's death and similar issues.

The standards implied by the Court of Appeals Division I for what constitutes a frivolous claim under RCW 4.84.185 and for awarding attorneys' fees significantly move the goal posts



for practitioners and are likely to cause widespread confusion among litigation attorneys. The Supreme Court should accept review to modify and clarify the adverse and unintended impacts from such a change.

3. Review Should be Granted as the Court Appeals Decision is in Conflict with Supreme Court Precedent 13.4(b)(1)

Appel. Sara's claims for the return of her personal property items, which were denied by Respondent McConnell, as such becomes a claim for unjust enrichment seeking a damage remedy and thus a claim against the decedent Helen Jr. within the meaning of RCW ch.11.40. (*Porter v. Boisso*, 188 Wn. App. 286, 297, 354 P. 3d 892 (2015)).

Unjust enrichment allows a plaintiff (Appel. Sara) to recover the value of a benefit retained by the defendant (Respondent McConnell) but without any promise or contractual relationship between the parties. (*Bircumshaw v. Wash State Health Care Auth.* 194 Wn. App. 176, 205, 380 P.

3d 524 (2016). Accordingly, Appel. Sara is not required to prove that Helen Jr. made a promise to her about returning Appel. Sara's and Estate Brooks personal property items to Appel. Sara and Estate Brooks. Despite this, Sara has shown this promise did transpire. Appel. Sara is not required to prove that a contract existed between her and Helen Jr..

To prove unjust enrichment, Appel. Sara need only demonstrate that (1) Helen Jr.'s estate received a benefit from Appel Sara and Estate Brooks, (2) the benefit was at Appel. Sara and Estate Brooks expense, (3) the circumstances make it unjust for Helen Jr.'s estate to retain the benefit with no payment, which is the return of Appel. Sara's and Estate Brooks property items. (*Puget Sound Sec. Patrol, Inc. v. Bates*, 197 Wn. App. 461, 475, 389 P. 3d 709 (2017) (*citing Young*, 164 Wn. 2d at 484-85)).

These requirements are satisfied here. (1) Appel Sara conferred a benefit upon Helen Jr.'s estate by entrusting Appel.

Sara's and Estate Brooks personal property items to Helen Jr. over a period of time, and allowing Helen Jr. to use same. (CP 1-720). (2) Helen Jr. was aware of the benefit as Helen Jr. was using said personal property items over a period of time. (CP 1-720). (3) Helen Jr.'s Estate retained the benefit of Appel. Sara's and Estate Brooks personal property items without paying their value or returning said items to Appel. Sara and Estate Brooks, such that it is unjust for the Estate Helen Jr. to retain the benefits without returning said property items or paying for same.

4. Review Should be Granted to Determine that the Court Appeals Opinion dated May 1, 2023 Incorrectly States Appel. Sara Improperly Misrepresented her Reasons for Filing her Amended Opening Brief on December 30, 2022. This Statement is Proven Incorrect. (See Appendix C)

In addition to the information as provided in the Court of Appeals Opinion, Appel. Sara's motion to file amended brief filed January 3, 2023 ( on page 2, line 17 thru page 3, line 4; and also on page 3 line 8 thru 10; and also on page 4 line 9 thru 13) clearly also references the additional facts that the Appel.

Sara was at that time also in need to correctly and accurately address the Respondents' new Supplemental Clerks Papers, which had been filed by the Respondents on November 18, 2022. Appel. Sara additionally at that time informed the Court of Appeals that she also needed to correctly and accurately identify and include her own Clerks Papers and authorities in the correct sections of her Opening Brief, and to amend her Table Authorities.

a) As such, Appel. Sara did not "improperly misrepresent" her reasons, and Appel. Sara correctly informed the Court of Appeals as to the numerous reasons she was requesting to file an Amended Opening Brief on December 30, 2022, (See Appendix C herewith - same Sara Motion To File Amended Brief dated January 3, 2023). As the Court Appeals "Allowed" Sara's Amended Brief filed December 30, 2022, Appel. Sara believed she correctly followed this procedure, and was advised by counsel that she did. However, the statement in the Court of Appeals Opinion demonstrates the

Court of Appeals did Not consider Appel. Sara's Amended Opening Brief filed December 30, 2022, nor Sara's Motion to File same filed January 3, 2023 thereby causing Sara's appeal to be extremely Prejudiced against. This issue regarding discrimination against litigants and possibility of age related mistakes on the part of the court needs to be reviewed by this Court.

5. Review Should be Granted as Trial Court and Court Appeals Erroneously Granted CR 11 Sanctions.

The trial court and Court of Appeals erroneously granted CR 11 sanctions against Appel. Sara and Appel. Estate Brooks as they pertain to Respondents Estate Helen Maynard Jr. and Respondent McConnell, despite there being substantial support in both law and fact for all the allegations in Appel. Sara's Creditor Complaint matter. In addition, the materials offered by Appel. Sara in opposition to the improperly filed and late "Defendants Updated Motion For Award Attorney Fees And Vexatious Litigant Order" within said matter provided legal and factual support, and supporting evidentiary exhibits for the

claims in Appel. Sara's operative pleadings that were made more than sufficient to defeat any finding of violation of CR 11. (CP 368 - 377; and CP 254 - 335; and CP 385 - 391; and CP 336 - 367; and CP 420 - 540; and CP 1-720).

a) Additionally, Appel. Sara and Appel. Estate Brooks have not at any prior time filed a civil Complaint against Respondent McConnell, an individual, in any court within the United States. Additionally, Appel. Sara has not at any time filed a civil Complaint against any defendants that was ruled without merit, as was determined by the Court of Appeal in case No. 82527, in regard to Respondent John Maynard Jr. and respondent Holmes. In addition, Appel. Sara has been caused to file only two civil complaints which name the Estate Helen Jr.. (*In Re Marriage of Giordano*, 57 Wn. App. 74, 77, 787, P.2d 51, 53, (1990). As long as a party proceeds in good faith and complies with court rules, he/she should have the right of continued access to the court regardless of conduct.

b) In filing the trial court Creditor Complaint matter, Appel. Sara did nothing more than attempt to retrieve personal property items, which as witnessed by attorney, were owned by Appel. Sara and by Estate Elizabeth Brooks, and which were stored by Helen Jr. in trust on behalf of Sara pursuant agreements between Sara and her sister Helen Jr.. As shown, it was not patently clear that Appel. Sara's Creditor Claim had absolutely no chance of success. Because this high threshold was not met, the trial court and Court of Appeals could not legitimately impose CR 11 sanctions including attorney fees against Appel. Sara. (McCarthy, 152 Wn. App. at 745, 46, 218 P. 3d at 208). (CP 1 thru 720). These above issues involve a significant question of law.

6. Review Should be Granted as Issues of Res Judicata and Statute Limitations Should Not Apply to Other of Appel. Sara's Categories of Items (See Appendix D)

One (1) other of the fifteen (15) categories of personal property items, which was inherited by Sara pursuant Will Last Testament of Sara's mother, Mother Helen Sr., was raised in

Appel. Sara's mother's estate, but only in regard to John Maynard Jr. only. Said item was in possession of Helen Jr., pursuant agreement between Sara and Helen Jr. as witnessed by attorney, and was previously Ordered by the Probate Court at the closure of said Mother Helen Sr. probate on June 14, 2019 to be distributed to Appel. Sara, but which said same was not distributed to Sara by Helen Jr. prior to her death . As such, said same one (1) other category of personal property item was included in Appel. Sara's Creditor Complaint, due to the fact that the Estate Mother Helen Sr. was improperly closed on June 14, 2019 based upon a false document, and at which time said estate probate matter had Ordered the return of this said same item. (CP 1 - 20); and (Appendix D herewith). (*Kelley-Hansen*, 87 Wn. App. at 330-31), (*In re Marriage of Littlefield*, 133 Wn. 2d 39, 47, 940 P. 2d 1362 (1997), (*McCarthy*, 152 Wn. App. at 745, 46, 218 P. 3d at 208, 428, 430). This issue of conflicting Court Orders needs to be reviewed by this Court.



7. Review Should be Granted as Respondent McConnell Falsely Claimed All Appel. Sara's Demanded Items are Identical to Items Raised in Other Cases. The Issue of Statute Limitations and Res Judicata Should Not Apply To Appel. Sara's Instant Creditor Complaint (See Appendix D)

The Court of Appeals and the trial court erroneously ruled regarding issues of Res Judicata, and Statute Limitations, and substantive defect based upon the false claims of respondent McConnell provided during litigation. McConnell falsely claimed that All fifteen (15) categories of personal property items requested to be returned to rightful owners Appel. Sara and Appel. Estate Brooks, shown listed in Appellants Creditor Complaint, were all identically the same as the personal property items raised as an issue in Sara's mother's prior estate probate matter, "Estate Helen Maynard" (No. 16-4-05205-1 SEA), and were also identically the same as the personal property items raised as an issue in the prior civil matter "Sara Maynard v. John Maynard Jr. et al" (No. 19-2-22827-0 SEA). A comparison of the said No. 05205 "Estate Mother Helen" probate, and the said No. 22827

“Sara v. John Jr. et al” matter, and the instant “Sara and Estate Brooks Complaint On Rejected Claim” No. 17513 matter clearly reveals and confirms that all said claims on the part of Respondent McConnell are false, and also confirms the trial court and Court of Appeals decisions are erroneous in this regard. (See Appendix D); and (CP 1 – 20; and CP 254 – 335; and CP 385 – 391); CP 132 – 148; CP 336 – 367; CP 368 – 377; CP 420 – 436; CP 437 – 540).

a) It should be noted here that the estate of Mother Helen Sr. was improperly closed June 14, 2019 based upon the estate’s use of a false document, which was later discovered by experts and by Sara to be fraudulent, and thus the issues of Res Judicata and Statute Limitations should not apply here in Appel. Sara’s instant Creditor Complaint. The claims of Appel. Sara are tolled by Estate Helen Jr.’s concealment of claims. (*Janicki Logging v. Schwabe, Williamson, 109 Wn. App. 655, 661-662, 37 P.3d 309 (2001)*). (CP 1 - 20); and CP 152 - 540); (Appendix D herewith).

b) In fact, eleven (11) of the fifteen (15) categories of personal property items raised in the instant Appel. Sara Creditor Complaint were Not raised, and could Not be raised in the "Estate Mother Helen Sr." probate matter (No. 05205), as said items never belonged to Mother Helen Sr., and as such were Not part of the estate of Mother Helen Sr.. (See Appendix D herewith).

c) Additionally said eleven (11) of the fifteen (15) categories of property items raised in the derivative Appel. Sara Creditor Complaint were Not raised, and could Not be raised in the separate and different "Sara v. John Jr. et al" civil matter, as said matter is regarding the breach of fiduciary duty issues on the part of John Maynard Jr. and others in regard to the JCM Credit Trust, and the Estate Mother Helen Sr.. (See Appendix D); (CP 1 – 20; and CP 254 - 335; and CP 385 – 391).

d) Neither of the above said Washington matters involve the east coast probate matter of the Estate Brooks, which is a totally separate and different matter. As such, issues regarding property items belonging to the Estate Brooks can not be raised in the above Washington No. 05205 matter, nor in the above No. 22827 matter.

8. Review Should be Granted as Trial Court and Court Appeals Negated to Review Trial Court Order (Watness, J.) Dated April 11, 2018 Which Caused Conflicting Orders

a) The Court Appeals Opinion in the instant matter dated May 1, 2023, pages 1 - 18 provided incorrect information regarding the derivative trial court Creditor Complaint matter, and regarding the underlying Estate Mother Helen Sr. probate matter, and regarding the underlying "Sara v. John Jr. et al" matter, thereby damaging Appel Sara's appeal. Appel Sara requests this Court review both said Court Appeals Opinion dated May 1, 2023, and also review CP 1 thru 720, so as to fully consider these very discriminatory issues. In the Court Appeals Opinion page 1 - 2, it is shown that the

derivative trial court Order (Cahan, J.) and the Court Appeals Opinion both erroneously negated to regard and apply the trial court Order (Watness, J.) dated April 11, 2018 from the “Estate Mother Helen Sr.” matter (No. 05205), which thereby subsequently damaged the appeal in derivative matter Creditor Complaint (CP 152 - 172; and CP 249 - 253).

b) Additionally, both the derivative trial court Order (Cahan, J.) dated January 14, 2022, and trial court Order (Velategui, J. case No. 05205) dated June 14, 2019, and Court of Appeals Opinion have erroneously discredited Appel. Sara for having correctly followed the demands of the trial court Order (Watness, J.) dated April 11, 2018. (CP 249 – 251). The trial court’s Order dated June 14, 2019 (Velategui, J.) failed to review and apply said prior Court Order (Watness, J.) dated April 11, 2018, and due to said lack of review of same the court (Velategui, J.) was caused to erroneously label Appel. Sara “obstreperous”, due to Sara having correctly followed the demands of Court Order (Watness, J.) dated April 11, 2018.

(King Co. docket case No. 05205, Sub No. 146). Said Order (Watness, J.) demanded Appel. Sara to prepare a “List Entitlements”, and said Order (Velategui, J.) sanctioned Sara for having made said same “List” ! (CP 249 – 251), and thereby created the foundation for the litigation conflicting Court Orders.

c) In addition, despite false claims of McConnell to the contrary, eleven (11) of the fifteen (15) categories shown in the derivative Sara Creditor Complaint are Not included on said same “List of Entitlements” in the Estate Mother Helen Sr. probate, as said items are Not part of the Estate Mother Helen Sr.. (See Appendix D herewith). As a result of all the above, the trial court Order dated January 14, 2022 (Cahan, J.) in the derivative Creditor Complaint matter claiming Sara as “Vexatious” does not have supporting grounds.

d) In addition, at Mother Helen Sr. probate hearing June 14, 2019, both appearing counsel improperly falsely claimed Mother Helen Sr. had reviewed her bank box in 2016. Said

claim is false, as Mother Helen Sr. was declared mentally incompetent in 2014, and as such was not able to review said box in 2016. (CP 305). As such, the Court (Velategui, J.) at hearing June 14, 2019 closed the Estate Mother Helen Sr., based upon false information, and additionally erroneously labeled Appel. Sara as “obstreperous”. (See King Co. Clerk docket case No. 05205, Sub No. 146).

e) These issues of conflicting trial court Orders, and the failure on the part of both the trial court and the Court Appeals to review the Court Order (Watness, J.) dated April 11, 2018, and the improper use of same by Respondent McConnell in the instant Creditor Complaint matter as a false mechanism attempting to depict Appel. Sara as “vexatious” confirms the trial court Order (Cahan, J.) in the derivative matter is erroneous and Not supported by facts nor law and is discriminatory. (CP 249 – 257). (See King Co. Clerk docket case No. 05205, Sub No. 146). (*Kelley-Hansen, 87 Wn. App. at 330-31*), (*In re*

*Marriage of Littlefield*, 133 Wn. 2d 39, 47, 940 P. 2d 1362 (1997), (*McCarthy*, 152 Wn. App. at 745, 46, 218 P. 3d at 208, 428, 430).

9. Review Should be Granted as the Trial Court's Judgment and Order Dated January 14, 2022 (Cahan, J.) Was Erroneously Derived

The trial court erroneously issued a Judgment And Order dated January 14, 2022 awarding defendants attorney fees and vexatious litigant Order based upon Respondent McConnell's Motion Summary Judgment to which Appel. Sara had not been allowed by the court to respond due to case Dismissal on November 2, 2021. In addition said Order was based upon McConnell's late and improperly filed December 6, 2021 Updated Motion Amend Plaintiffs Dismissal, in disregard of the Court's instructions Not to file same. (CP 171 – 172).

a) Said same Court Order dated January 14, 2022 was prepared entirely by McConnell's counsel, but Not prepared by



the Court. Said same Order (Cahan, J.) openly admitted that numerous of Appel. Sara's pleadings, and evidentiary exhibits, which were timely submitted to the trial court had been ignored, and had Not been reviewed by the trial court prior to the trial court's signing of said same Order. (CP 413). Additionally, despite Appel. Sara's nine (9) timely filed "Requests Oral Argument", the trial court had also refused to allow oral argument at the hearing for Respondent McConnell's improperly and late filed Updated Motion Amend Plaintiffs Dismissal, which included a motion summary judgment, which required oral argument to be allowed.

b) Some of Appel. Sara's said pleadings and evidentiary exhibits, which the trial court admitted in its Order had Not been reviewed prior to signing of said same Order included the following: (CP 254 -335; and CP 385 - 391; and CP 368 -377; and CP 378 - 381; and CP 382 - 384; and CP 404 - 411; and CP 1 - 20; and CP 25 - 31; and CP 34 - 64; and CP 68 - 97). This above procedurally improper and

biased issue, and the issue of conflicting court orders, which in part caused Appel. Sara's Creditor Complaint to be denied needs to be reviewed by this Court. *Kelley-Hansen*, 87 Wn. App. at 330-31), (*In re Marriage of Littlefield*, 133 Wn. 2d 39, 47, 940 P. 2d 1362 (1997), (*McCarthy*, 152 Wn. App. at 745, 46, 218 P. 3d at 208, 428, 430).

10. Review Should be Granted as the Trial Court's Order and Appeals Court's Opinion Regarding Vexatious Litigant Concerning Respondents McConnell as Individual and Estate Helen Jr. is Erroneous and Does Not Have Grounds.

The trial court and the Court Appeals erroneously ignored the evidentiary exhibits (CP 152 – 436), and ignored the Clerk Papers (CP 174 thru 179) filed by Appel. Sara showing that both Appel. Sara and husband Colonel Jurin (Ret.), a disabled Veteran and retired military officer, both each have two (2) California Restraining Orders against Respondent McConnell initiating in 2001 and 2007, in order to prevent further harm from being caused to them by Respondents

McConnell. Despite this fact, Appel. Sara has never filed a Superior civil complaint against Respondent McConnell in any state until the derivative Appel. Sara's Creditor Complaint in Washington. In addition, Appel. Sara has Not filed a Washington Superior Civil court complaint against Helen Jr., an individual, at any time. In addition, the Estate Brooks has never filed a prior Superior Civil Court complaint against Respondent McConnell, nor the Estate Helen Jr.. As such, the trial court's Order Awarding Vexatious Litigant Order (Cahan, J.) dated January 14, 2022 in the instant Creditor Complaint matter does Not have the required supporting grounds, and is erroneous, and should be reviewed and overturned. (CP 152 - 436); (See Appendix D herewith). *Kelley-Hansen*, 87 Wn. App. at 330-31), (*In re Marriage of Littlefield*, 133 Wn. 2d 39, 47, 940 P. 2d 1362 (1997), (*McCarthy*, 152 Wn. App. at 745, 46, 218 P. 3d at 208, 428, 430).

11. Review Should be Granted as Issues of Res Judicata and Statute Limitations Do Not Apply to Appel. Sara's Category of Item Regarding Cremated Ashes of Decedent Helen Jr.

One (1) other category included in Appel. Sara's derivative Creditor Complaint requested that the cremated ashes of decedent Helen Jr., or a small portion of same, pursuant prior agreements witnessed by attorney between Appel. Sara and Helen Jr., and pursuant prior agreements between Helen Jr. and additional Maynard family members, said ashes were to be buried at the Maynard family plot at the St. John Evangelist Church in New York. (CP 11 thru 12). Respondent McConnell is not Jewish, and is not Moslem, and is not a member of any recognized Christian religion. McConnell has refused to select a Christian burial plot location, and has informed Appel. Sara that he is refusing to allow even a small portion of Helen Jr.'s ashes to be buried at any Christian burial plot at any location.

a) This said same one (1) other category of request was only raised, and could only be raised in the instant Sara Creditor Complaint, and is Not raised, and can Not be raised in the separate and different “Sara v. John Jr. et al (No. 22827) matter, nor in the Estate Mother Helen Sr. (No. 05205) matter as no grounds exist to do so, and said estate Mother Helen Sr. probate had improperly closed June 14, 2019, prior to the death of Helen Jr. in 2020. As such, the issues of Res Judicata and Statute of Limitations do not apply in regard to the cremated ashes of Helen Jr.. As such again, the trial court’s Order Awarding Vexatious Litigant Order dated January 14, 2022 in the instant Creditor Complaint does not have the required supporting grounds, and is erroneous, and should be reviewed and overturned. The issue of burial is of substantial public interest and should be reviewed by this Court. (CP 152 - 436). (*Kelley-Hansen*, 87 Wn. App. at 330-31), (*In re Marriage of Littlefield*, 133 Wn. 2d 39, 47, 940 P. 2d 1362 (1997), (*McCarthy*, 152 Wn. App. at 745, 46, 218 P. 3d at 208, 428, 430).

12. Review Should be Granted as Court Appeals Opinion Dated May 1, 2023 Discriminatorily is Almost a Duplicate of McConnell's Response Brief Filed January 4, 2023 and Denotes the Court Appeals Negated to Review Both the Appellants Amended Brief filed December 30, 2022, and Appellants Amended Reply Brief filed February 6, 2023

a) Respondent McConnell's Updated Motion For Award Fees and Vexatious Order was improperly filed late on December 6, 2021, after the derivative Creditor Complaint matter had been closed in entirety on November 2, 2021, due to filing of Notice Voluntary Dismissal dated October 20, 2021, and due to filing of Voluntary Dismissal dated November 1, 2021, thus both prior to the trial date, and as such no prevailing party exists in the instant matter. (CP 100-101). The trial court's assigned judge's bailiff had notified McConnell's counsel twice that they were Not allowed to file said McConnell's Updated Motion For Fees And Order, however McConnell's counsel improperly ignored said notices (CP 171 and 172). Appel. Sara had been informed

McConnell had destroyed, and sold, and given away to others all Appel. Sara's property items, thereby forcing Appel. Sara to close the instant Creditor Complaint, which had demanded the return of said items. (CP 1 - 20).

b) Additionally during discovery, McConnell's counsel intentionally threatened Appel. Sara in April 2021 by demanding Appel. Sara must travel unvaccinated to a number of out-of-state secured storage locations in order to obtain evidentiary documents stored at same, in accordance with a discovery timeline set by Defendants. (CP 378 - 381). In 2021, Washington initially did not allow vaccination for persons under age 75 years, and later ran out of Pfizer vaccine. As such, Sara was forced to travel unvaccinated thereby contracting Delta and nearly died. (CP 163 thru 164; and CP 152 thru 168; and CP 252; and CP 254 thru 335; and CP 385 thru 391; and CP 336 thru 367; and CP 368 thru 377). Appel. Sara does Not have a computer, nor I-Phone. As such, all Appel. Sara's evidentiary documents are in secured

storage, which allows only Sara personally, with correct ID, in order to enter same. The issue of discovery demands which intentionally threaten the life of the opposing party is an issue of substantial public interest, and should be reviewed by this Court.

13. Review Should be Granted as Court Appeals Opinion has Made Erroneous Summation Regarding Underlying Criminal Issues For Which Court Appeals Has No Evidentiary Information, and Which Constitutes Discriminatory Attempt to Discredit Appellants Appeal Despite Court Requirement to be Unbiased.

The instant action is a simple civil Creditor Complaint in Superior civil court, and as such is not the correct venue to provide an Opinion summarizing issues which involve evidence concerning underlying criminal matters. Despite having no information nor access to criminal evidence, the Court Appeals Opinion has improperly attempted to summarize issues regarding underlying criminal issues to which the Court Appeals has no access nor authority at this time. The Court Appeals in the instant matter has no



information regarding fingerprint evidence, nor DNA evidence, nor digitally recorded conversation evidence, nor witness testimony etc.. Respectfully as such, the unknowledgeable statements in the Court Appeals Opinion attempting to evaluate said underlying criminal issues involving Respondents are improper in a Court Appeals Opinion in the instant civil matter, and as such are prejudicial and discriminatory, and are clearly an attempt to discredit the derivative Creditor Complaint matter. This issue is a matter of substantial public interest, and should be reviewed by this Court.

## F. CONCLUSION

Appel. Sara requests reversal of the trial court Judgment dated January 14, 2022 imposing attorney's fees and costs and vexatious litigant Order on Appel. Sara, as the result of an allegedly frivolous claim. Appel. Sara also seeks reversal of the decision of the Court of Appeals dated May 1, 2023 upholding the trial court's said same Order and Judgment. Appel. Sara further seeks reversal of the award by the Court of Appeals for attorney's fees in favor of the Estate of Helen Beardslee Maynard, and the award in favor of Andrew Pollock McConnell III under RCW 11.96A. 150.

CERTIFICATE OF COMPLIANCE WITH RAP 18.17

Petitioner is informed and believes this document exceeds 5,000 words. Petitioner believes this document contains approximately 5133 words, excluding the parts of the document exempted from the word count by RAP 18.17. Petitioner has filed a Motion to Accept Overlength Amended Petition for Review included herewith.

Dated: July 28, 2023

By: "/s/ [ Sara Maynard]"

Sara Maynard  
P.O. Box 1075  
Sacramento, CA 95812  
Phone: 916-347-8411  
Email: <bonniematthews80  
@gmail.com>

Dated: July 28, 2023

By: "/s/ [ Sara Maynard]"

Sara Maynard

Petitioners

P.O. Box 1075

Sacramento, CA 95812

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# **APPENDIX A**

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

SARA MAYNARD, an individual, and  
SARA MAYNARD, in her capacity as  
Administratrix of the Estate of  
Elizabeth Brooks,

Appellants,

v.

ESTATE of HELEN BEARDSLEE  
MAYNARD (aka HELEN B.  
MAYNARD JR.) by and through  
ANDREW POLLOCK MCCONNELL  
III in his capacity as personal  
representative of the Estate of  
HELEN B. MAYNARD and ANDREW  
POLLOCK MCCONNELL III, as  
beneficiary of the Estate of Helen  
Beardslee Maynard, deceased, and  
DOES 1 through 10, Inclusive,

Respondents.

No. 83714-1-I

DIVISION ONE

UNPUBLISHED OPINION

COBURN, J. — This case arises from a long-running dispute between pro se appellant Sara Maynard and her family members relating to distribution of family property. Sara<sup>1</sup> now appeals the trial court's order finding that she is a vexatious litigant

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<sup>1</sup> We refer to members of the Maynard family, and entities bearing their names, by the parties' first names for clarity.

and granting the respondents an award of attorney fees and costs incurred in defending against her claims. We affirm the trial court's order and grant the respondents' request for attorney fees on appeal.

## FACTS

Sara's mother Helen B. Maynard Sr. (Helen Sr.) passed away in King County on August 3, 2016.<sup>2</sup> John Maynard Jr., the personal representative of Helen Sr.'s estate, filed a petition to probate the estate.<sup>3</sup> Maynard, slip op. at 3. After John Jr. rejected Sara's creditor's claim, she filed a lawsuit against him, which the trial court dismissed on summary judgment as time barred. Id.

Meanwhile, in the first action, Sara contested John Jr.'s proposed distribution of property under Helen Sr.'s will and alleged that John Jr., his attorneys John Holmes and James Jackson, and other family members conspired to deprive Sara of personal property Helen Sr. had bequeathed to her (First Action). Id. In June 2019, the probate court rejected Sara's claims, closed the Helen Sr. estate, and ordered Sara to pay attorney fees to the Estate of Helen Sr. In so ruling, the court found that Sara "compelled the Personal Representative to litigate particular aspects of the probate without any appropriate justification" and stated that Sara's litigation had driven the probate estate into a "nightmare."

In August 2019, Sara filed a lawsuit alleging 19 causes of action against John Jr., his wife, and John Jr.'s attorney John Holmes.<sup>4</sup> Maynard, slip op. at 5. In October

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<sup>2</sup> Some background facts herein are derived from this court's prior decision in Maynard v. Maynard, No. 82527-5-I, slip op. (Wash. Ct. App. Nov. 14, 2022) (unpublished), <https://www.courts.wa.gov/opinions/pdf/825275.pdf>.

<sup>3</sup> See King County Superior Court No. 16-4-05205-1 SEA.

<sup>4</sup> See King County Superior Court No. 19-2-22827-0 SEA.

2020, after Sara's sister Helen Jr. passed away, Sara amended her complaint to add as defendants John Jr.'s attorney James Jackson and the Estate of Helen Jr. Id. Sara again alleged that family members, including Helen Jr., had conspired to deprive her of personal property, monies, and documents that Helen Sr. had bequeathed to her and to which she was legally entitled. The defendants moved to dismiss Sara's claims under CR 12(b)(6) based on res judicata, application of the statute of limitations, and failure to state a claim. Id. The trial court granted the defendants' CR 12(b)(6) motion to dismiss and awarded attorney fees and costs to the Estate of Helen Jr., Holmes, and Jackson as sanctions under CR 11 and RCW 4.84.185.

Sara appealed the dismissal of her claims against John Jr. and Holmes, as well as the court's award of attorney fees as sanctions. In an unpublished opinion, we affirmed dismissal of all claims Sara raised or could have raised in the First Action based on res judicata, but reversed dismissal of claims Sara had yet to prosecute against John Jr. and Holmes relating to their management of her deceased father's trust that were not yet barred by the statute of limitations. See Maynard, slip op. at 14-15.<sup>5</sup> In so holding, we specified that our ruling was narrow and that we did not conclude Sara's claims were well-founded. Id. at 18. Because we reversed the CR 12(b)(6) dismissal of Sara's legal malpractice claims as to Holmes' actions after August 2016, we also reversed the award of attorney fees to Holmes under RCW 4.84.185. Id. at 17. Although we did not reverse the court's finding that many of Sara's allegations were frivolous, we remanded the CR 11 award to allow the trial court to determine whether the amount remained reasonable in light of our decision. Id.

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<sup>5</sup> See GR 14.1(c) ("Washington appellate courts should not, unless necessary for a reasoned decision, cite or discuss unpublished opinions in their opinions.").



In November 2020, Sara filed a creditor's claim in the probate of the Estate of Helen Jr., seeking personal property items and monies as well as a portion of Helen Jr.'s cremation ashes. Helen Jr.'s husband Andrew McConnell, acting in his capacity as the personal representative of Helen Jr.'s estate, rejected Sara creditor's claim. On December 7, 2020, Sara filed a complaint on rejected claim for damages against the Estate of Helen Jr. and McConnell (collectively Respondents). Sara asserted that Respondents' failure to provide her with personal property and monies owed to her at the time of Helen Jr.'s death constituted breach of oral contract and breach of contract.

On September 21, 2021, Respondents moved for summary judgment dismissal of Maynard's claims. They also sought entry of a vexatious litigant order and an award of attorney fees and costs under CR 11, RCW 4.84.185, and/or RCW 11.96A.150. In response, Maynard moved for voluntary dismissal without prejudice. The superior court granted Maynard's motion to dismiss without prejudice and expressly reserved Respondents' pending claims for a vexatious litigant order and an award of attorney's fees. The assigned judge unexpectedly passed away, so Respondents re-noted their pending motion.

On January 14, 2022, after consideration of the parties' briefing, the superior court entered a vexatious litigant order against Sara and awarded reasonable attorney's fees and costs to the Respondents under CR 11, RCW 4.84.185, and RCW 11.96A.150. The order restrained Sara from "initiating litigation against the Estate of Helen B. Maynard Jr., Andrew Pollack McConnell III (in an individual or representative capacity, or against his family members), or their attorneys without prior written Court approval."

Sara appeals.

### DISCUSSION

As a preliminary matter, we note that Sara alleged 15 separate assignments of error on appeal, many of which are repetitive, convoluted, and supported by arguments that are at best conclusory. Pro se litigants are held to the same standard as attorneys and must comply with all procedural rules on appeal. In re Marriage of Olson, 69 Wn. App. 621, 626, 850 P.2d 527 (1993). The scope of a given appeal is determined by the notice of appeal, the assignments of error, and the substantive argumentation of the parties. Clark County v. W. Wash. Growth Mgmt. Hr'gs Rev. Bd., 177 Wn.2d 136, 144, 298 P.3d 704 (2013) (citing RAP 5.3(a); RAP 10.3(a), (g); RAP 12.1). An appellant must provide "argument in support of the issues presented for review, together with citations to legal authority and references to relevant parts of the record." RAP 10.3(a)(6). Arguments that are not supported by references to the record, meaningful analysis, or citation to pertinent authority need not be considered. Cowiche Canyon Conservancy v. Bosley, 118 Wn.2d 801, 809, 828 P.2d 549 (1992). And we ordinarily refuse to review issues raised for the first time on appeal. RAP 2.5(a).

#### Fee Award at Trial

Sara challenges the trial court's award of attorney fees and costs to Respondents. The court awarded Respondents a total of \$26,929.10 after finding that Sara's claims "violate CR 11 and RCW 4.84.185 because, among other reasons, all of Plaintiffs' claims are barred by res judicata, are barred by the statute of limitations.

Plaintiff's claims are not well-grounded in law or fact, are brought for an improper purpose, and are therefore frivolous.”<sup>6</sup>

“Sanctions awarded pursuant to RCW 4.84.185 and CR 11 are reviewed for abuse of discretion.” Kilduff v. San Juan County, 194 Wn.2d 859, 874, 453 P.3d 719 (2019). “A trial court abuses its discretion if a decision is manifestly unreasonable or based on untenable grounds or untenable reasons.” Skagit County Pub. Hosp. Dist. No. 304 v. Skagit County Pub. Hosp. Dist. No. 1, 177 Wn.2d 718, 730, 305 P.3d 1079 (2013). “Whether or not to award the expenses following a voluntary nonsuit is within the discretion of the trial court, in light of the facts and circumstances of the entire case.” Escude v. King County Pub. Hosp. Dist. No. 2, 117 Wn. App. 183, 192-93, 69 P.3d 895 (2003). We may affirm the trial court’s decision on any basis the record supports. Huff v. Wyman, 184 Wn.2d 643, 648, 361 P.3d 727 (2015).

Sara first argues the award of fees under CR 11 and RCW 4.84.185 was improper, primarily on the ground that her claims are meritorious. We disagree.

CR 11 authorizes sanctions for baseless filings or filings made for an improper purpose. Bryant v. Joseph Tree, 119 Wn.2d 210, 219, 829 P.2d 1099 (1992). The

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<sup>6</sup> The court also cited RCW 11.96A.150 as a basis for its fee award. In estate matters commenced under Title 11 RCW, a court may exercise discretion to award attorney fees to any party. See RCW 11.96A.150(1) (superior court or appellate court may order attorney fees “in such amount and in such manner as the court determines to be equitable”); RCW 11.96A.010 (chapter 11.96A RCW governs proceedings to resolve “disputes and other matters involving trusts and estates”); RCW 11.40.100(1) (requiring party to bring suit against personal representative for rejected creditor’s claim within 30 days after notification of rejection). “The authority granted by RCW 11.96A.150 to award attorney fees is not limited to actions initiated under chapter 11.96A RCW.” Sloans v. Berry, 189 Wn. App. 368, 379, 358 P.3d 426 (2015). RCW 11.96A.150(1) grants the court broad discretion to “consider any and all factors that it deems to be relevant and appropriate,” including an appeal’s lack of merit. In re Estate of Muller, 197 Wn. App. 477, 490, 389 P.3d 604 (2016). Because Sara’s lawsuit asserts claims against the Estate of Helen Jr. upon a rejected creditor’s claim, fees are awardable under RCW 11.96A.150(1) as well.

rule's purpose "is to deter baseless filings and to curb abuses of the judicial system." Id. A filing is "baseless" when it is not well grounded in fact or law. MacDonald v. Korum Ford, 80 Wn. App. 877, 883-84, 912 P.2d 1052 (1996). By signing a pleading, a party certifies that "it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation." CR 11(a)(3). CR 11 sanctions are available against pro se litigants. In re Recall of Lindquist, 172 Wn.2d 120, 136, 258 P.3d 9 (2011). "A violation of CR 11 'is complete upon the filing of the offending paper; hence an amendment or withdrawal of the paper, or even a voluntary dismissal of the suit, does not expunge the violation.'" In re Recall of Piper, 184 Wn.2d 780, 788, 364 P.3d 113 (2015) (quoting Biggs v. Vail, 124 Wn.2d 193, 199-200, 876 P.2d 448 (1994)).

RCW 4.84.185 authorizes the trial court to award to the prevailing party "the reasonable expenses, including fees of attorneys, incurred in opposing" a frivolous action.<sup>7</sup> "The statute is designed to discourage abuses of the legal system by providing for an award of expenses and legal fees to any party forced to defend against meritless claims advanced for harassment, delay, nuisance, or spite." Skimming v. Boxer, 119 Wn. App. 748, 756, 82 P.3d 707 (2004). "Under the general rule of CR 41, a defendant

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<sup>7</sup> RCW 4.84.185 provides: "In any civil action, the court having jurisdiction may, upon written findings by the judge that the action . . . was frivolous and advanced without reasonable cause, require the nonprevailing party to pay the prevailing party the reasonable expenses, including fees of attorneys, incurred in opposing such action . . . . This determination shall be made upon motion by the prevailing party after a voluntary or involuntary order of dismissal, order on summary judgment, final judgment after trial, or other final order terminating the action as to the prevailing party. The judge shall consider all evidence presented at the time of the motion to determine whether the position of the nonprevailing party was frivolous and advanced without reasonable cause. In no event may such motion be filed more than thirty days after entry of the order."

is regarded as having prevailed when the plaintiff obtains a voluntary nonsuit.” Escude, 117 Wn. App. at 193 (affirming fee award pursuant to CR 11 and RCW 4.84.185).

We first observe that there is no basis for Sara’s assertion of claims against McConnell in his individual capacity. Sara did not allege the existence of an oral or written agreement between her or McConnell, let alone offer evidence that such agreements exist. There is no recognized basis upon which Sara may assert a claim through the estate to the beneficiary of an estate. Similarly, although Sara identified the Estate of Elizabeth Brooks as a plaintiff in this action, that estate is not a creditor of the Estate of Helen Jr. and has no recognizable claim against it or McConnell.

As for Sara’s claims against the Estate of Helen Jr., we agree with Respondents that such claims lack merit because they are barred by the doctrine of res judicata.

Res judicata prohibits the relitigation of claims and issues that were litigated or could have been litigated in a prior action. Loveridge v. Fred Meyer, 125 Wn.2d 759, 763, 887 P.2d 898 (1995). “The doctrine curtails multiplicity of actions and harassment in the courts.” Eugster v. Washington State Bar Ass’n., 198 Wn. App. 758, 786, 397 P.3d 131 (2017). Res judicata bars an action when a prior judgment involved identical (1) subject matter, (2) claims or causes of action, (3) persons and parties, and (4) quality of persons for or against whom the claims are made. Rains v. State, 100 Wn.2d 660, 663, 674 P.2d 165 (1983). A threshold requirement of res judicata is a final judgment on the merits in the prior suit. Hisle v. Todd Pac. Shipyards Corp., 151 Wn.2d 853, 865, 93 P.3d 108 (2004). In multi-party, multi-claim litigation, “[a] judgment may be final in a res judicata sense as to a part of an action although the litigation continues as

to the rest.” Ensley v. Pitcher, 152 Wn. App. 891, 900-01, 222 P.3d 99 (2009) (quoting RESTATEMENT (SECOND) OF JUDGMENT § 13 cmt. e (AM. L. INST. 1982)).

In the First Action, Sara contested the distribution of property from Helen Sr.’s will, including a 10-page list of claimed entitlements to furniture, jewelry, documents, and other items. The probate court’s June 2019 order became a final judgment on the merits of any claim that Sara raised or could have raised regarding her right to receive property from the Estate of Helen Sr. Maynard, slip op. at 11-12. In the Second Action, Sara again asserted claims relating to her right to inherit from her mother Helen Sr. Because Sara litigated or had the opportunity to litigate those claims in the probate litigation, we held that they were barred by res judicata. Maynard, slip op. at 13-14.

In the current action, Sara again seeks recovery of the same property and monies she sought in the First Action and the Second Action. Sara’s causes of actions are the result of, and seek damages relating to, the Estate of Helen Jr. as well as the Estate of Helen Sr. The Second Action and the current action feature nearly identical breach of oral contract and breach of contract claims. And Sara sued the Estate of Helen Jr. in both actions.<sup>8</sup> To the extent Sara’s current action sought additional personal property in connection with the Estate of Helen Jr., such claims could have been raised in the Second Action.

Sara claims there was no final judgment on the merits of her claims against the Estate of Helen Jr. in the Second Action. But because Sara failed to assign error or argue that dismissal of claims against the Estate of Helen Jr. was improper, we deemed her appeal as to such claims abandoned. Maynard, slip op. at \*2, fn. 1. Sara further

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<sup>8</sup> Although McConnell was not a named defendant in the Second Action, he would necessarily have been involved as the Estate of Helen Jr.’s personal representative.

asserts that res judicata does not apply because newly discovered evidence shows the Estate of Helen Sr. was incorrectly closed based on false information. Sara raised the same argument in her appeal of the Second Action. There, as here, "Sara presents no argument that a statute or court rule allows her to collaterally attack the finality of a judgment in a new lawsuit based on allegations of newly discovered evidence."

Maynard, slip op. at 13-14.

We also agree with Respondents that Sara filed the current lawsuit for harassment, nuisance, or spite. This is Sara's third attempt to advance claims for Helen Sr.'s property, based on events that allegedly occurred as far back as 1972. Sara's complaint also alleged a variety of baseless personal attacks, such as claiming that Respondents' legal counsel threatened Sara's life during the course of the discovery process; that McConnell caused Sara to contract COVID-19 and Lyme disease; that McConnell arranged a home invasion burglary and vandalism of her home; and implying that Helen Jr. did not die by suicide, but by "violent supposed suicide, while alone with [McConnell]" following an argument. The trial court did not abuse its discretion in awarding fees as sanctions under CR 11 and RCW 4.84.185.

Sara raises several additional arguments in support of her claim that the fee award was unwarranted, none of which are persuasive.

Sara asserts that the fee award is unwarranted because Helen Jr. told Sara that Respondents' legal fees are paid by their insurance carrier. But apart from this self-serving hearsay, Sara provides no evidence of any insurance coverage for her claims.

Sara also argues that she was "denied due process and prevented access to her evidence needed for litigation" because she is a senior citizen who lacked vaccination

and was therefore unable to travel out of state to secured storage to locate a portion of her evidentiary documents. But Sara does not provide a reasonable explanation as to why she could not find a way to obtain documents allegedly supporting her lawsuit, which were located in storage under her possession and control.

For the first time on appeal, Sara claims that the trial court judge was prejudiced against her. In support of this claim, Sara asserts that she was not granted oral argument, that the court did not review materials she submitted in reply, and that the judge improperly signed a proposed order that contained false information. Because Sara failed to raise this claim below, and because the claim is unsupported by meaningful analysis, we decline to consider it now. RAP 2.5(a).

Sara also argues that CR 11 sanctions are unwarranted because she signed no pleading, motion, or legal memorandum required by that rule for the imposition of sanctions. But Sara plainly did sign the complaint in the current action. Although Sara asserts that she did so in reliance on advice of “advisory counsel,” those individuals did not sign the pleading. Sara is not immune from sanctions merely because she is representing herself in these proceedings. See Lindquist, 172 Wn.2d at 136. (“CR 11 sanctions are available against a pro se litigant for filing a claim for an improper purpose, or if the claim is not grounded in fact or law and the signing litigant failed to conduct a reasonable inquiry.”).

We conclude that the trial court did not abuse its discretion in awarding attorney fees and costs to Respondents under CR 11 and RCW 4.84.185. We next consider Sara’s challenge to the amount of the fee award.



“The amount of a fee award is discretionary, and will be overturned only for a manifest abuse of discretion.” Mayer v. City of Seattle, 102 Wn. App. 66, 79, 10 P.3d 408 (2000). A determination of reasonable attorney fees begins with a calculation of the “lodestar,” which is the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate. Bowers v. Transamerica Title Ins. Co., 100 Wn.2d 581, 597, 675 P.2d 193 (1983). Because the court must limit hours to those reasonably expended, it “should therefore discount hours spent on unsuccessful claims, duplicated effort, or otherwise unproductive time.” Id. at 597. Here, the trial court determined that Respondents’ “fees and costs were reasonable, reflect a reasonable hourly rate, and do not reflect time spent on unsuccessful claims, duplicative effort, or otherwise unproductive time.”

Sara claims the amount of the fee award was unreasonable because the attorneys double-billed and performed duplicative work. This is so, she contends, because multiple attorneys worked on the case and counsel consulted with Jackson, who was a defendant in the Second Action. Sara fails to identify any time entries supporting her claims, and thus does not meet her burden to demonstrate that the amount of the fee award was unreasonable. See Berryman, 177 Wn. App. at 666 (“The burden of justifying any deviation from the lodestar rests on the party proposing it.”); Fiore v. PPG Indus., 169 Wn. App. 325, 353, 279 P.3d 972 (2012) (rejecting unsupported assertion that fee award was unreasonable because multiple attorneys attended court proceedings). As Respondents point out, they minimized fees incurred by having lower-paid associates and summer clerks perform more than half the total hours billed. And, given the issues Sara raised in this lawsuit, it was not unreasonable

for Respondents to briefly consult an attorney involved in the separate, substantially related suit.

Sara also asserts that the attorneys “did not spend the time they allege in their copies of billing for legal fees.” This claim is entirely unsupported by references to the record or meaningful analysis, and need not be considered further. Cowiche Canyon, 118 Wn.2d at 809. The record shows that the attorneys properly supported their fee request with detailed billing records. Because Sara alleges no viable basis for a reduction in the fee award, she has not shown that the amount of the award constituted an abuse of discretion.

Lastly, in her third amended opening brief filed shortly before Respondents’ response brief was due, Sara argues that the trial court should not have considered Respondents’ updated motion for attorney fees and vexatious litigant order because it was filed late. Sara’s motion to file an amended brief improperly misrepresented that her only revisions included citations to authority and the record, when in fact she added this assignment of error. Although the commissioner accepted the amended brief, we need not consider Sara’s new assignment of error as she did not raise this claim below. RAP 2.5(a). In any case, Respondents’ motion for summary judgment, which sought attorney fees and vexatious litigant order, was filed and pending when Maynard voluntarily dismissed her claims. The re-noted updated motion was not untimely.

#### Vexatious Litigant Order

Sara also challenges the trial court’s order finding that she is a vexatious litigant and imposing pre-filing restrictions. “In Washington, every court of justice has inherent power to control the conduct of litigants who impede the orderly conduct of

proceedings.” Yurtis v. Phipps, 143 Wn. App. 680, 693, 181 P.3d 849 (2008). “[T]rial courts have the authority to enjoin a party from engaging in litigation upon a ‘specific and detailed showing of a pattern of abusive and frivolous litigation.’” Id. (quoting Whatcom County v. Kane, 31 Wn. App. 250, 253, 640 P.2d 1075 (1981)). “We review a trial court’s order limiting a party’s access to the court for an abuse of discretion.” Bay v. Jensen, 147 Wn. App. 641, 657, 196 P.3d 753 (2008).

Here, the court found that Sara

is a vexatious litigant because she has repeatedly filed the same or similar meritless claims against family members in furtherance of pattern of harassment. In this case, Plaintiff nonsuited her claims in response to Defendants’ Motion for Summary Judgment, after Defendants incurred significant attorney fees responding to Plaintiffs’ meritless claims. Prior monetary sanctions have not deterred Plaintiff from engaging in meritless litigation. The Court thus finds good cause exists to prevent further abuse of the Court process by plaintiff Sara Maynard through entry of a vexatious litigant protective order.

The record amply supports the trial court’s findings. Sara has repeatedly and unsuccessfully litigated in pursuit of the same property and has been undeterred by the previous imposition of sanctions. See Yurtis, 143 Wn. App. at 683-84 (affirming imposition of vexatious litigant order on plaintiff whose claims had been repeatedly rejected and found to be frivolous).

Sara argues that the vexatious litigant order violates her First Amendment right to free speech. This is so, she asserts, because she was following instructions from her “advisory counsel” and because “governmental officials who seek to control speech are trying to control what people think and what people do, which is contrary to the dignity of the human person.” But courts have the inherent discretion to “place reasonable

restrictions on any litigant who abuses the judicial process.” Yurtis, 143 Wn. App. at 693.

Moreover, the court’s vexatious litigant order does not bar Sara from accessing the courts. Rather, Sara must first seek court approval and the defendants must be given notice and an opportunity to respond, thereby allowing Sara to advance potentially meritorious claims. Sara offers no authority for the proposition that the court’s inherent authority to place such reasonable limitations on a vexatious litigant curtails the right to free speech. We need not analyze her constitutional claim further. Cowiche Canyon, 118 Wn.2d at 809.

#### Fees on Appeal

Respondents, citing CR 11, RCW 4.84.185, and/or RCW 11.96A.150, request an award of attorney’s fees on appeal in accordance with RAP 18.1. This court has the discretion to award attorney fees on appeal under RAP 18.1(a) where authorized by applicable law. “An appeal is frivolous if, considering the entire record, the court is convinced that the appeal presents no debatable issues upon which reasonable minds might differ” and that the appeal is so devoid of merit that “there is no possibility of reversal.” Kinney v. Cook, 150 Wn. App. 187, 195, 208 P.3d 1 (2009).

Sara’s appeal lacks any factual or legal basis, thus justifying a fee award under CR 11 and RCW 4.84.185. Additionally, because Sara’s lawsuit asserts claims against the Estate of Helen Jr. upon a rejected creditor’s claim, fees are awardable under RCW 11.96A.150(1) as well. We grant Respondents’ request for attorney fees and costs on

No. 83714-1-I/16

appeal, subject to compliance with RAP 18.1.

Affirmed.

Cohen, J.

WE CONCUR:

Díaz, J.

Birk, J.

# **APPENDIX B**

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION ONE

SARA MAYNARD, an individual, and  
SARA MAYNARD, in her capacity as  
Administratrix of the Estate of  
Elizabeth Brooks,

Appellants,

v.

ESTATE of HELEN BEARDSLEE  
MAYNARD (aka HELEN B.  
MAYNARD JR.) by and through  
ANDREW POLLOCK MCCONNELL III  
in his capacity as personal  
representative of the Estate of  
HELEN B. MAYNARD and ANDREW  
POLLOCK MCCONNELL III, as  
beneficiary of the Estate of Helen  
Beardslee Maynard, deceased, and  
DOES 1 through 10, Inclusive,

Respondents.

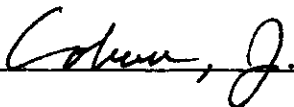
No. 83714-1-1

ORDER DENYING  
MOTION FOR  
RECONSIDERATION

The appellant, Sara Maynard, having filed a motion for reconsideration herein, and a majority of the panel having determined the motion should be denied; now, therefore, it is hereby

ORDERED the motion for reconsideration be, and the same is, hereby denied.

FOR THE COURT:

  
\_\_\_\_\_

# **APPENDIX C**



No. 83714-1

IN THE COURT OF APPEALS  
FOR THE STATE OF WASHINGTON  
DIVISION I

---

SARA MAYNARD et al

*Appellants,*

v.

ESTATE OF HELEN BEARDSLEE MAYNARD et al

*Respondents.*

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APPELLANTS' MOTION TO FILE AMENDED BRIEF

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SARA MAYNARD  
APPELLANT  
P.O. Box 1075  
Sacramento, CA 95812  
Phone: 916-347-8411

## I. INTRODUCTION

Appellant Sara Maynard moves the court for allowance to immediately at this time file the Appellants' Amended Brief, which same was filed December 30, 2022 in order to enable the Appellants to correctly and accurately identify, and to include the correct Clerks Papers and correct authorities, and to do so in the correct sections of the Appellants' Brief, so as to enable the Court to review and consider same. Additionally, the Appellants needed to correctly amend the Table of Authorities in the Appellants' Brief.

## II. RELEVANT FACTS

Due in part to severe physical medical illness, and pursuant instructions from the court, the Appellants' opening brief was filed November 4, 2022. Pursuant additional instructions from the clerk, said brief was filed December 7, 2022. At that time, some of the Appellants clerks papers and authorities were not correctly and accurately referenced in said brief, and some were not correctly referenced in the correct sections of said brief. Subsequently on about November 18, 2022, numerous additional

supplemental Clerks Papers were provided to the Appeals Court by the trial court's clerks office. Said numerous additional clerks papers had been requested by the Respondents new Supplemental Designation of Clerks Papers.

The Appellants are now in need to correctly and accurately identify, and to include, and to reference the Appellants' clerks papers and authorities in the correct sections of the Appellants' Brief. Additionally, the Appellants are now also in need to correctly and accurately address the new Supplemental Clerks Papers in the Appellants' Brief. In addition, the Appellants' Table of Authorities in the Appellants' brief also is now in need to be amended so as to be accurate and correct.

Appellant Sara had been caused to handle the appellants' brief and clerks papers Pro Se, as Appellant Sara's former advisory counsel had earlier contracted Covid. The Appellants believe the Appellants' Amended Brief filed December 30, 2022 will correctly and accurately reference and address the correct clerks papers and authorities, and will also do so in the correct sections of the Appellants' Brief, and will enable the Court to efficiently locate and review and consider same.

### III. ARGUMENT

In order for the Appeals Court to be enabled to accurately and efficiently access and review all of the Appellants' clerks papers and authorities, said clerks papers and authorities needed to be correctly and accurately referenced, and to be included, and also needed to be referenced in the correct sections of the Appellants' Brief. The Appellants have provided the Appellants' Amended Brief to the Court on December 30, 2022, so as to enable same, and thereby remedy the prior problems regarding same. Additionally, the Respondents had filed Supplemental Designations of Clerks Papers on about November 18, 2022 in the instant matter. As such, the Appellants were additionally caused to address further new complexities created by said Respondents' Clerks Papers. No prejudice is anticipated from the Appellants' Amended Brief, which enables all parties to efficiently and accurately access the Appellants' clerks papers and authorities.

### IV. CONCLUSION

Wherefore based upon the above, the Appellants respectfully request the Court for allowance to immediately at this

time file the Appellants Amended Brief, which same was filed on December 30, 2022, so as to enable the Appellants to correctly and accurately identify and include the correct Clerks Papers and correct authorities, and to do so in the correct sections of the Appellants' Brief, so as to enable the Court to consider same, and to additionally amend the Table of Authorities in the Appellants Brief. No prejudice is anticipated from said Appellants' Amended Brief.

**Respectfully Submitted**

**Dated: January 3, 2023**

**By: "/s/ [ Sara Maynard]"**

**Sara Maynard**

**Appellant**

**P.O. Box 1075**

**Sacramento, CA 95812**

**Phone: 916-347-8411**

**Fax: 916-362-8241**

No. 837141

CERTIFICATE OF SERVICE

I certify that on the date below I caused the attached foregoing “APPELLANTS’ MOTION TO FILE AMENDED BRIEF” to be served on the parties of record as listed below by Email and by Court EService:

Attorney Scott Feir  
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Dated: January 3, 2022

By: “/s/ [ Sara Maynard]”  
Sara Maynard  
P.O. Box 1075,  
Sacramento, CA 95812  
Phone: 916-347-8411

# APPENDIX D



### Categories of Items Requested In Complaint

1) Copy of Helen Jr.'s Notice of Receipt of Payment Confirming Helen Jr.'s Receiving of about \$50,000 from Estate Brooks

This issue was Not raised within the estate of Mother Helen Sr. "No. 05205" matter, nor in the Sara v. John Jr. et al matter "No. 22827", as neither said matters are in any way connected with the Estate Brooks matter handled by the east coast Superior Court. As such, the issue of Res Judicata should Not apply here within the instant derivative lower court Creditor Complaint matter in Washington. This issue of said same Notice of Receipt of Payment is Not contested within the Estate Brooks east coast matter itself, as said Notice of Receipt was received by Helen Maynard Jr. and confirmed received

within the Estate Brooks matter. All Agreements made between Appel. Sara and Helen Jr. regarding this personal item were upgraded periodically and in 2019, and were witnessed by attorney. As such, the issues of Res Judicata, and Vexatious Litigant, and Statute Limitations should Not apply within Appel. Sara's instant derivative lower court matter. (CP pgs. 368 thru 377; and pgs. 3 thru 4; and pg. 266; and pgs. 257 thru 260; and pgs. 288-289). (*Kelly - Hansen*, 87 Wn. App. at 330-31), (*In re Marriage of Littlefield*, 133 Wn.2d 39, 47, 940 P.2d 1362 (1997), (*McCarthy*, 152 Wn.App. at 745, 46, 218 P.3d at 208 428, 430).

2) Originals or Copies of all hardcopy documents and computer files received by Helen Jr. from Sara, and Sara's counsel during 2002 through 2019 regarding Elizabeth Brooks and the Estate Elizabeth Brooks, and maintained by Helen Jr. for both herself and Sara pursuant Agreements updated thru 2019 regarding same and witnessed by attorney.

Appel. Sara agreed to pay reasonable copying costs to Resp. McConnell for same, if only copies were available. These documents and computer files were Not an issue raised within

Estate Brooks, as same were agreed upon between Appel. Sara and Helen Jr., and were Not an issue of contested within the Estate Brooks. These items are Not part of the estate of Mother Helen Sr., nor related to the Sara v. John Jr. et al matter, and as such were Not raised in either said matter. As such, the issues of Res Judicata, and Vexatious Litigant, and Statute Limitations should Not apply here in regard to this issue in Appel. Sara's instant derivative lower court matter. (CP pgs. 312 thru 335; and pg. 266; and pgs. 368 thru 377; and pg. 540). (*Kelly - Hansen, 87 Wn. App. at 330-31*), (*In re Marriage of Littlefield, 133 Wn.2d 39, 47, 940 P.2d 1362 (1997)*), (*McCarthy, 152 Wn.App. at 745, 46, 218 P.3d at 208 428, 430*).

3) Godmother Elizabeth Brooks family heirloom ruby diamond ring as bequeathed to Appel. Sara in Elizabeth Brooks Will Last Testament and transported for Sara at Sara's request to Seattle Washington by Sara's mother Helen Maynard Sr., and stored by Helen Jr. for Sara pursuant Agreements updated thru 2019 and witnessed by attorney.

This ring was Not an issue contested in any manner within Estate Brooks, as said ring was bequeathed to Appel. Sara in

the Will Last Testament of Elizabeth Brooks, and was agreed upon between Helen Jr. and Appel. Sara. This item is Not part of the estate of Mother Helen Sr., nor related to the Sara v. John Jr. et al matter, and as such was Not raised in either said matter. As such the issues of Res Judicata, and Vexatious Litigant, and Statute Limitations should Not apply here in regard to this issue within the instant derivative lower court matter. (CP pgs. 257 thru 260; and pg. 261; and pg. 5; and pg. 368 thru 377; and pg. 268; and pg. 406; and pg. 540). (*Kelly - Hansen*, 87 Wn. App. at 330-31), (*In re Marriage of Littlefield*, 133 Wn.2d 39, 47, 940 P.2d 1362 (1997), (*McCarthy*, 152 Wn.App. at 745, 46, 218 P.3d at 208 428, 430).

4) Return of Godmother Elizabeth Brooks' personal property items obtained by Helen Jr. pursuant Agreements between Sara and Helen Jr. and which agreements were updated periodically and in 2019 and witnessed by attorney.

These items are Not part of the estate of Mother Helen Sr., nor related to the Sara v. John Jr. et al matter, and as such were Not raised in either said matter. This issue is agreed upon, and thus

Not contested in the Estate Brooks matter. As such, the issues of Res Judicata, and Vexatious Litigant, and Statute Limitations should Not apply here in regard to this issue in the Appel. Sara's instant derivative lower court matter.

(CP pgs. 257 thru 260; and 368 thru 377; and pg. 13; and pg 9).

(*Kelly - Hansen*, 87 Wn. App. at 330-31), (*In re Marriage of Littlefield*, 133 Wn.2d 39, 47, 940 P.2d 1362 (1997), (*McCarthy*, 152 Wn.App. at 745, 46, 218 P.3d at 208 428, 430).

5) Financial reimbursement to Estate Brooks for one half value of items received from Estate Brooks by Helen Jr.. Said same amount was paid by Sara to Estate Brooks as per Agreements between Helen Jr. and Appel. Sara and witnessed by attorney.

This issue is Not related to the estate of Mother Helen Sr. matter, nor related to the Sara v. John Jr. et al matter, and as such was Not raised in either said matter. This issue was agreed upon, and thus Not contested in Estate Brooks. As such, the issue of Res Judicata, and Vexatious Litigant, and Statute Limitations should Not apply here in regard to this issue in the Appel. Sara's instant derivative lower court matter.

(CP pgs. 368 thru 377; and pgs. 257 thru 260; and pg. 9; and pg. 13; and pg. 284). (*Kelly - Hansen, 87 Wn. App. at 330-31*), (*In re Marriage of Littlefield, 133 Wn.2d 39, 47, 940 P.2d 1362* (1997), (McCarthy, 152 Wn.App. at 745, 46, 218 P.3d at 208 428, 430).

6) Reimbursement of 50% of Legal Fees owed to Appel. Sara by Helen Jr. for legal matters handled by Sara on behalf both Helen Jr. and Sara in regard to Estate Brooks pursuant Agreements between Sara and Helen Jr. periodically updated 2002 through 2019 and witnessed by attorneys

This issue is not related to the estate Mother Helen Sr., nor related to the Sara v. John et al matter thus not raised in either. This issue is Not contested within Estate Brooks matters as said issue was agreed upon between Appel. Sara and Helen Jr. as witnessed by attorney. As such the issues of Res Judicata, and Vexatious Litigant, and Statute Limitations should Not apply here in regard to this issue in the Appel. Sara's instant derivative lower court matter.

(CP pgs. 368 thru 377; and pg. 4; and pg. 266). (*Kelly - Hansen, 87 Wn. App. at 330-31*), (*In re Marriage of Littlefield,*

133 Wn.2d 39, 47, 940 P.2d 1362 (1997), (McCarthy, 152 Wn.App. at 745, 46, 218 P.3d at 208 428, 430).

7) Originals or Copies of all hard copy files and computer files pertaining to Mother Helen Maynard Sr.'s legal and business and financial investments and medical records as were previously shown to Appel. Sara as in possession of Helen Maynard Jr. prior to and at time of death

Appellant Sara agreed to pay reasonable copying costs for same if only copies were available. These documents were Not an issue raised within the estate of Mother Helen Sr. in regard to Helen Jr., as said issue was agreed upon between Helen Jr. and Appel. Sara prior to and during the estate Mother Helen Sr. probate as witnessed by attorney. Helen Jr. thus did Not appear, and no attorney appeared on her behalf in same. This issue was raised only in regard to John Maynard Jr. in said estate of Mother Helen Sr. probate but in regard to other documents. At hearing June 14, 2019 in estate of Mother Helen Sr. probate, the lower court refused to allow Appel. Sara to raise this issue in order to provide correct information in regard

to Helen Maynard Jr.. As such, the issues of Res Judicata, and Vexatious Litigant, and Statute Limitations should Not apply here to Respondents Helen Jr. and Respondent McConnell. (CP pg. 266; and pgs. 368 thru 377; and pg. 6 thru 7; and pg. 540; and pg. 784, L5, L6, L23, L24). (*Kelly - Hansen*, 87 Wn. App. at 330-31), (*In re Marriage of Littlefield*, 133 Wn.2d 39, 47, 940 P.2d 1362 (1997), (*McCarthy*, 152 Wn.App. at 745, 46, 218 P.3d at 208 428, 430).

8) Originals or Copies of all hard copy files and computer files pertaining to Father John Maynard Sr.'s legal and business and financial investments and medical records as were previously shown to Appel. Sara Maynard as in possession of Helen Maynard Jr. prior to and at time of death.

Appellant / Creditor Sara agreed to pay copying costs for same if only copies were available. These documents were Not an issue raised within the estate of Mother Helen Sr. in regard to Helen Jr. as said issue was agreed upon between Helen Jr. and Appel. Sara prior to and during the estate Mother Helen Sr. probate. Helen Jr. thus did Not appear, and no attorney appeared on her behalf in same. This issue was raised only in



regard to John Maynard Jr. in said estate of Mother Helen Sr. probate. At hearing June 14, 2019 in estate of Mother Helen Sr. probate, the lower refused to allow Appel. Sara to raise this issue in order to provide correct information in regard to Helen Jr.. As such, the issues of Res Judicata, and Vexatious Litigant, and Statute Limitations should Not apply here to Resp. Estate Helen Jr. and Resp. McConnell. (CP pg. 266; and pgs. 368 thru 377; and pg. 6 thru 7; and pg. 540; and pg. 784, L5, L6, L23, L24). (*Kelly - Hansen*, 87 Wn. App. at 330-31), (*In re Marriage of Littlefield*, 133 Wn.2d 39, 47, 940 P.2d 1362 (1997), (*McCarthy*, 152 Wn.App. at 745, 46, 218 P.3d at 208 428, 430).

9) Antique Dresser from matching furniture set inherited by Appel. Sara from her Grandmother Simpson and stored by Helen Jr. for Sara pursuant Agreements 2015 and periodically updated through 2019 as witnessed by attorneys, and so as to enable Sara and husband to move Mother Helen Sr. into adult care home in 2015.

As this Dresser belonged to Grandmother Simpson, and was inherited by Sara from Grandmother Simpson, it was Not part

of the estate of Mother Helen Sr. and therefore was Not an issue raised in said estate of Mother Helen Sr., and is Not an issue related to the Sara v. John Jr et al matter and thus was not an issue raised in same. As such the issues of Res Judicata, and Vexatious Litigant, and Statute Limitations should Not apply here in regard to this issue in Appel. Sara's instant derivative lower court matter. (CP pg. 264; and pgs. 368 thru 377; and pg. 7; and pg. 540; and pg. 407). (*Kelly - Hansen*, 87 Wn. App. at 330-31), (*In re Marriage of Littlefield*, 133 Wn.2d 39, 47, 940 P.2d 1362 (1997), (*McCarthy*, 152 Wn.App. at 745, 46, 218 P.3d at 208 428, 430).

10) Appellant Sara's keepsake childhood toys including Poor Pitiful Pearl doll, toy stuffed Kangaroo, toy stuffed white lamb, Madam Alexander doll and clothes for same, Ginny doll and clothes for same, all toy puppets, toy puppet stage

Said keepsake toys did Not belong to Mother Helen Sr., and as such were Not and could Not be an issue raised in the Mother Helen Sr. estate probate during 2016 thru 2019. Said items are Not related to the Sara v. John Jr. et al matter and thus could Not and should Not be raised in same. Said keepsake

toys did Not belong to Godmother Elizabeth Brooks, and as such were Not and could Not be an issue raised in the Estate of Elizabeth Brooks probate. As such, the issues of Res Judicata, and Vexatious Litigant, and Statute Limitations should Not apply here in Appel. Sara's instant derivative lower court matter. (CP pg. 264; and pg. 11; and pg. 368 thru 377; and pg. 407; and pg. 540). (*Kelly - Hansen*, 87 Wn. App. at 330-31), (*In re Marriage of Littlefield*, 133 Wn.2d 39, 47, 940 P.2d 1362 (1997), (*McCarthy*, 152 Wn.App. at 745, 46, 218 P.3d at 208 428, 430).

11) The Cremated ashes or portion of same of decedent Helen Maynard Jr. for burial in family plot in New York at St. John Evangelist Church

a) The paternal side of the Maynard family is half Catholic and half Episcopalian. The maternal side of the Maynard family is entirely Episcopalian. Helen Maynard Jr. was raised as an Episcopalian in the Episcopal Church. Decedent Helen Maynard Jr. was baptized and confirmed in the Episcopal Church in New York, and went to Sunday school on Sunday

mornings from about age of four (4) years through about age thirteen (13) years with Appellant Sara Maynard.

b) In 1992, Father John Maynard Sr. and Mother Helen Maynard Sr. purchased a burial plot for the entire immediate Maynard family, including Helen Jr., at the St. John Evangelist Church in New York. All immediate Maynard family members, including Helen Maynard Jr., agreed this burial plot was for themselves at that time and for all future years. This became the 1992 Agreement witnessed by attorneys. Additionally, Helen Jr. had informed Appel. Sara that Helen Jr. wanted to be buried in said family gravesite.

c) However, Sara is informed that Resp. McConnell is Not a member of a recognized Christian church, and is Not Jewish, and is Not Moslem, and has refused to allow burial or select a grave site for Helen Jr.'s ashes. As shown to Sara and attorneys, Helen Maynard Jr. signed a number of Wills Last Testament through the years. However, Estate Helen Jr. representative, Resp. Andrew McConnell, filed one of the many said old Wills Last Testaments, which was dated October 3,

2017, and which same for a number of reasons is clearly highly false and defective. Said same defective Will Last Testament supposedly requests Helen Jr.'s ashes to be scattered in the air anywhere in the entire world. This in part demonstrates said Will Last Testament to be written under extreme duress.

d) Appellant Sara offered to settle this issue in the derivative lower court matter by offering to finance all burial costs and costs of a memorial service at any Christian cemetery selected by Resp. McConnell. However, Appel. Sara was informed that the Resp. McConnell is not a member of a recognized Christian church, and is Not Jewish, and is Not Moslem. Appel. Sara was informed that Resp. McConnell had refused to allow burial for even a portion of cremated ashes of Helen Jr., and had refused to select a grave site for even a portion of Helen Jr.'s cremated ashes.

e) Said cremated ashes of Helen Jr. are Not a personal property of the estate of Mother Helen Sr., and is not related to the Sara

v. John Jr et al matter and as such this issue is Not an issue that could have or would have been raised in said same matters. As such, the issues of Res Judicata, and Vexatious Litigant, and Stature Limitations should Not apply here in the instant derivative lower court matter. (CP pgs. 263; and pgs. 307 thru 310; and pg. 408; and pg. 11 thru 12 #17; and pg. 311). (*Kelly - Hansen*, 87 Wn. App. at 330-31), (*In re Marriage of Littlefield*, 133 Wn.2d 39, 47, 940 P.2d 1362 (1997), (*McCarthy*, 152 Wn.App. at 745, 46, 218 P.3d at 208 428, 430).

12) Originals or Copies of all Maynard family photos, videos, DVDs, and old film footage in possession of Helen Maynard Jr. prior to and at time of death

a) Prior to the 1980's, neither Helen Jr. nor any other member of the Maynard family knew Respondent Andrew McConnell. After marriage to Helen Jr., Resp. McConnell became an in-law, but almost never participated in any Maynard family gatherings nor transactions. As such, there are no Maynard family photos, nor videos, nor DVDs, nor film footage

referenced in Appel. Sara's instant derivative lower court matter that show Resp. Andrew McConnell. As such, there is no reason for Resp. McConnell to deny originals, or copies of said same materials to be made, and transferred to Appel. Sara, pursuant prior Agreements between Helen Jr. and Appel. Sara which same were witnessed by attorneys. Additionally, Appel. Sara offered to pay the cost of copies to be made of all same, if McConnell demanded to retain the originals of same.

b) As witnessed by attorneys during about 2019, Appellant Sara and Helen Jr. had reviewed many of above same, and had agreed for copies to go to Sara. At the time of death of Helen Jr., Resp. McConnell and Helen Jr. had been arguing over a divorce and money matters for an extended period of time. It is unclear why Resp. McConnell would refuse copies or originals of Maynard family old photos etc. to be released to Appel. Sara pursuant Agreements with Helen Jr.. However, Resp. McConnell has viciously destroyed, or given away said photos etc. to other persons in order to prevent same from being copied by Appel. Sara.

c) All said photos, videos, DVDs, and old film footage were in possession of Helen Jr. in 2019, and were Not part of the estate of Mother Helen Sr. thus were Not an issue raised in same. Other family photos etc. were in possession of John Maynard Jr. in 2019, and as such, only those in possession of John Jr. were referenced in the estate of Mother Helen Sr. probate matter. Copies of All said items in possession of Helen Jr. pursuant agreement between Helen Jr. and Sara as witnessed by attorney were to go to Sara. Additionally, no attorney appeared in the estate of Mother Helen Sr. probate representing Helen Jr., thus issues regarding Helen Jr. were Not and could Not be raised in same. As such, the issue of these said items were Not raised in the estate Mother Helen Sr. probate in regard to Helen Jr., but were raised only in regard to John Maynard Jr.. As such, the issues of Res Judicata, and Vexatious Litigant, and Statues Limitation should Not apply here in Appel. Sara's instant derivative lower court matter. Prior to the death of Helen Jr., both Appel. Sara and Helen Jr.



agreed that Sara would finance the cost of copying all said same photos etc., and Appel. Sara would retain said copies. (CP pgs. 368 thru 377; and pg. 540; and pg. 262). (*Kelly - Hansen*, 87 Wn. App. at 330-31), (*In re Marriage of Littlefield*, 133 Wn.2d 39, 47, 940 P.2d 1362 (1997), (*McCarthy*, 152 Wn.App. at 745, 46, 218 P.3d at 208 428, 430).

13) The following issue was raised in regard to only John Maynard Jr. during probate of estate of Mother Helen Maynard Sr. in King County Washington, No. 05205 as Helen Jr. did Not appear in same and had agreed with Appellant Sara regarding same

a) Pursuant the Will Last Testament of Mother Helen Sr. dated November 17, 2006, and filed in Estate Helen Maynard (Sr.) August 30, 2016, beneficiary Sara Maynard is entitled to twenty five percent (25%) of all monies in the Estate Helen Maynard (Sr.) at time of death of Mother Helen Maynard Sr., and entitled to 25% of all personal property items in the Estate Helen Maynard (Sr.) at time of death, and entitled to 25% of all items remaining in the bank safety box of Mother Helen Sr. at time of death of Mother Helen (Sr.), including 25% of original

documents of Mother Helen Sr., and 100% of copies of said same documents. Helen Jr. and Appel. Sara as witnessed by attorney agreed to same. (See Estate Helen Maynard, King County Washington probate No. 16-4-05205-1).

b) As Helen Maynard Jr. lived near Mother Helen Sr. in Seattle, Helen Jr. had a Power Attorney for Mother Helen Sr., thus Helen Jr.'s name was on all Mother Helen Sr.'s bank accounts and bank safety boxes during about 2001 through about 2017. After death of Mother Helen Sr., Helen Jr. and John Maynard Jr., and others took all items contained in said bank safety box including all documents in about 2017. Prior to same and subsequently, as witnessed by attorney, Helen Jr. and Appel. Sara agreed that Appel. Sara would receive copies of 100% all said documents, and would receive 25% of originals of said documents.

c) Due to the Orville Dam spillway collapse in 2017, Sara was forced to return quickly to California during said emergency, and thus Sara was unable to receive or transport any items in

2017. The above issue could only be raised in regard to John Maynard Jr. in the probate of Mother Helen Sr.'s estate in 019, as Helen Jr. did Not Appear in same and no attorney appeared on behalf of Helen Jr.. Additionally, as Appel. Sara and Helen Jr. had agreed on the above issue, Helen Jr. as witnessed by attorney believed it was Not necessary for Helen Jr. to appear in Mother Helen Sr. estate probate.

d) Appel. Sara does Not have a computer nor Iphone. Appel. Sara later returned to Washington, however due to the Pandemic and Helen Jr.'s death in 2020, Sara was unable to obtain items or documents from Helen Jr.. Helen Jr. died in May 2020 due to a supposed violent suicide while alone in her home with Resp. McConnell.

e) As a result of the above, in the instant derivative lower court matter, Appel. Sara requested said originals or copies of all documents which were taken from Mother Helen Sr.'s bank safety box in 2017, and were in possession of Helen Jr. in 2020. Sara offered to pay copying cost for said documents. However Appel. Sara was informed that Resp. McConnell had

destroyed, or given away to other persons, all said documents which had been in possession of Helen Jr..

f) Additionally, at estate Mother Helen Sr. probate hearing June 14, 2019, the lower court refused to allow Appel. Sara to raise this issue. Accordingly, due to all the above, Appel. Sara does not believe the issues of Res Judicata, nor Statute Limitations, nor Vexatious Litigant should apply to this issue in Appel. Sara's instant derivative lower court matter. (CP pgs. 368 thru 377; and pg. 540; and pgs. 298 thru 302; and pgs. 278 thru 282; and pg. 263). (*Kelly - Hansen*, 87 Wn. App. at 330-31), (*In re Marriage of Littlefield*, 133 Wn.2d 39, 47, 940 P.2d 1362 (1997), (*McCarthy*, 152 Wn.App. at 745, 46, 218 P.3d at 208 428, 430).

14) Return of the Nana 3 Diamond Ring to Rightful Owner Appellant Sara Maynard pursuant Valid Mother Helen Sr.'s Distribution List 2012

a) At hearing June 14, 2019 in the probate of the Mother Helen Sr. estate, the issue regarding the Nana 3 Diamond ring was

raised Only in Part, and only in regard to estate PR John Maynard Jr.. The copy of the valid Distribution List written and signed by Mother Helen Sr. on June 5, 2012, which bequeathed said ring to Appel. Sara had been provided to the probate Court in about 2018. Appel. Sara and Helen Jr., as witnessed by attorney, had agreed said ring pursuant Mother Helen Sr. 2012 Distribution list was inherited by Appel. Sara. This issue could Not and should Not have been raised in regard to Helen Jr., as Appel. Sara and Helen Jr. agreed on this issue thus Helen Jr. did Not Appear in said matter, and no attorney appeared on behalf of Helen Jr. at said hearing. As such, said matter was only raised in regard to John Maynard Jr.. Additionally, a copy of the Physicians Evaluation of Mental Incompetency dated April 28, 2014 had been provided to the lower court in about 2018, which declared Mother Helen Sr. to be mentally incompetent as of April 28, 2014. As such, any document provided by John Jr. to the Court in 2018, and claiming to have been signed by Mother Helen Sr. in 2016, was

clearly irrelevant and false, as Mother Helen Sr. had been declared mentally incompetent in 2014.

b) Unfortunately, the lower court at hearing June 14, 2019 was elderly, and was unable to hear all information correctly, which had been whispered. Additionally, both attorneys at said hearing had no personal knowledge of same, and also did not hear all whispered information correctly. As such, both attorneys provided false and incorrect information to the lower court at said hearing. As a result of same, the lower court refused to allow Appel. Sara to speak in order to provide additional correct information regarding said Nana 3 Diamond ring, and thus the lower court closed said estate of Mother Helen Sr. probate incorrectly based upon false information.

c) Appel. Sara is informed that the Bank's Ledger confirms that Mother Helen Sr. did Not enter her bank safety box in 2016, and thus did not leave a note in said bank safety box in 2016, as was falsely claimed by both attorneys at hearing June 14, 2019. Additionally, Appel. Sara and Helen

Jr. had prior agreed that said Nana 3 Diamond Ring rightfully belonged to Sara. At hearing June 14, 2019 the lower court raised the issue of said Nana 3 Diamond ring Only in Part and only in regard to John Maynard Jr.

d) Respondents Estate Helen Jr. and Resp. McConnell are responsible to return same said ring to rightful owner Appel. Sara. Instead however, Resp. McConnell sold, or gave said same Nana 3 Diamond ring to other persons in order to cause further damages to Appel. Sara. As such, and based upon the all above, the issues of Res Judicata, and Vexatious Litigant, and Statute Limitations should Not apply here in regard to this issue in Appel. Sara's instant derivative lower court matter.

(CP pg. 271; and pgs 278 thru 282; and pgs 368 thru 377; and pgs. 298 thru 302; and pg. 304; and pg. 305; and pg. 784 L5, L6, L23, L24). (*Kelly - Hansen*, 87 Wn. App. at 330-31), (*In re Marriage of Littlefield*, 133 Wn.2d 39, 47, 940 P.2d 1362 (1997), (*McCarthy*, 152 Wn.App. at 745, 46, 218 P.3d at 208 428, 430).

15) Optional Offer of Purchase by Appel. Sara of Grandmother Beardslee's, and Grandmother Clark's and Appellant Sara's antique furniture, and china, and sterling silver in Possession of Helen Jr. prior to and at time of death When And If Resp. McConnell Determines he No Longer wants to Maintain said Items

As said above same items do Not belong to the estate of Mother Helen Sr. and thus were Not in possession of the estate of Mother Helen Sr. Representative John Maynard Jr., the issue of these said items could Not and should Not be raised in the estate of Mother Helen Sr. probate. Despite Agreements witnessed by attorney between Appel. Sara and Helen Jr., and periodically updated about 1993 through 2019 regarding these said items, Resp. McConnell destroyed, or sold, or damaged beyond repair, or gave away to other persons all said same items. Based upon the same, the issues of Res Judicata, and Vexatious Litigation, and Statutes Limitations should Not apply to this issue in Appel. Sara's instant derivative lower court matter.

(CP pg. 264; and pg. 410; and pg. 540; and pg. 283; and 368



thru 377; and pg. 10 #14). (*Kelly - Hansen*, 87 Wn. App. at 330-31), (*In re Marriage of Littlefield*, 133 Wn.2d 39, 47, 940 P.2d 1362 (1997), (*McCarthy*, 152 Wn.App. at 745, 46, 218 P.3d at 208 428, 430).

16) Optional Transfer of Decedent Helen Jr.'s personal clothing shoes, handbags, jewelry to Appel. Sara as were previously in possession of decedent Helen Jr. prior to and at time of death When and if Resp. McConnell Determines he No Longer wants to Maintain said Items

As said above same items do Not belong to the estate of Mother Helen Sr., nor to the estate of Mother Helen Sr.'s PR John Maynard Jr., the issue of these items could Not and should Not be raised in the estate of Mother Helen Sr. probate "No. 05205", nor in the matter of Sara v. John Jr. et al "No.22827". Despite Agreements witnessed by attorneys between Appel. Sara and Helen Jr., and periodically updated through 2019 regarding these said items, Resp. McConnell destroyed, or sold, or damaged beyond repair, or gave away to other persons all said same items. Based upon the same, the issues of Res Judicata, and Vexatious Litigant, and Statutes limitation should

Not apply to this issue in Appel. Sara's instant derivative lower court matter.

CP pgs. 368 thru 377; and pg. 10 #15; and pg. 717). (*Kelly - Hansen, 87 Wn. App. at 330-31*), (*In re Marriage of Littlefield, 133 Wn.2d 39, 47, 940 P.2d 1362 (1997)*), (*McCarthy, 152 Wn.App. at 745, 46, 218 P.3d at 208 428, 430*).

# **APPENDIX E**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): <u>Sara Maynard</u> ADDRESS WHERE YOU WANT MAIL SENT: <u>P.O. Box 1075</u> <u>Sacramento, CA 95812</u>		<div style="border: 2px solid black; width: 100px; height: 100px; margin: 0 auto;"></div> <div style="text-align: center; margin-top: 10px;"> <div style="border: 1px solid black; border-radius: 50%; padding: 5px; display: inline-block;">FILED</div>  <div style="border: 1px solid black; padding: 5px; display: inline-block;">OCT 25 2001</div>            By <u>T. MULLEN</u>, Deputy Clerk         </div>
TELEPHONE NO. (Optional): <u>916-763-2888</u> FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): <u>In Pro Per</u>		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF <u>Superior Court of California</u> STREET ADDRESS: <u>County of Sacramento</u> MAILING ADDRESS: CITY AND ZIP CODE: <u>3341 Power Inn Road</u> BRANCH NAME: <u>Sacramento, CA 95826</u>		
PROTECTED PERSON: <u>Sara Maynard</u>		
RESTRAINED PERSON: <u>Andrew McConnell</u>		
<b>RESTRAINING ORDER AFTER HEARING (CLETS)</b> (Domestic Violence Prevention)		CASE NUMBER: <u>010V02777</u>

This form may be used with the *Findings and Order After Hearing* (form 1296.31), if the court makes additional orders.

- This proceeding was heard by judicial officer (name): MARYANNE G. GILLIARD  
 on (date): OCT 25 2001 at (time): 11:00 a.m. in Dept: 122 Room:
- The person seeking to be protected and the person to be restrained were personally present at the court hearing. No additional proof of service of this restraining order is required. L.A. Attorney
  - The person seeking the restraining order was personally present at the court hearing, and proof of service of the Order to Show Cause and Application and Declaration for Order was presented to the court.
    - The terms of this order are identical to those of the Temporary Restraining Order, except for its duration. This order may be served by mail.
    - The terms of this order are different from those of the Temporary Restraining Order. This order must be personally served.
  - By written stipulation. No additional proof of service of this restraining order is required.

**THE COURT FINDS**

- The restrained person is (name): Andrew McConnell  Defendant/Respondent  Plaintiff/Petitioner  
 Sex:  M  F Ht: 5'12W150 Hair color: Bwn Eye color: Bwn Race: W Age: 35 Birth date: Unknown
  - The protected person is (name): Sara Maynard
  - The protected family and household members are (list first and last names of all protected people under this order):  
Jerrold Justin (husband)

**THE COURT ORDERS**

**THIS ORDER, EXCEPT FOR ANY AWARD OF CHILD CUSTODY, VISITATION, OR CHILD SUPPORT, SHALL EXPIRE AT**  
 **MIDNIGHT** OR  **OTHER TIME:** \_\_\_\_\_ ON (date): OCT 25 2001  
**IF NO DATE IS PRESENT, THIS ORDER EXPIRES THREE YEARS FROM THE DATE OF ISSUANCE.**

- The restrained person
  - shall not contact, molest, harass, attack, strike, threaten, sexually assault, batter, telephone, send any messages to, follow, stalk, destroy the personal property of, disturb the peace of, keep under surveillance, or block movements in public places or thoroughfares of:  the person seeking the order  the other protected person(s) listed in item 3c except for peaceful contacts related to court-ordered visitation of the minor children as set forth on page 2 of this order.
  - must immediately move from (address):
  - shall stay at least (specify): 100 yards away from the following protected persons and places:
    - person seeking the order
    - the other protected persons listed in item 3c
    - residence of person seeking the order
    - place of work of person seeking the order

(Continued on reverse)

PROTECTED PERSON (name): Sara Maynard	CASE NUMBER:
RESTRAINED PERSON (name): Andrew McConnell	



4. c. (Continued)
- (5)  the children's school or place of child care
  - (6)  protected person's vehicle
  - (7)  other (specify):

Read this order carefully. Taking or concealing a child in violation of this order may be a felony and punishable by confinement in state prison, a fine, or both.

5.  **CHILD CUSTODY AND VISITATION**  
 The custody and visitation of the minor children is ordered as set forth in the attached forms, which are incorporated herein and made an operative part of this order. Peaceful contacts shall be allowed related to court-ordered visitation.
- a.  Child Custody and Visitation Order Attachment (form 1296.31A)
  - b.  Supervised Visitation Order (form 1296.31A(1))
  - c.  Other (specify):

6.  **CHILD SUPPORT**  
 Child support for the minor children shall be ordered as set forth in the attached forms, which are incorporated herein and made an operative part of this order.
- a.  Child Support Information and Order Attachment (form 1296.31B)
  - b.  Other (specify):

7.  **ADDITIONAL ORDERS**  
 Additional orders relating to property control, debt payment, attorney fees, restitution, counseling and/or other orders are set forth in the attached forms, which are incorporated herein and made an operative part of this order.
- a.  Domestic Violence Miscellaneous Orders Attachment (form 1296.31E)
  - b.  Other (specify):

8. **MANDATORY FIREARM RELINQUISHMENT**  
 The restrained person must surrender to local law enforcement or sell to a licensed gun dealer any firearm in or subject to his or her immediate possession or control within
- a.  24 hours after issuance of this order (if restrained person is present at hearing).
  - b.  48 hours after service of this order (if restrained person is not present at hearing).
  - c.  other (specify):

The restrained person shall file a receipt with the court showing compliance with this order within 72 hours of receiving this order.

9.  **RECORDING OF PROHIBITED COMMUNICATIONS**  
 The protected person may record any prohibited communication made to him or her by the restrained person.
10.  The restrained person is ordered to participate in a certified batterer's program for 12 months at that party's expense with the results of attendance and completion to be provided to the court.
11.  Fees for service of this order by law enforcement are waived.

(Continued on page three)

PROTECTED PERSON (name): Sara Maynard	CASE NUMBER:
RESTRAINED PERSON (name): Andrew McConnell	

PROTECTED PERSON (name): Debra Taylor CASE NUMBER:

RESTRAINED PERSON (name): Andrew McDonnell

12.  A copy of this order shall be delivered by the protected person to the law enforcement agency having jurisdiction over the residence of the protected person, who shall provide information to assist in identifying the restrained person. Proof of service of this order on the restrained person shall also be provided to law enforcement unless the order shows the restrained person was present in court. The law enforcement agency having jurisdiction over the plaintiff's residence is (name and address of agency):

SACRAMENTO  
POLICE DEPARTMENT  
900 8th STREET  
SACRAMENTO, CA 95814

SACRAMENTO SHERIFF'S  
DEPARTMENT  
711 G Street  
Sacramento, CA 95814

13.  A copy of this order shall be given to the additional law enforcement agencies listed below by the protected person or the protected person's attorney:

Law enforcement agency  
Sacramento Sheriff's Civil Div.  
  
Sacramento Police Department

Address  
3341 Power Inn Road, Room 313  
  
900 - 8th Street, Sacramento, CA

14. Any attachments noted in items 5, 6, and 7 of this order are attached hereto, incorporated herein, and made a part of this order.  
Number of pages attached: 2

Date: OCT 25 2001 ✓

  
JUDICIAL OFFICER  
**MARYANNE G. GILLIARD**

This order is effective when made. It is enforceable anywhere in all 50 states, the District of Columbia, all tribal lands, and all U.S. territories and shall be enforced as if it were an order of that jurisdiction by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS). If proof of service on the restrained person has not been received, and the restrained person was not present at the court hearing, the law enforcement agency shall advise the restrained person of the terms of the order and then shall enforce it. Violations of this restraining order are subject to state and federal criminal penalties. This order meets all Full Faith and Credit requirements of the Violence Against Women Act, 18 U.S.C. 2265 (1994) (VAWA). This court has jurisdiction of the parties and the subject matter; the defendant has been afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. This order is valid and entitled to enforcement in this and all other jurisdictions.

**NOTICE REGARDING FIREARMS**  
Any person subject to a restraining order is prohibited from owning, possessing, purchasing or attempting to purchase, receiving or attempting to receive, or otherwise obtaining a firearm. Such conduct is subject to a \$1,000 fine and imprisonment. Under federal law, the issuance of a restraining order after hearing will generally prohibit the restrained person from owning, accepting, transporting, or possessing firearms or ammunition. Possession of a firearm while subject to this order may be a felony under federal law punishable by up to ten (10) years in prison and a \$25,000 fine.

**CLERK'S CERTIFICATE**

[SEAL]

I certify that the foregoing Restraining Order After Hearing (CLETS) is a true and correct copy of the original on file in the court.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_ Deputy

DV-130

Restraining Order After Hearing

Check boxes below when form:

1 Protected person's name: SARA MAYNARD

Protected person's address: P.O. BOX 1075

City: SACRAMENTO State: CA Zip: 95812

Your phone #: (916) 763-2885

Your lawyer: James Proctor, Law Offices of James Proctor, 1430 Lincoln Avenue, San Rafael, California 94901

FILED DEPT 123 SUPERIOR COURT OF CALIFORNIA SACRAMENTO

Court name and street address: Superior Court of California, County of SACRAMENTO 3341 POWER INN ROAD SACRAMENTO, CA 95826

Case Number: 01DV02777

2 Restrained person's name: ANDREW McCONNELL Description of that person: Sex: M Race: WHITE Hair Color: BROWN

3 List the full names of all other family or household members protected by this order: JERROLD JURIN (HUSBAND)

4 Court Order

To the person named in 2: This is a court order.

Court will fill out section below: There was a hearing on (date) 11-30-07 at (time) 11:00 a.m. Judge: JAMES MIZE made the orders at the hearing. The orders end at (time): midnight on (date) 11-30-07

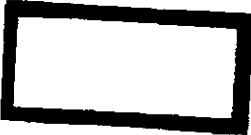
This is a Court Order.

Judicial Council of California www.courtinfo.ca.gov Rev. January 1, 2005 Mandatory Form Form 7 Code 95200 e-sec Approved: DCJ

Protected person's name: SARA MAYNARD

Case Number:

01DV02777



**Personal Conduct Orders**

The person in **2** must *not* do the following things to the protected people listed in **3** and **4**:

- a.  Harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy personal property, disturb the peace, keep under surveillance, or block movements
- b.  Contact (either directly or indirectly), or telephone, or send messages or mail or e-mail
  - (1)  Except for brief and peaceful contact as required for court ordered visitation of children unless a criminal protective order says otherwise
  - (2)  Except for peaceful written contact through a process server or another person for legal papers related to a court case

**Stay-Away Order**

The person in **2** must stay at least 100 yards away from:

- a.  The person listed in **3**
- b.  The people listed in **4**
- c.  Home  Job  Car of person in **2**
- d.  The children's school or child care
- e.  Other (specify): \_\_\_\_\_

**7 Move-Out Order**

The person in **2** must move out immediately from (address): \_\_\_\_\_

**8 Child Custody and Visitation are ordered on the attached Form DV-140 or (specify other form): \_\_\_\_\_**

**9 Child Support is ordered on the attached Form DV-160 or (specify other form): \_\_\_\_\_**

**10 No Guns or Other Firearms**  
The person in **2** cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get a gun or firearm.

**11 Turn In or Sell Guns or Firearms**  
The person in **2**:  

- Must sell to a licensed gun dealer or turn in to police any guns or firearms that he or she has or controls. This must be done within 48 hours of receiving this order. But if the person in **2** was at a hearing for this order, it must be done within 24 hours of the hearing.
- Must bring a receipt to the court within 72 hours of receiving this order, to prove that guns or firearms have been turned in or sold.

**12 Record Unlawful Communications**  
The person in **3** has the right to record communications made by the person in **2** that violate the judge's orders.

**13 Batterer Intervention Program**  
The person in **2** must go to and pay for a 52-week batterer intervention program, and show proof of completion to the court. This program must be approved by the Probation Department.

**This is a Court Order.**

**Restraining Order After Hearing (CLETS)**  
(Domestic Violence Prevention)

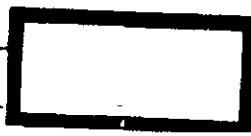
DV-130, Page 2 of 5



Protected person's name: SARA MAYNARD

Case Number:

01DV02777



- No Fee to Notify Restrained Person**  
If local law enforcement can serve this order, they will do it for free.
- Other Orders** relating to property control, debt payment, attorney fees, restitution, and/or other orders are in attached Form DV-170 or (specify other form): Domestic Violence Miscellaneous Orders Attachment, Form 1296, 31 E
- Service**
  - a.  The people in ① and ② were at the hearing. No other proof of service is needed.
  - b.  The person in ① was at the hearing. The person in ② was not. But Proof of Service of DV-110 was presented to the court.
    - (1)  The judge's orders in this form are the same as DV-110 except for the end date. This order can be served by mail.
    - (2)  The judge's orders in this form are different from DV-110. Someone — not the people in ① or ② — must personally "serve" a copy of this order to the person in ②.
  - c.  The people in ① and ② have agreed in writing to this order. No other proof of service is needed.
- The people in ① and ② must return to this court/department on (date):      /      /       
at (time):       a.m.  p.m. to review (specify issues):

- Attached Pages Are Orders**
  - Number of pages attached: 1
  - All of the attached pages are part of this order.

Date: \_\_\_\_\_

JAMES MIZE

\_\_\_\_\_  
Judge or Judicial Officer

**Warnings and Notices to the Restrained Person in ②**

- 19 If you do not obey this order, you can be arrested and charged with a crime.
  - It is a felony to take or hide a child against this order. You can go to prison and/or pay a fine.
  - If you travel to another state or to tribal lands, or make the protected person do so, with the intention of disobeying this order, you can be charged with a federal crime under the Violence Against Women Act.
  - If you do not obey this order, you can go to prison and/or pay a fine.



**You Cannot Have Guns or Firearms**



You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get a gun while the order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to a licensed gun dealer or turn in to police any guns or firearms that you have or control. The judge will ask you for proof that you did so. If you do not obey this order, you can be charged with a crime. Federal law says you cannot have guns or ammunition while the order is in effect.

**This is a Court Order.**

Rev. January 2003

Restraining Order After Hearing (CLETS)  
(Domestic Violence Prevention)

DV-130, Page 3 of 5

San Diego Superior Court - Domestic Violence Court Form

CERTIFICATE OF SERVICE

I hereby certify that on the date below I caused the attached foregoing to be served on the parties listed below by Email and E Service :

Attorney Scott Feir  
Montgomery Purdue PLLC  
701 Fifth Avenue, Suite 5500  
Seattle, WA 98104  
Email: <sef@montgomerypurdue.com>

Dated: July 28, 2023

By: "/s/ [ Sara Maynard]"

Sara Maynard  
P.O. Box 1075  
Sacramento, CA 95812  
Phone: 916-347-8411  
Email: <bonniemathews80  
@gmail.com>

**APPELLANT PRO SE**

**July 28, 2023 - 4:05 PM**

**Transmittal Information**

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 102,145-3  
**Appellate Court Case Title:** Sara Maynard v. Estate of Helen Beardslee Maynard, et al.

**The following documents have been uploaded:**

- 1021453\_Petition\_for\_Review\_20230728160241SC493440\_9984.pdf  
This File Contains:  
Petition for Review  
*The Original File Name was Amended Petition For Review.pdf*

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

- blopez@montgomerypurdue.com
- creed@montgomerypurdue.com
- gburnopp@montgomerypurdue.com
- sef@montgomerypurdue.com

**Comments:**

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Sender Name: Sara Maynard - Email: bonniematthews80@gmail.com  
Address:  
P.O. Box 1075  
Sacramento, CA, 95812  
Phone: (916) 347-8411

**Note: The Filing Id is 20230728160241SC493440**