

FILED
Court of Appeals
Division III
State of Washington
IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

FILED
SUPREME COURT
STATE OF WASHINGTON
4/29/2024
BY ERIN L. LENNON
CLERK

Case #: 1030053

Supreme Court No.
(Court of Appeals No. 387747)

TERRY S. STEPHENS,
Appellant Pro-Per,

In Re the Estate of:
LYLE STEPHENS
Deceased.

**PETITION FOR DISCRETIONARY REVIEW
UNDER RAP 13.4**

Terry Stephens,
15372 W Dahlia Dr
Surprise Arizona 85379
(971) 235-5980

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LIST OF APPENDIXES:

PLEASE TAKE NOTICE: APPENDIXES LISTED BELOW HAS APPENDIXES WHICH ARE OMITTED TO RESERVE SPACE BUT ARE ACCESSIBLE FROM COURT OF APPEALS TRANSCRIPTS.

- I. MOTION FOR RECONSIDERATION; **Appendix A.**
 - V. STATEMENT OF THE CASE (HEADING)**
- II. SUBSTITUTION OF PERSONAL REPRESENTATIVE
- III. STATUS REPORT / JUDICIAL NOTICE
- IV. UNPUBLISHED OPINION
- V. ORDER DENYING MOTION FOR RECONSIDERATION
- VI. **ADDENDUM TO PAGE 6 AFFIDAVIT OF KAY STEPHENS**
 - III. COURT OF APPEALS' DECISION (HEADING)**

I. INTRODUCTION

This case stems from a TEDRA action incidental to a PROBATE case where beneficiaries identified and raised issue with corruption and fraud of the Personal Representative of the Estate.

The ultimate issue in this matter is that the TEDRA was dismissed for insufficiency of service despite the opposing party agreement that service was proper and case law establishing that voluntary appearance makes moot the necessity of service of summons.

At issue in this case is whether the Appellate Court can circumvent and rule inconsistently with extant case law as well as usurp Supreme Court Decisions. Further at issues is when the subsequent identical TEDRA cases are brought forth, is it error for the Appellate Court to ignore the same cases that have prevailed, when motioned for

joinder and judicial notice, and raise the same issue that would have been heard in the former appealed TEDRA action?

This is impacting district wide as Service of Summons and Voluntary Appearance is a *prima facie* element and doctrine necessitating the jurisdiction of the Court across vast territories reaching beyond the simple territory of Washington State.

Should this case decision prevail, it would cause taint of the judiciary and allows inconsistency of law to stand and impacts an entire district of case law jurisdictional territories.

Further issue the case would allow is for the rewarding of misconduct estate representatives instead of sanctions for their misconduct. In this matter the misconduct of the hostile party, Appellee, was terminated from her position

of Personal Representative for the fraud and then in turn rewarded with attorneys fees by this appellate court decision despite the barring of such award by slayer statutes and the forthcoming findings being heard in the ongoing underlying TEDRA in the PROBATE.

II. IDENTITY OF MOVING PARTY

TERRY STEPHENS, Appellant, is a non-heir apparent to the incidental probate and filed the TEDRA action sua sponte and with agreement with the joined and properly served heirs of the underlying PROBATE. Appellant's TEDRA was equivocal of a Amicus Curiae.

III. COURT OF APPEALS' DECISION

The Court of Appeals dismissed Appellant's appeal of the TEDRA as deficient of service of process after further standing in the underlying PROBATE gave more warrant

and rise for further investigation and stay of the appeal until final orders be writ in the underlying PROBATE for which sanctions of misconduct including fraud and SLAYER statute findings against the PR, ala the same allegations raised in the original TEDRA by Appellant.

The Court of Appeals erroneously alleges that Appellant failed to address the ruling when the premise of the entire appeal is paramount to the error in the lower court dismissing the action on alleged failure to serve summons and the requisites surround this, as the court of appeals erroneously concluded on page 6 of the Unpublished Opinion:

“Nevertheless, Terry fails to assign error to the superior court’s ruling that petitioners failed to join and serve needed parties, one of their sisters and brothers who were also heirs. This failure to address this ruling is fatal to the appeal” APPENDIX VI AFFIDAVIT KAY STEPHENS+

IV. ISSUES PRESENTED FOR REVIEW

- 1) Can an Appellee who's been replaced due to misconduct, be awarded attorneys fees?
- 2) Can an Appellee who's been replaced due to misconduct prevail in the appellate case?
- 3) If no further argument is made in objection to an appeal by a substitution appellee as representative of the estate, is there any factual objection to the appeal?
- 4) Can the court of Appeals sustain inconsistent rulings overriding parallel published opinion?
- 5) Can the court of Appeals sustain findings inconsistent with published Supreme Court Cases?

V. STATEMENT OF THE CASE

- A) Appellant incorporates all arguments and allegations laid forth in all underlying filed documents,

B) In this statement of the case Appellant defers to paragraph 3 of his Motion for Reconsideration in underlying appeal as the most relevant enumeration of the facts and statements of the case, attached as Appendix A.

VI. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED

Pursuant to RAP 13.4(b)(1)-(4):

(1) Court of Appeals Div. III Dismissal, if allowed to stand, would be contrary to established Public Precedence set by SUPREME COURT Case Law concerning Equitable Estoppel which Appellant argues in the underlying:

The elements of equitable estoppel are: "(1) an admission, statement or act inconsistent with a claim afterwards asserted, (2) action by another in [reasonable] reliance upon that act, statement or admission, and (3) injury to

the relying party from allowing the first party to contradict or repudiate the prior act, statement or admission." *Board of Regents v. City of Seattle*, 108 Wn.2d 545, 551, 741 P.2d 11 (1987). Where both parties can determine the law and have knowledge of the underlying facts, estoppel cannot lie. *Chemical Bank v. Washington Pub. Power Supply Sys.*, 102 Wn.2d 874, 905, 691 P.2d 524 (1984). Equitable estoppel must be shown "by clear, cogent, and convincing evidence." *Berschauer/Phillips Constr. Co. v. Seattle Sch. Dist. No. 1*, 124 Wn.2d 816, 831, 881 P.2d 986 (1994). *Lybbert v. Grant County*, 141 Wn. 2d 29, 35 (Wash. 2000)

The dismissal of the Appeals Court is contrary to the doctrine. The fact was service was not at issue, notice of appearance was filed by all interested parties, and jurisdiction and service were understood to be proper and acted upon as properly served by all interested parties,

gives rise to the error by the Court of Appeals.

The underlying was acted upon and normal motion practice continued as though service was proper and it was not until the preliminary hearing that the Court determined to deem service improper and dismiss the case erroneously, giving rise to the appeal.

The Appellate Court erred in finding contrary to extant Supreme Court Upheld case law

(2) Court of Appeals Division III Dismissal, if allowed to stand, would be contrary to established Public Precedence set by Court of Appeals Division III.

(1) The same underlying case law established in the aforementioned Supreme Court Case also shows contradiction in the Court of Appeals underlying case as it was agreed by supreme court that the lower court dismissal for want of service was improper.

In this matter, the same scenario plays out, only the Court of Appeals in this matter opines in contradiction to the exact same scenario as is seen in the Lybbert v. Grant County case.

The Appellate Court erred in finding contrary to extant Appellate Court case law.

(3) Division III findings are inconsistent with the “plain language of the statutes” RCW 4.28.210

(1) Appearance, what constitutes. A defendant appears in an action when he or she answers, demurs, makes any application for an order therein, or gives the plaintiff written notice of his or her appearance. After appearance a defendant is entitled to notice of all subsequent proceedings; but when a defendant has not appeared, service of notice or papers in the ordinary proceedings in an action need not be made upon him or her. Every

such appearance made in an action shall be deemed a general appearance, unless the defendant in making the same states that the same is a special appearance.

(2) In this manner, the Appellee did not content nor argue, nor preserve for appeal, the argument that service was not proper and their appearance in all cases is deemed, by the plain language, as a general appearance and the defendant waived right to argue upon appeal, and in fact did not argue service was improper upon appeal.

The Appellate Court was erroneous in their findings and conclusions contrary to the plain language of the statutes.

(4) Division III Findings are contrary to the plain language of TEDRA statutes § 104(4)(RCW 11.96A.030):

“notice must be provided by summons *only with respect to those parties who were not already parties to the existing judicial proceedings*”(emphasis added).

All parties in the underlying TEDRA were already parties to the underlying PROBATE matter and thus the service of summons was moot pursuant to the plain language and legislative intent of the statutes governing TEDRA.

The Appellate Court was erroneous in their findings and conclusions contrary to the plain language of the statutes.

VII. CONCLUSION

Petitioner prays the Court grant review under RAP 13.4(b).

DATED this 26th, day of April, 2024,

Respectfully submitted,

Terry Stephens,

A handwritten signature in black ink that reads "Terry Stephens". The signature is written in a cursive style and is underlined.

15372 W Dahlia Dr

Surprise, Arizona 85379

(971) 235-5980

Appellant Pro Se

CERTIFICATION OF COMPLIANCE

I hereby certify that said document contains 16 pages and 2,466 words pursuant to R.A.P. 18.17 under any enumerated limits with the most restrictive being RAP 18.17(c)(8) limiting to 6,000 words and 25 pages.

Tristen L. Worthen
Clerk/Administrator

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FILED
The Court of Appeals
Division III
State of Washington
4/29/2024 8:00 AM

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CASE # 387747
In re the Estate of Lyle V. Stephens
SPOKANE COUNTY SUPERIOR COURT No. 2140196932

Counsel:

Enclosed please find a copy of the opinion filed by the Court today.

A party need not file a motion for reconsideration as a prerequisite to discretionary review by the Supreme Court. RAP 13.3(b); 13.4(a). If a motion for reconsideration is filed, it should state with particularity the points of law or fact which the moving party contends the court has overlooked or misapprehended, together with a brief argument on the points raised. RAP 12.4(c). Motions for reconsideration which merely reargue the case should not be filed.

Motions for reconsideration, if any, must be filed within twenty (20) days after the filing of the opinion. Please file the motion electronically through the court's e-filing portal or if in paper format, only the original need be filed. If no motion for reconsideration is filed, any petition for review to the Supreme Court must be filed in this court within thirty (30) days after the filing of this opinion (may be filed by electronic facsimile transmission). The motion for reconsideration and petition for review must be received (not mailed) on or before the dates they are due. RAP 18.5(c).

Sincerely,

Tristen L. Worthen
Clerk/Administrator

TLW:sh
Enclosure
c: **E-mail** Honorable Anthony Hazel

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

| | | |
|---------------------------------|---|---------------------|
| In the Matter of the Estate of |) | |
| LYLE V. STEPHENS. |) | No. 38774-7-III |
| |) | |
| CLARA STEPHENS; KAY STEPHENS; |) | |
| KIMBERLY BERGQUIST; and KRISTIE |) | |
| HULL, |) | |
| Petitioners, |) | |
| |) | UNPUBLISHED OPINION |
| TERRY STEPHENS, |) | |
| |) | |
| Appellant, |) | |
| |) | |
| v. |) | |
| |) | |
| KAREN STEPHENS, |) | |
| Respondent. |) | |

FEARING, C.J. — This appeal involves a sibling quarrel over distribution of a deceased father’s estate. In this Trust and Estate Dispute Resolution Act (TEDRA), chapter 11.96A RCW, action, four of the decedent’s children seek recovery for alleged violations of fiduciary duties by their sister, the personal representative of the estate. One of the TEDRA petitioners, Terry Stephens, appeals the trial court’s dismissal of the action because of a failure to file and serve a statutory summons and a failure to join and serve two of the decedent’s seven children. We affirm the dismissal because of Terry’s failure to address, in his brief, the neglect to join and serve two of his siblings, heirs of the estate.

FACTS

Lyle Stephens died on August 17, 2020. His seven adult children, Terry Stephens, Karen Stephens, Kay Stephens, Kimberly Bergquist, Kristie Hull, Timothy Stephens, and Kathie Davis, survived him. Lyle Stephens and the mother of the children, Clara Stephens, divorced in 2006. Clara also survived Lyle's death.

On September 2, 2020, Kay Stephens sought appointment as personal representative of Lyle Stephens' estate under the terms of a purported December 31, 2007 will. On September 18, Karen Stephens filed an August 26, 2011 will. The superior court resolved the issue of the competing wills by adjudging the August 26, 2011 will to be controlling. The court appointed Karen as personal representative of the estate. Karen, as personal representative, published notice to creditors on March 9, 2021.

PROCEDURE

On September 28, 2021, petitioners Terry Stephens, Clara Stephens, Kay Stephens, Kimberly Bergquist, and Kristie Hull filed this TEDRA action, which principally alleges Karen Stephens breached her fiduciary duties as personal representative of Lyle Stephens' estate. We do not know why the petitioners do not litigate those claims in the probate case. The petitioners also allege that Karen exerted undue influence over Lyle Stephens, because of his age, when Lyle signed his latest will and converted his assets. We wonder, but do not resolve, whether the claim of undue influence falls in the category of a will contest that should have been brought earlier.

Children Timothy Davis and Kathie Davis did not join the TEDRA action as petitioners and were not sued as respondents. Petitioners did not even identify Timothy Stephens and Kathie Davis as heirs or serve the TEDRA petition on the two.

On September 28, 2021, the petitioners served a copy of the TEDRA petition on Karen Stephens and her attorney. Petitioners did not prepare or serve the statutory summons mentioned in RCW 11.96A.100(2), a section of TEDRA. *See* CP 9.

On October 6, 2021, Terry Stephens filed, on behalf of himself and the other petitioners, a motion to consolidate the TEDRA action with the existing probate action and a motion to stay the pending December 3 hearing date. On November 18, the parties stipulated to continue the December 3 hearing to January 14, 2022 due to an unexpected COVID death in the family. CP 28. On December 30, Karen Stephens filed an answer to the TEDRA petition, a motion to resolve all issues and dismiss the petition, a memorandum in support of her answer and motion for dismissal, and a declaration.

On January 3, 2022, petitioners filed a motion to continue the January 14, 2022 hearing on the ground that mother Clara Stephens suffered a medical emergency during the holidays. In the motion, the petitioners explained that an ambulance transported Clara to a hospital on December 23, doctors diagnosed Clara with acute hypertension, physicians discovered a brain bleed, and they moved Clara to a rehabilitation center on December 27.

Karen Stephens filed an objection to the continuance. She argued that Clara Stephens had little involvement in the TEDRA action. Karen also noted in her answer to the petition that petitioners had failed to file and serve the statutory summons and had failed to serve heirs Timothy Stephens and Kathie Davis with the TEDRA petition.

On January 11, the petitioners filed a notice for mediation.

The hearing on the TEDRA action and the petitioners' motions proceeded on January 14, 2022. In support of the motion to continue, Terry Stephens informed the court that the prior night, on January 13, the rehabilitation center, wherein Clara Stephens resided, phoned him to inform him that Clara would be released that day. Terry requested that the continuance be granted so Clara could participate. After acknowledging Clara's circumstances as one of the bases for the continuance, the superior court asked the petitioners if they requested a continuance on any other grounds. In response, Kay Stephens stated that "[w]e found out yesterday that defense couldn't be here because of illness." Report of Proceedings at 7. When the court asked Kay to identify the ill person, Kay explained that the sick individual requested his or her name be withheld due to privacy concerns. Kay added that the continuance was warranted because petitioners had lacked an opportunity to conduct sufficient discovery and had struggled to retain representation. Kay informed the court that the petitioners retained counsel but, given time constraints, they could not meet with her before the hearing and planned to meet with her at a later date.

Karen Stephens, through counsel, objected to any continuance. Karen argued that Clara Stephens lacked any interest in the TEDRA case. Clara sought to recover damages from the estate as the result of alleged wrongs committed by Lyle Stephens before the divorce. Clara had filed a creditor's claim, which the estate rejected, and Clara had not timely sued after the rejection. Karen added that no one had contested the will. She insisted that the TEDRA action lacked merit as indicated by the petitioners' failure to respond to Karen's answer.

The superior court, on numerous grounds, denied the motion to postpone the hearing on the merits of the TEDRA petition. The court had already granted one continuance. Because they had filed the petition, the petitioners should have been prepared at any time to argue the merits of their claims. Anyone who was ill could have appeared by Zoom. The superior court also denied the petitioners' motions to compel mediation and to consolidate the TEDRA action with the probate case.

After argument on the merits of the TEDRA action, the superior court announced its decision that the petitioners had failed to procure sufficient service of process. Petitioners had failed to serve the statutory summons on Karen Stephens. The court added that the petitioners had failed to include all parties and serve all necessary heirs. The court reasoned that the failures bolstered his decision to deny the motion to delay the hearing. The court declined to address the merits of the TEDRA petition and dismissed

No. 38774-7-III,
In re Estate of Stephens

the action without prejudice. Finally, the superior court awarded Karen Stephens reasonable costs and attorney's fees.

The superior court's written order confirmed that the petitioners had failed to join all parties to the action. Petitioners had failed to name and serve siblings Timothy Stephens and Kathie Davis. The written order did not mention dismissal of the petition because of failure to prepare and serve the summons mentioned in RCW 11.96A.100(2).

LAW AND ANALYSIS

Petitioner Terry Stephens solely appeals. Terry assigns error to the superior court's dismissal of the TEDRA action because of the failure to serve a statutory summons, refusal to grant a continuance of the January 14, 2022 hearing, denial of any relief for Karen Stephens' violation of fiduciary duties, and award of reasonable attorney fees and costs to Karen. Nevertheless, Terry fails to assign error to the superior court's ruling that petitioners failed to join and serve needed parties, one of their sisters and brothers who were also heirs. This failure to address this ruling is fatal to the appeal since this ruling on its own justified the superior court's dismissal of the TEDRA action. We will not address or overturn a superior court ruling to which the appellant never assigned error. RAP 10.3(g); *Rutter v. In re Estate of Rutter*, 59 Wn.2d 781, 787-88, 370 P.2d 862 (1962).

Because of our ruling affirming the dismissal on the basis of failure to join parties, we need not address the contentions that the superior court erred when denying the

No. 38774-7-III,
In re Estate of Stephens

motion to continue and motion to compel mediation. Terry Stephens did not assign error to the superior court's grant of reasonable attorney fees and costs to Karen. So, we also affirm the trial court's award of fees and costs.

Karen Stephens requests an award of reasonable attorney fees and costs on appeal. We grant her this request under RCW 11.96A.150 and RAP 18.1(a).

CONCLUSIONS

We affirm the superior court's dismissal of the TEDRA action without prejudice and its grant of reasonable attorney fees and costs to Karen Stephens. We award Karen reasonable attorney fees and costs on appeal.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.

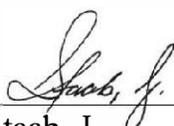


Fearing, C.J.

WE CONCUR:



Pennell, J.



Staab, J.

Tristen L. Worthen
Clerk/Administrator

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March 28, 2024

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CASE # 387747
In re the Estate of Lyle V. Stephens
SPOKANE COUNTY SUPERIOR COURT No. 2140196932

Counsel:

Enclosed is a copy of the order deciding a motion for reconsideration of this court's February 20, 2024, opinion.

A party may seek discretionary review by the Washington Supreme Court of a Court of Appeals' decision. RAP 13.3(a). A party seeking discretionary review must file a petition for review in this Court within 30 days after the attached order on reconsideration is filed. RAP 13.4(a). Please file the petition electronically through the Court's e-filing portal. The petition for review will then be forwarded to the Supreme Court. The petition must be received in this court on or before the date it is due. RAP 18.5(c).

If the party opposing the petition for review wishes to file an answer, that answer should be filed in the Supreme Court within 30 days of the service on the party of the petition. RAP 13.4(d). The address of the Washington Supreme Court is Temple of Justice, P.O. Box 40929, Olympia, WA 98504-0929.

Sincerely,

A handwritten signature in blue ink that reads "Tristen L. Worthen".

Tristen L. Worthen
Clerk/Administrator

TLW:sh

FILED
MARCH 28, 2024
In the Office of the Clerk of Court
WA State Court of Appeals Division III

COURT OF APPEALS, DIVISION III, STATE OF WASHINGTON

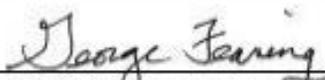
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|----------------------------------|-----------------------------|
| IN THE MATTER OF THE ESTATE OF) | No. 3:774-7-III |
| LYLE V. STEPHENS.) | ORDER DENYING MOTION |
|) | FOR RECONSIDERATION |
|) | |
|) | |

THE COURT has considered appellant's motion for reconsideration and is of the opinion the motion should be denied. Therefore,

IT IS ORDERED, the motion for reconsideration of this court's decision of February 20, 2024, is hereby denied.

PANEL: Judges Fearing, Pennell, Staab

FOR THE COURT:



GEORGE B. FEARING, Chief Judge

FILED
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Division III
State of Washington
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No. 387747

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

In Re the Estate of:

LYLE STEPHENS

Deceased.

No. 387747

STATUS REPORT
PURSUANT TO
RULE 9.11 R.A.P.
NEW EVIDENCE

COMES NOW Appellant, TERRY STEPHENS, Pro Se,
respectfully submitting Status Report of the Case pursuant to
Rule 9.11 as follows:

(a) The appellate court may direct that additional evidence
on the merits of the case to be taken before the decision
of a case on review if:

(1) additional proof of facts is needed to fairly resolve the
issues on review,

- (2) the additional evidence would probably change the decision being reviewed,
- (3) it is equitable to excuse a party's failure to present the evidence to the trial court,
- (4) the remedy available to a party through postjudgment motions in the trial court is inadequate or unnecessarily expensive,
- (5) the appellate court remedy of granting a new trial is inadequate or unnecessarily expensive, and
- (6) it would be inequitable to decide the case solely on the evidence already taken in the trial court.

Appellant hereby incorporates all judicial notices of facts and evidences laid forth in his JUDICIAL NOTICE PURSUANT TO W.R.E. § 201 filed December 8, 2022.

SUMMARY OF NEW EVIDENCE

Appellant, for all intents and purposes, filed the TEDRA petition as an *amicus curiae*, as a neutral and non-interested party to the case. Appellant, pursuant to such, filed the TEDRA with the concerns of abuse outlined and subsequently found by the fact finders in the probate and subsequent TEDRA actions arising from the probate case.

Appellant thus was unduly dismissed and inappropriately sanctioned with legal fees when the validity and legal remedy was in fact ripe, proper, and as the facts have subsequently shown, accurate in the allegations and controversies brought forth in his TEDRA petition.

(I) **NEW EVIDENCE:**

(i) **EXHIBIT I – Letter from Judge Cooney dated November 14, 2022.**

(1) T.E.D.R.A. petitions are not the sole means granting the Court authority to remove a personal representative.

(2) “the purpose of the statutes is to provide protection to beneficiaries and other interested parties when a personal representative breaches his fiduciary duties.” In *Re Estate of Jones*, 152 Wn.2d at 11, 93 P.3d at 152.

(3) “For the foregoing reasons, as well as those made on the record on October 28, 2022, the Court grants Kay Stephens’ motion to remove Karen Stephens as the personal representative of the Estate.”

(4) Notable is the language used in the letter as well as the findings of facts seem to corroborate and align with Appellants arguments in his opening brief, that the statutes plain reading are for to protect the beneficiaries and other interested parties.

**(ii) EXHIBIT II - FINDING OF FACT,
CONCLUSIONS OF LAW, AND ORDER**

**GRANTING PETITION TO REMOVE KAREN
STEPHENS AS PERSONAL REPRESENTATIVE
OF LYLE STEPHENS ESTATE.**

(1) Karen breached Fiduciary Duties, acted with a
Conflict of Interest, etc.

(2) “Karen Stephen’s questionable conduct following
her appointment requires that she be removed as
Personal Representative and an independent
Personal Representative be appointed to decide
whether the estate has assets that may have been
improperly transferred prior to Lyle Stephens’
death.”

**(iii) EXHIBIT III – DECLARATION OF
COLLETTE C. LELAND AND MEMORANDUM IN
SUPPORT OF MOTION TO CONTINUE TRIAL.**

(1) James Spurgetis *engages* Winston & Cashatt to
“pursue potential claims against Karen Stephens”.

(2) Notable actions taken since retaining is a yet to be adjudicated T.E.D.R.A. Petition filed by Winston & Cashatt dated August 15, 2023, case number: 23401773-32.

(3) The New Petition enumerates the findings of facts from the Dec. 1, 2022 and is captioned “TEDRA PETITION FOR RETURN OF ESTATE PROPERTY, BREACH OF FIDUCIARY DUTIES BY FORMER ATTORNEY IN FACT, CONVERSION, EMBEZZLEMENT, UNDUE INFLUENCE AND ORDER PURSUANT TO RCW 11.84.150.”

(4) Notable is that the findings by which Appellant’s T.E.D.R.A. was dismissed were for failing to provide summons and failing to include *all* beneficiaries, the other actions, whether morphed into a T.E.D.R.A. or filed *per se*, petitions in the

probate also are deficient, if in fact this were a requisite of a T.E.D.R.A.

(5) The petition to remove Personal Representative that morphed into a T.E.D.R.A., resulting in the findings of facts and conclusions of law, did not include all Beneficiaries in service, only Kay Stephens, and did not provide a summons, which seems contraindicative that Appellant's lack of service upon all beneficiaries and lack of a summons was not factually deficient and supports Appellant's argument that such failure was not a failure but an error in law.

(II) **ARGUMENTS**

In the order dismissing the T.E.D.R.A. case underlying this appeal, the logic behind the statement by the Judicial Officer, *"Also, I think there is a lot of validity. I'm not making a ruling on this because I've dismissed without prejudice, ..."* (Tr.

Jan 14, 2022, pg 33, line 3) does not make logical sense. There was not just validity but also significant merit with evidence enough to disbar Appellee, Karen Stephens, from her position of Personal Representative. There was factual merit and the T.E.D.R.A., with all its claims were ripe and warranted a trial had there been a trial, factually would have prevailed. The dismissal of the T.E.D.R.A. caused to further draw out the matter, stifling the underlying purpose and failing to bring swift closure to allegations and controversies.

Given this substantial change of circumstances and new evidence, the subsequent findings in the probate and subsequent synchronous actions validates the errors outlined in Appellant's opening brief and Appellant should prevail and sanction for attorneys fees vacated. The purpose of the T.E.D.R.A. filed by an *amicus curiae*, was for the removal and resolution of the controversies caused by the "questionable conduct" of Appellee and then P.R., Karen Stephens.

Appellant further requests his reasonable award of attorneys fees in this appellate matter and the underlying T.E.D.R.A. case upon remand.

WHEREFORE, the Appellant respectfully requests this Court order the taking of new evidence on the merits of the case pursuant to Rule 9.11 R.A.P.,

FURTHERMORE, Appellant respectfully requests this Court find Appellant as prevailing party and remand for reversal of any Attorneys Fees or sanctions in light of the new evidence validating the underlying petition of the T.E.D.R.A.

I, Terry Stephens, under oath and affirmation do swear these things to be true to the best of my knowledge.

DATED this 20th, day of August, 2023,

Terry Stephens

Terry Stephens,
15372 W Dahlia Dr
Surprise, Arizona 85379
(971) 235-5980
Appellant Pro Se

CERTIFICATION OF COMPLIANCE

I hereby certify that said document contains 10 pages and 1,050 words pursuant to R.A.P. 18.17 under any enumerated limits with the most restrictive being RAP 18.17(c)(9) limiting to 2,500 words and 10 pages.

No. 387747

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

In Re the Estate of:

LYLE STEPHENS

Deceased.

No. 387747

MOTION FOR RECONSIDERATION
PURSUANT TO RAP 12.4;
MOTION FOR CONSOLIDATION OF
CASES FOR PURPOSE OF REVIEW
PURSUANT TO RAP 3.3

1. IDENTITY OF MOVING PARTY

TERRY STEPHENS, Appellant, respectfully asks this Court for the relief designated Part 2.

2. STATEMENT OF RELIEF SOUGHT

Reconsideration pursuant to RAP 12.4 and for Consolidation of Underlying TEDRA case with new TEDRA Case 23401773-32 for purpose of Review Pursuant to RAP 3.3.

3. FACTS RELEVANT TO MOTION

1. Appellant initiated underlying TEDRA as an incidental action to Probate case 20-4-01319-32, pursuant to RCW 11.68.070.

2. This Court has taken Judicial Notice of some of the facts from the Encapsulating parent Probate Case, 2040131932.
3. Appellant provides the record for consolidation and purveyance upon review, *See Appendix A*, Bates Numbered in format “PROBATE-#####”.
4. The probate has forked into three (3) TEDRA incidentals:
 1. PROBATE-000761: *“Here, this matter was moved to a civil calendar by Judge Fennessy and has proceeded as a TEDRA proceeding ever since, with discovery authorized and trial set.”*
 2. Case giving rise to this appeal, CN: 2140196932, Bates Numbered “STEPHENS-#####” attached heretofore as **Appendix B**.
 3. Case filed by successor Personal Representative, Spurgetic, being duly consolidated with Probate, CN: 2340177332, Bates Numbered “SPURGETIS-#####” and attached heretofore as **Appendix C**.
5. Appellants arguments were esteemed to have merit, *supra*, however the TEDRA was dismissed without prejudice as found by This Court due to deficiency of

process in service of summons, over objection of Appellee:

1. Appellant and Appellee are in agreement that there was no deficiency of service, See Answer Brief pg. 2(A) “*The Superior Court Did Not Dismiss the Petition for improper Service or Lack of Jurisdiction*”.
2. Appellee does not believe the case was dismissed due to deficient service, Appellant does believe it was dismissed due to deficiency of service, and this court agreed, “”.
3. Appellant, plaintiff in the underlying case, did in fact believe that service was proper and not deficient, hence this appeal; Appellee, defendant in underlying, did in fact waiver defense of defective service as they did not preserve the defense either in notice of appearance nor did Appellee raise it as a defense upon appeal either.
4. The findings from this appeal are contrary to the assertion of the Appellee which begs the question, “how did appellee prevail” when the

Court found in agreement with Appellant that the case was dismissed for deficiency of service?

6. Service was not deficient pursuant to standing case law as discussed in argument as follows:

1. The findings of this case are inconsistent with case law and the plain language of the statutes as rulings by the Appellate Court and even the Supreme Court, *“Nonetheless, a few days after the “service,” counsel for the County filed a notice of appearance in which it was indicated that the County was not “waiving objections to improper service or jurisdiction.” Clerk’s Papers (CP) at 13.” Lybbert v. Grant County, 141 Wn. 2d 29, 32 (Wash. 2000)*

2. In this case, a notice of appearance was filed and explicitly without preservation of right to challenge jurisdiction and deficiencies in service of process.

3. Thus the process of service was rendered complete and sufficient upon the appearance of the respondent and no waiver nor motions, nor argued, even upon the Reply Brief on Appeal.

4. Service was proper, *per se*, pursuant to the doctrine of equitable estoppel and the Superior Court and Appellate Court lack sufficient jurisdiction to overturn the standing Supreme Court decision.

5. *“For the reasons stated above, we conclude that the County is not equitably estopped from asserting the defense of insufficient service of process. It did, however, by the actions of its representatives waive the defense. We, therefore, affirm the result reached by the Court of Appeals.” Lybbert v. Grant County, 141 Wn. 2d 29, 45 (Wash. 2000)*

7. During the course of this Appeal events transpired giving factual and material findings supporting Appellant’s TEDRA arguments.

8. On November 14, 2022, The Honorable Judge Cooney delivered letter regarding the Counsel and Heirs motion to remove Karen Stephens as PR to the Estate pursuant to RCW 11.68.070, Judicially Noticed and before this Court.

9. On Dec 1, 2022, Appellee and PR to the Estate in Probate was found to have factually acted with malice and misconduct and the issue whether the ejection of Appellee as PR being a TEDRA were not needing findings as a TEDRA is not the only means by which the Court has jurisdiction to remove a PR acting with misconduct.

10. Appellant raised the issues under Judicial Notice in form of Status Report per order of This Court, pursuant to the directives of This Court.

11. The misconduct and conflict of interest of the PR, Appellee, was found to be factual and resulted in the removal of Appellee as PR to the estate in the root Probate case, *supra*, PROBATE-000385.

1. “Since becoming PR of Lyle Stephens’ estate, Karen Stephens has refused to properly investigate and/or pursue claims arising out of her conduct prior to Lyle Stephens’ death, has engaged in blatant self-dealing by attempting to modify medical records and obstruct discovery, and has pointedly exhibited hostile behavior toward the other beneficiaries, thereby breaching her fiduciary duties. Accordingly, Karen should be removed as PR of Lyle Stephens’ estate and ordered to pay Kay Stephens’ attorney fees and costs

...

Yet, it was during this time frame that Karen Stephens improperly and/or fraudulently transferred to herself and/or “accepted” purported “gifts” of virtually all of Lyle’s assets.”

PROBATE-000501.

2. These facts, and many others, are adopted and established on the record in adoption to ***Findings of Facts and Conclusions of Law and Order Granting Petition to Remove Karen Stephens as Personal Representative of Lyle Stephens Estate, PROBATE-000801.***

3. Thus the characterization that this is a “sibling quarrel” is clearly erroneous.

12.This Court of Appeals substituted PR upon motion of Appellant, based upon the above findings, thus ejecting Appellee as a party and respondent to this case.

13.This Court proceeded to declare Appellee as prevailing party despite the party being replaced due to misconduct, which would preclude a party from being awarded attorneys fees under the fairness and equity doctrine and SLAYER statutes.

14.The newly assigned PR, Spurgetis, did not provide any supplemental memorandums nor any other such filings affirming the position of the Estate to Pursue legal

fees or any other such actions in support or rejection of the position of former PR.

15. Thus the current matter at issue with the Findings from this Court is any contest of points of law or fact which the moving party contends the court has overlooked or misapprehended, RAP 12.4(c).

16. All Parties in the TEDRA were under the impression that the TEDRA was properly served and that the parties were in agreement and made appearances as though service was proper:

1. PARTIES:

Pursuant to TEDRA § 104(4)(RCW 11.96A.030) Parties precludes persons “not necessary parties to the resolution of a dispute unless they have an actual interest in the subject matter of the dispute.”

Kathie and Tim expressly declared and rejected being joined to the TEDRA.

TEDRA § 402(RCW 11.96A.220) establishes which of the “persons interested in the sestate or trust” must participate in a non-judicial dispute resolution agreement.

RCW 11.96A.100 plain language states
“notice must be provided by summons *only
with respect to those parties who were not
already parties to the existing judicial
proceedings*” (*emphasis added*) in which
case every party to this TEDRA was already
party to the Probate action incidental as
outlined in Appendix A.

2. Despite this, all parties to the TEDRA
underlying this appeal were given notice through
service with and joined as parties, that wished to
participate:

STEPHENS-TEDRA-000008

STEPHENS-TEDRA-000009

STEPHENS-TEDRA-000011

STEPHENS-TEDRA-000015

*STEPHENS-TEDRA-000016 (Appellee
Notice of Appearance)*

Appellate Reply Brief Exhibit 1

1. Kathie and Tim were duly noted,
PROBATE-000042, as not wishing to participate;
Notably due to the disinheritance clause of the will

(STEPHENS-TEDRA-000035, PROBATE-000019,
PROBATE-000525,)

2. **Appellee's** Notice of Appearance

(STEPHENS-TEDRA-000016) *also excludes
Kathie and Tim as parties to case.*

3. Thus the Court erred to dismiss underlying
for deficiency of service.

4. **GROUNDS FOR RELIEF AND ARGUMENTS**

1. Appellant incorporates all arguments and allegations
laid forth above and as laid forth in Opening Brief,
Appellant Reply Brief, and Status Report as set forth
herein.

2. Appellant has prevailed in a subsequent action
brought forth by removal of Appellee as PR in Probate,
which causes an inconsistent ruling between the Probate
Case incidental, the underlying TEDRA case, and the
presumed outcome of a further TEDRA filed by the
Successor PR, Spurgetis, the current representative party
to this Appeal at the time of the order in this matter was
writ.

3. This Court has jurisdiction to consolidate Cases for purpose of a fair review of the case, pursuant to RAP 3.3(b).
4. The fallout from Probate rulings removing Appellee as PR of the estate furthered the validity and merits of Appellant's case and has brought forth a second TEDRA action alleging the same without the deficiencies identified in this Appeal.
5. For this purpose and for fair review of the case and misappropriate of attorneys fees to a party who has now been factually found to have committed misconduct and violated fiduciary duties and acted with misconduct pursuant to RCW 11.68.070, Appellant thus moves this Court for a vacating of the attorney fees award in this matter and for a consolidation of the twin TEDRA Cases.
6. The crux of the misconduct is highlighted in the filed motion to remove Karen as PR by Kay and as upheld after hearing by the Court in Probate:

“Karen has deliberately used her position as PR to try to *insulate* herself from any consequences arising out of her improper transfers of Lyle's property. This occurred when Karen's siblings previously filed a TEDRA Petition asserting claims against Karen for actions taken while she was the primary caretaker

and attorney-in-fact for Lyle. Karen responded by moving to dismiss the petition, arguing *inter alia* that the only person authorized to pursue such claims on behalf of the estate is the PR – which of course is Karen herself. See Appendix A – Mem. ISO Answer and For Dismissal of All Claims, pp. 7-8. IN effect, Karen conveniently sought to capitalize on her position as PR to prevent any claims from being asserted against her in her individual capacity. In doing so, her conflict of interest as described above materialized into an actual breach of her fiduciary duties to Lyle’s beneficiaries.” *PROBATE-000511 and*

“For the foregoing reasons, as well as those made on the record on October 28, 2022, the Court grants Kay Stephens' motion to remove Karen Stephens as the personal representative of the Estate. Pursuant to the directives of the 2011 Last Will and Testament of Lyle V. Stephens, a successor personal representative will be appointed. In finding the Court has authority to remove a personal representative under RCW 11.68.070 and RCW 11.28.250, the Court need not address whether this matter has morphed into a TEDRA proceeding.” *PROBATE-000786.*

7. The Successor PR, Spurgetis, subsequently is pursuing a substantively identical TEDRA matter to the underlying TEDRA subject to this Appeal, *supra*.
8. The subsequent TEDRA case is scheduled as “a **TEDRA Petition for Return of Estate Property, Breach of Fiduciary Duties by Former Attorney in**

Fact, Conversion, Embezzlement, Undue Influence, and Order Pursuant to RCW 11.84.150”, filed by Winston & Cashatt as Case No. 23401773-32, *SPURGETIS-TEDRA-000004*.

9. Judicially noticeable is the conflict of interest findings incorporated by reference to the Motion to Remove Karen as Personal Representative which this Court should adopt in vacating any award of attorney’s fees as inequitable and an order in conflict that brings about inconsistent rulings on the record and unfairly awards a party for misconduct and intentional inflation of litigation costs and fees by unnecessary conflict and attempts to conflate and conceal her misconduct and unlawful personal gain at the expense of all the heir beneficiaries of this matter for which the TEDRA was rightfully filed and erroneously dismissed, *supra*.

10. Appellant’s declining of request for attorneys fees was intended as a “good faith” effort to conclude this matter without any further instigation of litigation costs to either party, the current PR Appellee, the Estate as is the factual party in this appeal, and Appellant.

11. Predecessor PR, Karen, does not have right to attorney's fees as the attorneys fees would be the prevailing of the estate and the Successor PR, not the PR for whom this matter was the root cause of action.

12. Since the predecessor PR failed to survive sanctions for misconduct and was ejected as PR for misconduct, it would not serve equity nor justice to award her any form of attorneys fees as her actions, including those in seeking to dismiss the underlying TEDRA in this matter, have been found to be made in bad faith and with clear disregard for the best interest of the estate and heirs thereof, of which, this disinherited Appellant has no right to, yet still nobly, rightfully, and lawfully sought to protect, despite having no fiscal interest in the matter.

13. This Appellant would not object to a *sua sponte* award of attorneys fees but does not argue such right by law nor object to a lack of award thereof, a noble act that could not be said of predecessor PR and former respondent and Appellee party of this matter.

14. CONSOLIDATION:

In wrapping this motion for reconsideration up, Appallant duly notes, *supra*, the consolidation of

the subsequent TEDRA proceeding filed by the Successor Personal Representative, Spurgetis. In this case the final order is for consolidation to further hear the misconduct alleged in the TEDRA cases incidental in the probate case, *See SPURGETIS-TEDRA-000051, SPURGETIS-TEDRA-000052.*

The current Probate is set for hearing on June 3, 2024 at 9:00 am, See Appendix A pg 5 pre-Bates Numbering index.

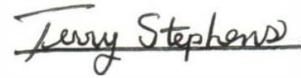
Appellant Prays this court stay this case conclusion until the conclusion of the Trial concluding all these contentions.

In summary, Appellant respectfully requests this Court vacate any attorneys fees, and does not object to any further findings as laid forth therein should the attorneys fees be vacated as the purpose of the underlying TEDRA and this Appeal was for the protection of the estate and the removal of the PR for misconduct and the allegations

as found during the removal of the PR. Thank you for your time and hearing of this matter, thus prays this Appellant.

DATED this 11th, day of March, 2024,

Respectfully submitted,

A handwritten signature in black ink that reads "Terry Stephens". The signature is written in a cursive style and is underlined.

Terry Stephens,

15372 W Dahlia Dr

Surprise, Arizona 85379

(971) 235-5980

Appellant Pro Se

CERTIFICATION OF COMPLIANCE

I hereby certify that said document contains 16 pages and 2,466 words pursuant to R.A.P. 18.17 under any enumerated limits with the most restrictive being RAP 18.17(c)(8) limiting to 6,000 words and 25 pages.

Tristen L. Worthen
Clerk/Administrator

(509) 456-3082
TDD #1-800-833-6388

FILED
The Court of Appeals
Court of Appeals
Division III
State of Washington
State of Washington
4/29/2024 8:00 AM

500 N Cedar ST
Spokane, WA 99201-1905

Fax (509) 456-4288
<http://www.courts.wa.gov/courts>



December 14, 2022

Terry Stephens
15372 W. Dahlia Drive
Surprise, AZ 85379
terrismark7@hotmail.com

John Montgomery
Waldo Schweda & Montgomery PS
2206 N Pines Rd
Spokane, WA 99206-4721
jmontgomery@wsmattorneys.com

CASE # 387747
In re the Estate of Lyle V. Stephens
SPOKANE COUNTY SUPERIOR COURT No. 2140196932

Counsel and Mr. Stephens:

Having received Mr. Stephens' "Judicial Notice Pursuant to W.R.E. § 201", the following notation ruling was entered:

December 12, 2022

At the direction of the assignment judge, Appellant's recently filed "Judicial Notice Pursuant to W.R.E. filing seeks relief and will be processed as a motion. See RAP 17.1(a). The motion is denied at this time.

It reveals that the superior court has removed Karen Stephens, the respondent, as personal representative of the Estate of Lyle V. Stephens. The appeal cannot proceed until the successor personal representative is substituted as the respondent. The recently-scheduled January 25, 2023 decision date for the appeal is stricken.

Pursuant to RAP 3.2(b), upon the appointment of a successor personal representative, appellant should promptly move for substitution of the successor personal representative as the respondent.

The motion may be refiled following substitution of the successor personal representative.

Tristen Worthen
Clerk

Sincerely,
TRISTEN WORTHEN
Clerk/Administrator

Sam Dressler

Sam Dressler
Sr. Case Manager

Tristen L. Worthen
Clerk/Administrator

(509) 456-3082
TDD #1-800-833-6388

*The Court of Appeals
of the
State of Washington
Division III*



500 N Cedar ST
Spokane, WA 99201-1905

Fax (509) 456-4288
<http://www.courts.wa.gov/courts>

May 22, 2023

Terry Stephens
15372 W. Dahlia Drive
Surprise, AZ 85379
Email: terrysmark7@hotmail.com

James Peter Spurgetis
Attorney at Law
422 W Riverside Ave Ste 620
Spokane, WA 99201-0308
Email: jps@spurgetislaw.com

John Montgomery
Waldo Schweda & Montgomery PS
2206 N Pines Rd
Spokane, WA 99206-4721
Email: jmontgomery@wsmattorneys.com

CASE # 387747
In re the Estate of Lyle V. Stephens
SPOKANE COUNTY SUPERIOR COURT No. 2140196932

Appellant and Counsel:

Pursuant to Appellant's "Motion for Substitution of Successor Personal Representative as Respondent Pursuant to RAP 3.2(b)", the following notation ruling was entered:

May 22, 2023
Motion for Substitution of Successor Personal Representative as Respondent is granted in part. James Spurgetis, as Personal Representative of Lyle Stephens' Estate is added as party to this case.

Tristen Worthen
Clerk

The above matter will be set on the next available court's docket.

Sincerely,

TRISTEN WORTHEN
Clerk/Administrator

Janet L. Dalton, Case Manager

TWL:jd

FILED
Court of Appeals
Division III
VI. ADDENDUM TO P KAY STEPHENS
III. COURT OF A State of Washington
4/29/2024 8:00 AM HEADING)

SIGNIFICANTLY the following is inclusive of both Superior Court and District III COA case files and it is clear beyond question Appellant, Terry Stephens, did not *Fail* to address the issue of *needed Parties*:

- This instant TEDRA proceeding is *commenced* as an action *incidental* to an existing judicial proceeding relating to the same trust or estate or non-probate asset;
- Kathie Davis and Timothy Stephens are already *Parties* to the existing judicial proceeding;
- Kathie Davis and Timothy Stephens clearly stated they are not persons who have an actual *interest* in the subject matter of this TEDRA dispute. They are NOT necessary *Parties* to this TEDRA.
- Kathie Davis and Timothy Stephens stated in no uncertain terms they are NOT interested in joining this TEDRA that they do-not have any *interest* in the *subject matter* of this TEDRA;
- Kay Stephens's Affidavit has been submitted in this matter as *Exhibit-1* in the **REPLY BRIEF** as stated in District III transcripts. It evidences the fact that Kathie Davis and Timothy Stephens stated in no uncertain terms they refused to be included as *Parties* to this TEDRA. Timothy let it be known the *disinheritance* clause in the will caused him to refuse.
- Despite refusing to be included in this TEDRA, Kathie Davis and Timothy Stephens had significant opportunity and were served multiple times in this TEDRA, significantly including the *TEDRA Petition* among other *Certificate of Service* attached:

09/28/2021-TEDRA PETITION
09/31/2021-NOTE FOR HEARING
10/06/2021-MOTION TO CONSOLIDATE
10/14/2021-NOTICE OF APPEARANCE-OMITTED BY APPELLEE
10/28/2021-SUPPLIMATE TO MOTION TO CONSOLIDATE
12/30/2021-MOTION TO DISMISS-DECLARATION-ANSWER
01/04/2022-OBJECTION TO CONTINUANCE

EXCERPT from MOTION FOR RECONSIDERATION under title:

16. All Parties in the TEDRA were under the impression that the TEDRA was properly served and that the parties were in agreement and made appearances as though service was proper:

1. PARTIES:

Pursuant to TEDRA § 104(4)(RCW 11.96A.030) Parties precludes persons “not necessary parties to the resolution of a dispute unless they have an actual interest in the subject matter of the dispute.” Kathie and Tim expressly declared and rejected being joined to the TEDRA. TEDRA § 402(RCW 11.96A.220)establishes which of the “persons interested in the estate or trust” must participate in a non-judicial dispute resolution agreement. RCW 11.96A.100 plain language states “notice must be provided by summons *only with respect to those parties who were not already parties to the existing judicial proceedings*” (*emphasis added*) in which case every party to this TEDRA was already party to the Probate action incidental as outlined in Appendix A.

2. Despite this, all parties to the TEDRA underlying this appeal were given notice through service with and joined as parties, that wished to participate:

*STEPHENS-TEDRA-000008 STEPHENS-TEDRA-000009
STEPHENS-TEDRA-000011 STEPHENS-TEDRA-000015
STEPHENS-TEDRA-000016 (Appellee Notice of Appearance)
Appellate Reply Brief Exhibit*

1. Kathie and Tim were duly noted, *PROBATE-000042*, as not wishing to participate; Notably due to the disinheritance clause of the will (*STEPHENS-TEDRA-000035, PROBATE-000019, PROBATE-000525,*)

2. **Appellee’s** Notice of Appearance (*STEPHENS-TEDRA-000016*) *also excludes Kathie and Tim as parties to case.*

3. Thus the Court erred to dismiss underlying for deficiency of service.

Mr. Montgomery, attorney for Karen Stephens, Judge Maryann Moreno and Judge Tony Hazel were aware of this fact. Documents were filed in both cases and a Clerk's notice in the caption "CLERK'S ACTION REQUIRED" was mailed to the Court Clerk. My *Notice* under sub-heading : PARTIES, *SUPPLEMENTAL MOTION TO CONSOLIDATE* should have been widely known by the court where the fact is that Kathie Davis and Timothy Stephens refuse to join the *TEDRA*.

The *MOTION* was the subject of multiple emails to the court clerks, parties to the *PROBATE* and Mr. Montgomery. Judge Hazel ruled on the *MOTION* and Mr. Montgomery inquired about it from Judge Maryann Moreno: "The guidance of Judge Moreno is requested" [email dictated by: Tom Schweda] October 11, 2021 @ 3:53 PM

Declaration, KAY STEPHENS, being first duly sworn on oath, deposes and says:

I certify under penalty of perjury under the laws of The State of Washington that the forgoing is true and correct.

Electronically signed by -----Kay Stephens-----, dated: 7/25/2022.

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

| | | |
|---------------------|--------------|-------------------------|
| CLARA STEPHENS; | } | No. 21-4-01969-32 |
| TERRY STEPHENS; | | |
| KAY STEPHENS; | | |
| KIMBERLY BERGQUIST; | | |
| KRISTIE HULL. | | |
| | Petitioners, | } |
| vs. | | |
| KAREN STEPHENS. | Respondent. | CERTIFICATE OF SERVICE. |

I do hereby certify under penalty of perjury that on September 31, 2021, I caused to be served a true and correct copy of the forgoing by the method indicated below and addressed/mailed to the following:

Karen Stephens
13917 E. 12th
Spokane Valley, WA 99037

John Montgomery
2206 N. Pines
Spokane, WA 99206

Kathie Davis
kathiedavis@yahoo.com

Timothy Stephens
spokanetimothystephens@gmail.com

NOTE FOR INITIAL HEARING

Electronically signed -----Terry Stephens-----

CERTIFICATE OF MAILING.

CLARA STEPHENS
TERRY STEPHENS
KAY STEPHENS
KIMBERLY BERGQUIST
KRISTIE HULL

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

| | | |
|---|--------------|---|
| LYLE V. STEPHENS | Deceased | } |
| _____ | | |
| CLARA STEPHENS; TERRY STEPHENS; KAY STEPHENS; KIMBERLY BERGQUIST; KRISTIE HULL. | Petitioners, | |
| vs. | | |
| KAREN STEPHENS. | Respondent. | |

No. 20-4-01319-32
No. 21-4-01969-32

CERTIFICATE OF SERVICE

I do hereby certify under penalty of perjury that on October 6, 2021, I caused to be served a true and correct copy of the forgoing by the method indicated below and addressed/emailed to the following:

MOTION TO CONSOLIDATE WITH PROBATE No. 20-4-01319-32;
MOTION TO STAY TRIAL DATE: OCTOBER 25, 2021;
DECLARATION OF TERRY STEPHENS.

Karen Stephens
13917 E. 12th
Spokane Valley, WA 99037

John Montgomery
jmontgomery@wsmtorneys.com

Kathie Davis
kathiedavis@yahoo.com

Timothy Stephens
spokanetimothystephens@gmail.com

I declare under the penalty of perjury that the foregoing is true and correct electronically signed on this 6th day of October 2021. Electronically signed -----Terry Stephens-----

CERTIFICATE OF SERVICE

CLARA STEPHENS
TERRY STEPHENS
KAY STEPHENS
KIMBERLY BERGQUIST
KRISTIE HULL

CN: 2140196932

SN: 7

PC: 3

FILED

OCT 14 2021

TIMOTHY W. FITZGERALD
SPOKANE COUNTY CLERK

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

CLARA STEPHENS, TERRY STEPHENS,)
KAY STEPHENS, KIMBERLY BERGQUIST)
KRISTIE HULL,)

21-4-01969-32

No. ~~21-4-0196-32~~

NOTICE OF APPEARANCE

Petitioners,

vs.

KAREN STEPHENS,

Respondent.

TO: CLARA STEPHENS, TERRY STEPHENS, KAY STEPHENS KIMBERLY BERGQUIST
and KRISTIE HULL, Petitioner

PLEASE TAKE NOTICE that the appearance of the above-named Respondent, Karen
Stephens, is hereby entered in the above-entitled action through the undersigned attorney, and that
all future pleadings or papers, exclusive of original process, are to be served upon said attorney at
his address below stated.

DATED this 14 day of October 2021.

WALDO, SCHWEDA & MONTGOMERY, P.S.


JOHN MONTGOMERY, WSBA #7485

NOTICE OF APPEARANCE - 1

Waldo, Schweda & Montgomery, P.S.
2206 North Pines Road
Spokane, WA 99206
509/924-3686
Fax: 509/922-2196

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CERTIFICATE OF SERVICE

On October 14, 2021, I caused copies of the foregoing document to be served by the following methods on the parties listed below as follows:

| | |
|---|---|
| Clara Stephens and Terry Stephens | Via email: terrysmark7@hotmail.com |
| Kay Stephens, Kimberly Bergquit, and Kristie Hull | Via email: kayroo@hotmail.com |

WALDO, SCHWEDA & MONTGOMERY, P.S.


KATHY SCHROEDER

NOTICE OF APPEARANCE - 3

*Waldo, Schweda & Montgomery, P.S.
2206 North Pines Road
Spokane, WA 99206
509/924-3686
Fax: 509/922-2196*

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

LYLE V. STEPHENS

Deceased

No. 20-4-01319-32

No. 21-4-01969-32

CLARA STEPHENS;
TERRY STEPHENS;
KAY STEPHENS;
KIMBERLY BERGQUIST;
KRISTIE HULL.

Petitioners,

vs.

KAREN STEPHENS.

Respondent.

CERTIFICATE OF SERVICE.

I do hereby certify under penalty of perjury that on October 28th, 2021, I caused to be served a true and correct copy of the forgoing by the method indicated below and addressed/emailed to the following:

John Montgomery
jmontgomery@wsmlawattorneys.com

Kay Stephens
kayroo@hotmail.com

Kathie Davis
kathiedavis@yahoo.com

Timothy Stephens
spokanetimothystephens@gmail.com

SUPPLEMENT TO:
MOTION TO CONSOLIDATE;
DECLARATION OF TERRY STEPHENS.

Electronically signed -----Terry Stephens-----

CERTIFICATE OF MAILING.

CLARA STEPHENS
TERRY STEPHENS
KAY STEPHENS
KIMBERLY BERGQUIST
KRISTIE HULL

FILED

DEC 30 2021

Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

CN: 2140196932

SN: 13

PC: 2

54

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

CLARA STEPHENS,
TERRY STEPHENS,
KAY STEPHENS,
KIMBERLY BERGQUIST,
KRISTIE HULL,

Petitioners,

v.

KAREN STEPHENS,

Respondent.

No.: 21-4-01969-32

DECLARATION OF SERVICE

I, Thomas M. Schweda, certify that on December 30, 2021, I served a copy of Motion of

Hearing to Dismiss, Declaration of Karen Stephens, Answer to Petition and Memorandum for

Support of Motion to Dismiss to:

Kimberly Bergquist
By E-Mail:
kimsmilecmc@yahoo.com

Kathie A. Davis
By E-Mail:
kathiedavis@yahoo.com
2davisfam@gmail.com

Kristie S. Hull
By E-Mail:
longviewsux@gmail.com

Timothy L. Stephens
By E-Mail:
spokanetimothystephens@gmail.com

Kay E. Stephens
By E-Mail:
kayroo@hotmail.com

Terry Stephens
By E-Mail:
terrismark7@hotmail.com

DECLARATION OF KAREN STEPHENS IN REPLY TO TEDRA
PETITION - 1

Waldo, Schweda & Montgomery, P.S.
2206 North Pines Road
Spokane, WA 99206
509/924-3686
Fax: 509/922-2196

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**TIMOTHY W. FITZGERALD
SPOKANE COUNTY CLERK**

CN: 2140196932

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PC: 2

**TIMOTHY W. FITZGERALD
SPOKANE COUNTY CLERK**

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

**CLARA STEPHENS,
TERRY STEPHENS,
KAY STEPHENS,
KIMBERLY BERGQUIST,
KRISTIE HULL,**

Petitioners,

v.

KAREN STEPHENS,

Respondent.

No.: 21-4-01969-32

DECLARATION OF SERVICE

I, Thomas M. Schweda, certify that on January 4, 2022, I served a copy of Respondent's

Objection to Continuance to:

**Kimberly Bergquist
By E-Mail:
kimsmilecmc@yahoo.com**

**Kathie A. Davis
By E-Mail:
kathiedavis@yahoo.com
2davisfam@gmail.com**

**Kristie S. Hull
By E-Mail:
longviewsux@gmail.com**

**Timothy L. Stephens
By E-Mail:
spokanetimothystephens@gmail.com**

**Kay E. Stephens
By E-Mail:
kayroo@hotmail.com**

**Terry Stephens
By E-Mail:
terrismark7@hotmail.com**

**DECLARATION OF SERVICE – OBJECTION TO
CONTINUANCE - 1**

**Waldo, Schweda & Montgomery, P.S.
2206 North Pines Road
Spokane, WA 99206
509/924-3686
Fax: 509/922-2196**

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April 27, 2024 - 4:33 PM

Transmittal Information

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Appellate Court Case Title: In re the Estate of Lyle V. Stephens
Superior Court Case Number: 21-4-01969-1

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15372 W Dahlia Dr

Surprise, AZ, 85379

Phone: (971) 235-5980

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