

Nov 14, 2016, 5:02 pm

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SUPREME COURT
OF THE STATE OF WASHINGTON

In Re the Estate of:
DANA BRUCE MOWER,
Deceased.

NO. 93521-1

RESPONSE TO
RESPONDENTS' MOTION
TO STRIKE

(without oral argument)

(1) Responding Party

Linda Turner, Personal Representative of the Estate of Dana Bruce Mower, is the appellant and responding party.

(2) Relief Sought

Ms. Turner asks that this Court deny the Respondents' Motion to Strike.

(3) Facts Relied On

On September 26, 2016, Respondents filed an Answer in which they raised several issues for the first time. On October 11, 2016, Appellant filed a brief Reply. The same day, Respondents filed a Motion to Strike.

(4) Argument

Ms. Turner respectfully requests that this Court deny the motion to strike the Reply. The Respondents' Answer raised new issues, notably that the Court of Appeals' decision was dicta and a request for attorney fees.

A party may respond in a Reply Brief to issues raised for the first time in an Answer.¹ In *Chevron*, the Court denied a motion to strike in part because the Respondent had raised the issue of attorney fees.²

Similarly, the Schulers raised new issues in their Answer. The Schulers asked for attorney fees and argued for the first time that the Court of Appeals' decision below was dicta. In the brief Reply, these issues are addressed.

The Motion to Strike should be denied.


(5) Conclusion

Based on the foregoing, Ms. Turner respectfully requests that this Court deny the Motion to Strike.

RESPECTFULLY SUBMITTED this 14th day of November, 2016.

LEDGER SQUARE LAW, P.S.

By: _____


Stuart C. Morgan, WSBA # 26368
Chrystina R. Solum, WSBA # 41108
Attorney for Appellant

¹ *Chevron U.S.A., Inc. v. Puget Sound Growth Mgmt. Hearings Bd.*, 156 Wn.2d 131, 139, n.6, 124 P.3d 640 (2005).

² *Chevron*, 156 Wn.2d at 139, n.6.

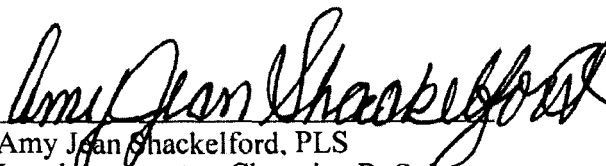
CERTIFICATE OF SERVICE

The undersigned certifies under the penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below, I caused to be served the foregoing document on the following persons and in the manner listed below:

C. Tyler Shillito Smith Alling, PS 1515 Dock St., Suite 3 Tacoma, WA 98402 tyler@smithalling.com	<input type="checkbox"/> U.S. First Class Mail, postage prepaid <input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Overnight Courier <input checked="" type="checkbox"/> Electronically via email <input type="checkbox"/> Facsimile
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DATED this 14th day of November 2016, at Tacoma,
Washington.


Amy Jean Shackelford, PLS
Legal Assistant to Chrystina R. Solum