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FILED  
COURT OF APPEALS DIV I  
STATE OF WASHINGTON  
2011 JUL -1 PM 3:32

No. 65578-7-I

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

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In the Matter of the Estate of VIRGIL V. BECKER, Deceased  
(King County Superior Court Cause No. 08-4-04972-2 KNT)

NANCY BECKER,

Petitioner,

v.

JENNIFER C. RYDBERG, as Guardian ad Litem for Barbara  
Becker, a minor child,

Respondent.

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BRIEF OF JENNIFER WHITE, IN HER CAPACITY AS  
PERSONAL REPRESENTATIVE OF THE ESTATE OF  
VIRGIL VICTOR BECKER, JR.

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## **I. Introduction**

Jennifer Lee White, the Personal Representative of the Estate of Virgil V. Becker, Jr. (hereinafter “Personal Representative”), provides this Brief in Response to the Amended Opening Brief of Petitioner dated December 7, 2010.

## **II. Argument**

The Personal Representative is not providing a brief on the merits of this appeal. Where, as here, all the opposing parties are well-represented, it is not in the best interest of the Estate to expend Estate resources briefing legal issues regarding the surviving spouse’s standing in estate administration proceedings, including a will contest, that will be fully briefed by both sides to the dispute. Suffice it to say that the Personal Representative’s position in the trial court was, and remains, that the surviving spouse has standing for many of the reasons explained in the Amended Opening Brief of Petitioner, *see* CP 189–90, and that the GAL initiated improper *ex parte* contact with the court to try to obtain an unfavorable ruling for the surviving spouse – as the GAL seeks to preserve a supposed “CR2A Agreement” that will permit the GAL to increase her fees charged to the estate beyond the \$200,000-plus that she currently claims, *see* CP 281. Thus, the Personal

Representative joins in the surviving spouse's request for relief. *See* RAP 10.1(g) (permitting party in a multiple party case to file a separate brief adopting by reference any part of the brief of another).

Although the Personal Representative will not brief the merits of this appeal, she wishes to reiterate that, at the current stage of trial court proceedings, the existence or nonexistence of community property is not determinative of whether the surviving spouse has standing to participate in the proceedings. Even if the trial court later finds that the Estate holds no community property, the surviving spouse has standing at least until the court rules on the merits of the will contest. If there is no valid will, or if the valid will predates the marriage of the surviving spouse and the decedent, the surviving spouse is entitled to her intestate share and has standing on that basis. *See* RCW 11.04.015(1) (intestate distribution); *see also* RCW 11.12.095 (omitted spouse entitled to intestate share). If, on the other hand, the will is valid, she is entitled to participate unless and until the court finds that the Estate does not include any community property. *See* RCW 11.96A.030(5)(f) (surviving spouse is a party under TEDRA with respect to his or her interest in the decedent's property). The trial court thus erred in concluding that the surviving spouse lacked standing prior to

resolution of the will contest and prior to making findings regarding the existence of community property.

### III. Conclusion

The Personal Representative joins in Petitioner's request for relief and requests that this Court vacate the Order Denying Standing (CP 230-33), the Order Sealing Redacted Interim Report (CP 279-82), and the Order Approving Counsel for Guardian ad Litem, Approving Fee, and Directing Estate to Pay Fees (CP 342-50); order that the surviving spouse is to be deemed to be a party within the meaning of RCW 11.96A.030 for all purposes in the probate action, including the will contest; and remand for further proceedings not inconsistent with this Court's ruling.

DATED this 1st day of July, 2011.

Respectfully submitted,

K&L GATES LLP

BY 

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Heidi L. Craig, WSBA #41399

Attorneys for Respondent  
Jennifer Lee White

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PROOF OF SERVICE

NANCY BECKER,  
Petitioner,  
v.  
JENNIFER C. RYDBERG, as  
Guardian ad Litem for Barbara  
Becker, a minor child, *et al.*,  
Respondents.

I hereby certify under penalty of perjury of the laws of the State of Washington that I am and at all times hereinafter mentioned was a citizen of the United States, a resident of the State of Washington, over the age of 21 years, competent to be a witness in the above action, and not a party thereto; that on the 1st day of July, 2011, I caused to be served true and correct copies of the following documents:

1. Brief of Jennifer White, in her capacity as Personal Representative of the Estate of Virgil Victor Becker, Jr.; and

2. Proof of Service

upon:

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DATED this 1st day of July, 2011.

By   
Kathy Jacobson