

FILED
COURT OF APPEALS
DIVISION II

10 APR 22 PM 2:00

STATE OF WASHINGTON

BY _____
CITY

**COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON**

In re the:)
)

MARK ANTHONY FOWLER)
SPECIAL NEEDS TRUST.)

) Case No.: 39729-3-II

) **JOINDER IN BRIEF OF**
) **APPELLANT**
)
)
)
)

1. JOINING PARTY: The trust beneficiary, Mark Anthony Fowler, acting through his guardians, Mark E. Fowler and Shelley Fowler, (hereafter “guardians”).

2. FACTS

2.1 On or about February 5, 2010 Appellant, Wells Fargo Bank N.A., the trustee of the Mark A. Fowler Special Needs Trust, filed its brief seeking reversal of two orders issued by the trial court on June 30, 2009 and the trial court’s denial of the trustee’s motion for reconsideration.

2.2 No responsive brief has been filed because there is no opposition to the trustee’s appeal.

2.3 On March 25, 2010, the Pierce County Superior Court in Cause No. 09-4-01811-4, found Mark A. Fowler to be incapacitated as to his person and estate and appointed his parents, Mark E. Fowler and Shelley Fowler as full guardians of his person and estate.

3. JOINDER

3.1 The trust beneficiary, through his guardians, approves all actions taken by the trustee and joins in its appeal of the superior court's orders.

3.2 In addition, the trust beneficiary wishes the court to consider the following:

- a. There was no request for court intervention in the allocation or reallocation of trust assets;
- b. The trust beneficiary desires no court intervention into the management of trust assets by the professional trustee;
- c. The trust beneficiary did not receive notice of the court's intention to enjoin the trustee from exercising its discretion.
- d. The trust beneficiary objects to the court's injunction preventing the trustee from exercising its discretion;
- e. The guardian ad litem, Clint Johnson, found no breach of the trustee's fiduciary duties; and

f. If court intervention is required in the future, the trust beneficiary's guardians are represented by counsel and capable of raising any issues that require review by the court.

4. RELIEF REQUESTED.

4.1 The trust beneficiary requests that the appellate court reverse the trial court's June 30, 2009 orders and order denying reconsideration dated August 10, 2009 and direct the trial court to approve the Trustee's Seventh Annual Report, including allocation of trust assets.

4.2 The trust beneficiary requests that the appellate court approve the trustee's fees.

RESPECTFULLY SUBMITTED this 21st day of April, 2010.

EISENHOWER & CARLSON, PLLC



David B. Petrich, WSBA No. 18711
Attorneys for Joining Party

FILED
COURT OF APPEALS
DIVISION III

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STATE OF WASHINGTON

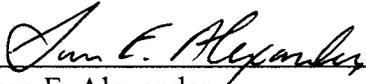
Certificate of Service

I certify that on the 21st day of April, 2010, I served the parties listed below with a true and correct copy of the foregoing Joinder in Brief of Appellant by depositing the same in the mails of the United States, postage prepaid, in an envelope addressed to:

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CERTIFICATE OF SERVICE