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DIVISION II

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STATE OF WASHINGTON

BY _____
DEPUTY

COURT OF APPEALS NO. 45480-7-II
IN THE COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

GLEN L. WALKER, an individual

Appellant

v.

ESTATE OF WILLIAM P. BREMER,

Respondent.

RESPONDENT'S BRIEF

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DATED this 22nd day of July, 2014.

ACEBEDO & JOHNSON, LLC

/s/ Pierre E. Acebedo
Pierre E. Acebedo, WSBA #30011
Attorney for Appellant

I. INTRODUCTION.

Respondent, Estate of William Bremer, respectfully submits this brief in response to the brief of the Appellant, Glen Walker, regarding Respondent's efforts to enforce a judgment entered against Appellant on or about January 18, 2013, in Pierce County Superior Court cause number 12-2-14006-1.

Respondent requests that the Court affirm the trial court's decision denying Appellant's Motion for Revision on all counts and award attorney's fees based on the underlying Real Estate Contract and unlawful detainer statutes.

II. ASSIGNMENTS OF ERROR.

Respondent asserts the following with regard to the Appellant's Brief and Assignments of Error.

A. ASSIGNMENTS OF ERROR.

1. The trial court committed no error in entering an Order and Judgment *ex parte* on May 17, 2013¹, finding Appellant in Contempt for failing to appear pursuant to a properly executed

¹ The May 17, 2013, judgment is a second, separate judgment entered as a result of fees and expenses incurred by Respondent when Appellant failed to appear for the supplemental proceedings to enforce the January 23, 2013, judgment. (CP 12-14 and CP 360-362).

Order for Supplemental Proceedings Examination and issuing a Bench Warrant for his arrest.

2. The trial court committed no error in granting an award of attorney's fees and costs as awarded in Appellant's Order for Contempt of Court pursuant to statute and real estate contract.
3. The trial court committed no error in denying Appellant's Motion for Revision based on rulings regarding the trial court's continuing jurisdiction over Appellant issued by the trial court Commissioners on January 2, 2014, and April 11, 2014.

B. ISSUES RELATED TO ASSIGNMENT OF ERROR.

1. Respondent properly served Appellant and Appellant misrepresents the facts to this court regarding the service.
2. Respondent satisfied the jurisdictional requirements of RCW 6.32.190, *et seq.* because Appellant conducted business in Pierce County.
3. Whether Appellant waived his right to challenge the trial court's jurisdiction when he admitted to jurisdiction in a responsive pleading.
4. Whether the trial court used appropriate discretion in awarding reasonable attorney's fees and costs to Respondent based on

Appellant's failure to appear at his scheduled Supplemental Proceedings Examination.

III. STATEMENT OF THE CASE.

A. ORIGINAL UNLAWFUL DETAINER ACTION AND VENUE.

This matter originates from Respondent's Motion for Supplemental Proceedings Examination of Appellant pursuant to a Judgment entered in Pierce County Superior Court on or about January 18, 2013, for attorney's fees and costs in an Unlawful Detainer Action and underlying forfeiture of a real estate contract. (CP 330).

On October 23, 2009, Appellant, in partnership with Scott and Elizabeth Hawton, (hereinafter "Hawtons"), purchased commercial property located at 15532 Main Street Ease, Sumner, Pierce County, Washington. (CP 534). William Bremer, (hereinafter "Mr. Bremer") now deceased, was the seller. (CP 534). The parties recorded the Real Estate Contract under number 20091110038 on November 10, 2009, in Pierce County, Washington. (CP 47). Both Appellant and the Hawtons owned and operated a business known as Sumner Transmission and Auto Repair, LLC (hereafter "STAR, LLC."), whose principal place of business was located at the property in Sumner, Pierce County, Washington. (CP 584).

The purchasers failed to meet their financial obligations on the Real Estate Contract and fell into Default. (CP 589). The Hawtons subsequently petitioned for bankruptcy protection (CP 534). Appellant forfeited his interest in the property but refused to vacate. (CP 479-480). As a result, Respondent filed a Complaint for Unlawful Detainer in Pierce County Superior Court on or about October 24, 2012. (CP 477). Respondent's Complaint stated in ¶ 1.3:

This Unlawful detainer action concerns property located in Pierce County, located at 15532 Main Street East, Sumner, Pierce County, Washington. **Accordingly, venue and jurisdiction are proper in Pierce County Superior Court.**

(CP 478). (emphasis added).

After filing the Complaint for Unlawful Detainer, Attorney Charles M. Cruikshank, III, appearing for Appellant, filed an Answer and Affirmative Defenses on or about November 6, 2012. (CP 529).

In ¶ 2 of Appellant's Answer Appellant "admits operating a business on the premises described in ¶ 1.3 of the Complaint and denies the remainder." (CP 529). He continues in ¶ 3 stating that he **"admits that venue is proper in Pierce County and denies the remainder."** (CP 529). (emphasis added).

Pursuant to the Unlawful Detainer action, Pierce County Superior Court issued an Order for a Writ of Restitution on November 9, 2012. (CP 25). On November 30, 2012, the trial court denied Appellant's Motion for Revision. (CP 25).

B. MOTIONS FOR PRESENTATION: TRIAL COURT GRANTS PRESENTATIONS OF JUDGMENT, ATTORNEY'S FEES, AND FINDINGS OF FACT AND CONCLUSIONS OF LAW.

On December 13, 2012, Respondent filed three Motions for Presentation before Judge John Hickman at the trial court: (1) Judgment, (2) Attorney's Fees and Costs, and (3) Findings of Fact and Conclusions of Law. (CP 25-26). The trial court granted all three Motions on or about December 21, 2012. (CP 26). On December 21, 2012, the trial court entered a judgment against Appellant for attorney's fees and costs in the amount of \$7,829.35. (CP 26).²

²The Real Estate Contract underlying this case provides for attorney's fees under §19 C, stating:

If the Purchaser or any person or persons claiming by, through, or under the Purchaser who were properly given the Notice of Intent to Forfeit and the Declaration of Forfeiture remain in possession of the Property more than ten days after such forfeiture, the Purchaser, or such person or persons, shall be deemed tenants at will of the Seller and the Seller shall be entitled to institute an action for summary possession of the Property, and may recover from the Purchaser or such person or persons in any such proceedings the fair rental value of the Property for the use thereof from and after the date of forfeiture, plus costs, **including the Seller's reasonable attorneys' fees.**

C. SERVICE ON APPELLANT.

On April 12, 2013, Acebedo & Johnson, LLC, through its process server, Darrin Sanford of Eclipse Process Service, LLC, provided Appellant's attorney, Mr. Charles M. Cruikshank, III, with a courtesy copy of Supplemental Proceedings Examination set for April 30, 2013. (CP 8). However, Mr. Sanford failed to effectuate personal service on Appellant prior to April 30, 2013, for the April 30, 2013, Supplemental Proceedings (CP 95).

As a result, on April 30, 2013, Respondent's counsel appeared before the Commissioner and explained their inability to personally serve Appellant for the April 30, 2013, Supplemental Proceedings Examination. (CP 10). Respondent re-noted the hearing for Supplemental Proceedings for May 17, 2013, in order to effectuate service on Appellant. (CP 38). Later that day, April 30, 2013, Respondent's process server, Darrin Sanford of Eclipse Process Service LLC, successfully served Appellant for the May 17, 2013, Supplemental Proceedings. (CP 27).

(CP 495-496). (emphasis added).

The personal service took place as follows:

On April 30, 2013, at approximately 6:55PM, I served Glen Walker at 10521 SE 211th St. Kent, Washington, a place believed to be his residence. **I served him with a Note for Commissioners Calendar, Order for Supplemental Proceedings, Motion and Affidavit for an Order for Supplemental Proceedings. I recognized him from photos of Mr. Walker delivered to me earlier to me earlier in the week by Acebedo & Johnson, LLC.**

I approached Mr. Walker as he drove into the driveway for the residence and parked the white car.

As I approached, I recognized him as the same man that personally told me previously on April 22, 2013, that Glen Walker was out of town until Thursday, April 25, 2013.

As Mr. Walker opened his door I greeted him as Mr. Walker and attempted to hand him the service packet.

As Mr. Walker exited the car he adopted a threatening and menacing posture as he knocked the packet from my hand to the ground.

In a picture I took of Glen Walker at the service event, the packet can be seen lying in the driveway in the lower left corner of the picture.

Mr. Walker then accused me of trespassing and threatened to call the police.

I briefly explained to Mr. Walker that I was simply attempting to serve him with legal documents as I retreated to my vehicle. **Mr. Walker followed me making threats, insults, and profane gestures.**

I drove away in my vehicle to the end of Mr. Walker's street, which was very narrow and had no outlet. Rather than drive by Mr. Walker's residence immediately, I chose to wait at the end of the street for him to enter his home so I could depart without encountering Mr. Walker, who appeared upset and menacing.

As I waited, Mr. Walker walked down the street toward me in the middle of the street so I could not pass if I wanted to leave.

As he continued to approach I called the Kent Police Department to report the situation.

Shortly after I called the Kent Police Department, Mr. Walker retreated to his car and sped away.

As I departed the police arrived and I told them of the incident but I filed no formal report.

(CP 27-28). (emphasis in original).

Appellant subsequently provided the trial court a sworn statement, claiming he never exited his vehicle during the service attempt by Darrin Sanford. (CP 142).

The statement included the following language:

At about 7:00 or shortly thereafter on April 30, 2013, I was in my car leaving my driveway when an adult male whose features I don't remember was walking in to my driveway. Although my window was up, I heard him asking if I was Glen Walker.

I did not respond to him but I rolled my window down a few inches to tell him to get off of my property he was trespassing and I would call the police and I kept driving.

I watched while he dropped a manila envelope in the driveway.

When I was on the street driving away, I saw him get back in his car and drive away in a direction on my street that leads to a dead end.

(CP 142).

Mr. Sanford provided a photograph of Appellant standing in front of Mr. Sanford's vehicle during the service. (CP 103). In the photograph, the service packet can be seen lying on the ground behind Appellant in his driveway next to his vehicle. (CP 103 and 99).³ It is noteworthy that Respondent provided Appellant's Counsel with a courtesy copy of the Supplemental Proceedings Note set for May 17, 2013. (CP 28).

D. APPELLANT AND HIS COUNSEL FAIL TO APPEAR FOR SUPPLEMENTAL PROCEEDINGS: BENCH WARRANT ISSUES AND APPELLANT SUBSEQUENTLY ARRESTED.

Neither Appellant nor his counsel appeared for the Supplemental Proceedings hearing on May 17, 2013. (CP 28). As a result of Appellant's failure to abide by the court order, the trial court issued a bench warrant for Appellant's arrest. (CP 28-29). Police

³A letter enclosed in the packet provided, "Because you evaded service, we re-noted the supplemental proceedings hearing originally scheduled for April 30, 2013. Please see the attached Note for Commissioner's Calendar for your new hearing date." (CP 75).

subsequently arrested Appellant pursuant to the warrant. (CP 615-616).

**E. APPELLANT'S MOTION FOR REVISION DENIED:
COURT AFFIRMS ATTORNEY'S FEES AND PIERCE
COUNTY AS THE PROPER VENUE.**

On August 22, 2013, Appellant filed a Motion for Revision of the Order re-noting the Supplemental Proceedings granted by Pierce County Superior Court Commissioner Mary Dicke on August 12, 2013. (CP 106 and CP 104). Appellant argued before Judge Hickman that Pierce County Superior Court lacked *in personam* jurisdiction to undergo a Supplemental Proceedings examination because Appellant resides in King County. (CP 115 and CP 143). Commissioner Mary E. Dicke ruled that Respondent merely tried to enforce a judgment entered in Pierce County. (CP 104). The Court directed Appellant to appear for Supplemental Proceedings on September 3, 2013. (CP 104).

Judge Hickman denied the Motion for Revision and affirmed the attorney's fees in a reserved amount. (CP 273). Judge Hickman denied Respondent's request for CR 11 sanctions against both Appellant and counsel for improper use of case law and false statements to the court. (CP 156). Appellant appealed the decision on October 11, 2013. (CP 277).

F. JANUARY 2, 2013, APPELLANT APPEARS WITHOUT COUNSEL AND REFUSES TO BE SWORN IN; THE COURT ORDERS ATTORNEY'S FEES AND CONTINUES THE SHOW CAUSE HEARING.

On January 2, 2014, Appellant appeared before the court without counsel for the hearing on Supplemental Proceedings. (CP 291). However, Appellant refused to be sworn in. (CP 290).⁴ Appellant stated that earlier that day he took the prescription pain medication, Vicodin, and “was quite sedated at the time of the hearing.” (CP 318-319). The Court set the show cause over until January 14, 2014. (CP 290). Commissioner Kevin E. Boyle expressed his displeasure saying, “I am seeing what’s going on here, and I am not happy about it.” (Verbatim Report, Commissioner Kevin Boyle, Filed April 4, 2014, p. 7, lns 2-3).

Commissioner Boyle also ordered reasonable attorney fees to Respondent and ordered Appellant to appear on January 14, 2014, to show cause why a bench warrant should not issue for his refusal to comply with the order for Supplemental Proceedings on January 2, 2014. (CP 291).

⁴ On December 3, 2013, the trial court ordered Appellant to appear for supplemental proceedings on January 2, 2014. (CP 286-288).

G. JANUARY 14, 2014, SHOW CAUSE HEARING: APPELLANT FAILS TO APPEAR CITING MEDICAL REASONS; THE COURT DEMANDS PROOF OF HOSPITALIZATION.

At the January 14, 2014, hearing to show cause ordered by Commissioner Boyle, Appellant failed to appear, his counsel citing medical reasons. (CP 324).

H. JANUARY 23, 2014, SHOW CAUSE HEARING: APPELLANT FAILS TO APPEAR; JUDGMENT ENTERED AGAINST APPELLANT AND BENCH WARRANT ISSUED FOR APPELLANT'S ARREST.

On January 23, 2014, Appellant and his counsel both failed to appear for the scheduled show cause hearing. (CP 360-361). As a result, Commissioner Mary Dicke entered a Judgment for Fees and Costs and ordered a Warrant of Contempt against Appellant authorizing his arrest. (CP 360-362).

I. JANUARY 24, 2014, APPELLANT'S MOTION FOR REVISION: APPELLANT CLAIMS SEDATION BUT USES STATEMENTS IN LATER PLEADINGS.

Judge Hickman denied Appellant's, Motion for Revision heard on January 24, 2014. (CP 366-367). The trial court also granted attorney's fees at the same hearing. (CP 366-367).

Despite Appellant's refusal to be sworn due to being "quite sedated" at the January 2, 2014, appearance, Appellant perplexingly uses statements made by the Appellant at that very same hearing to

support his legal argument on Revision of the Commissioner's Order stating: "Walker raised the bar of out-of county supplemental proceedings imposed by RCW 6.32.190." (CP 296, lns 7-8).

J. APPELLANT'S MARCH 7, 2014, MOTION DETERMINING PROCEDURE.

On March 7, 2014, Judge Hickman heard Appellant's "Motion Determining Procedure." (CP 443-473 and CP 640-641). Judge Hickman's memorandum journal entry provides, "The Court rules that this motion is not properly noted before this Court and the matter needs to go back before Commissioner Dicke. Attorney Acebedo [sic] addresses the Court with regard to his frustration with regard to this case." (CP 640-641). The Court responds. Attorney's fees reserved for Attorney Acebedo." (CP 640-641). Judge Hickman entered an order denying Appellant's Motion Determining Procedure. (CP 381).

K. APRIL 11, 2014 RESPONDENT'S MOTIONS FOR ATTORNEY'S FEES, F JUDGMENT, AND FINDINGS OF FACT AND CONCLUSIONS OF LAW; COMMISSIONER VACATES JANUARY BENCH WARRANT.

Respondent and Appellant appeared before Judge Hickman on April 11, 2014, for a hearing on the following three motions:

- (1) Respondent's Motion for Presentation of Findings of Fact and Conclusions of Law. (CP 382-288).

- (2) Respondent's Motion for Presentation of Judgment. (CP 389-383).
- (3) Respondent's Motion for Attorney's Fees. (CP394-401).

At the hearing, Judge Hickman granted all three motions.

- (1) Findings of Fact and Conclusions of Law. (CP 435-438).
- (2) Presentation of Judgment. (CP 439-440).
- (3) Attorney's Fees. (CP 433-434 and CP 429-430).

Respondent and Appellant also appeared before Commissioner Boyle on April 11, 2014, for a hearing to Vacate the Bench Warrant against Appellant. (CP 409-412). Commissioner Boyle granted the Order to Vacate the Bench Warrant and granted on Order for Attorney's fees. (CP 429-430).

IV. ARGUMENT.

A. JURISDICTION OVER APPELLANT IS PROPPER IN PIERCE COUNTY PURSUANT TO RCW 6.32.190. THE TRIAL COURT SHOULD BE AFFIRMED.

1. Appellant Admits Place of Business Situated in Pierce County at the Onset of Litigation; Consistent with RCW 6.32.190.

Pierce County maintains jurisdiction over Supplemental Proceedings in this matter because Appellant's place of business situated in Pierce County at the onset of litigation in Pierce County Superior Court cause number 12-2-14006-1, an unlawful detainer action. (CP 25 and CP 529). Accordingly, RCW 6.32.190 provides in pertinent part:

Attendance of judgment debtor

A judgment debtor who resides or does business in the state cannot be compelled to attend pursuant to an order made under the provisions of this chapter at a place without the county where his or her residence **or place of business is situated**. Where the judgment debtor to be examined under this chapter is a corporation the court may cause such corporation to appear and be examined by making like order or orders as are prescribed in this chapter, directed to any officer or officer thereof.

(emphasis added).

Appellant admits operating his business within Pierce County at the address commonly known as 15532 Main Street East, Sumner, Pierce County, Washington. (CP 25 and CP 529). As a result, any argument regarding proper jurisdiction falling outside of Pierce County fails.

Additionally, Appellant raised no jurisdictional issues in his Answer and Affirmative Defenses, he never sought to remove the case to a different jurisdiction, and he waived any matters related to removal. (CP 25). Therefore, Appellant waived any issues not raised at the trial level. (CP 25). *See* RAP 2.5(A); *Postema v Postema Enterprises, Inc.*, 11 Wn.App 185, 193, 72 P.3d 1122 (2003).

2. *Supplemental Proceedings Remain Ancillary to the Original Court Proceedings: "Allen" Affirms No New LawsUIT Required.*

Case law dictates that Supplemental Proceedings to an original judgment remain ancillary to the original proceedings and the judgment creditor need not file a separate case to pursue collection. The Supreme Court of Washington provides, "Proceedings supplementary to execution are not a new suit or separate action. They are simply a step in aid of the satisfaction of the judgment of the court by proceedings ancillary to the judgment, the validity of which the debtor does not question." *State v Superior Court for King County*, 152 Wn. 323, 326, 277 P.850 (1929).

The court also echoes this same language in, *Allen v. American Land Research*, 95 Wn.2d 841, 846, 631 P.2d 930 (1984). (citation omitted). "We view the supplemental proceedings here as ancillary to the original suit. The court had continuing jurisdiction over the parties here by virtue of the original summons, process and appearance in the action." *Id.* Case law clearly entitles Respondent to enforce its judgment via Supplemental Proceedings without filing a separate action.

Pursuant to *Allen*, Respondent properly maintained and executed its right to enforce the judgment via Supplemental Proceedings at the trial court level within the case from where the judgment issued. “The judgment unmistakably reserves to the trial court continuing jurisdiction for the purpose of enforcing the judgment.” *Id.* at 936.

3. *Appellant Misinterprets Allen: No Separate Action Required; Allen Affirms Continuing Jurisdiction of Trial Court.*

Appellant incorrectly asserts that the decision in *Allen v. American Land Research*,⁵ requires judgments with additional language authorizing continued jurisdiction, adding a new hurdle where none previously existed.⁶ Instead, specific to *Allen*, the Washington Consumer Protection Act framed the court’s instructions because the case resulted from fraudulent real estate transactions selling worthless desert land in southern California to Washington residents. *See id.* at 843. Consequently, pursuant to RCW 19.86.080, the court crafted a judgment to allow for **restitution**, as well as rescission, under the Washington Consumer Protection Act. *See id.* at 841. (emphasis added).

⁵ 25 Wn.App. 914, 611 P.2d 420 (1980), *overruled by Allen v. American Land Research*, 95 Wn.2d 841, 631 P.2d 930 (1981).

⁶ In his brief, Appellant states: “In our case, no such language is included in the final order and judgment that concluded this case.” (AB, p. 9).

The ancillary proceedings in the subject case **were not the normal supplemental proceedings** (wherein) the prevailing party only seeks to discover the other party's property in order to satisfy a judgment. The proceedings in this case were conducted contemporaneously with and in aid of respondent's efforts to obtain **compliance with the order of restitution authorized by RCW 19.86.080.**

Id. at 936. (emphasis added). *Allen* clearly distinguishes itself from the case now before this Court because Respondent seeks only to collect on a judgment via "normal supplemental proceedings" not only in the jurisdiction from where the judgment issued, but also where Appellant both conducted business and situated his place of business. (CP 182 and CP 529). Therefore, the trial court maintained jurisdiction entitling Respondent to enforce its judgment via Supplemental Proceedings without requiring additional language in their order granting the same. Appellant's arguments fails

B. JUDICIAL PROCESS ON APPELLANT MADE VIA PERSONAL SERVICE ACCORDING TO RCW 6.32.130. THIS COURT SHOULD AFFIRM.

1. *Personal Service for Supplemental Proceeding Effectuated on Appellant for May 17, 2013.*

Respondent fulfilled the personal service requirement under RCW 6.32.130 for examinations like Supplemental Proceedings. RCW 6.32.130 states:

SERVICE OF ORDERS

An injunction order or an order requiring a person to attend and be examined made as prescribed in this chapter must be served by **delivering to the person** to be served a certified copy of the original order and a copy of the affidavit on which it was made. In the case of an order requiring a person to attend and be examined and not imposing injunctive restraints, a non-certified copy may be served if the noncertified copy bears a stamp or notation indicating the name of the judge or commissioner who signed the original order, and a stamp or notation indicating the original order has been filed with the court.

(emphasis added).

On April 12, 2013, Respondent filed a Motion and Affidavit for Examination of Judgment Debtor on Respondent's underlying judgment. (CP 2-4). The Court granted the Order and noted the Appellant's Supplemental Proceeding hearing for April 30, 2013. (CP 5-7).⁷ Respondent failed to effectuate service on Appellant for the April 30, 2013, hearing so Respondent appeared before the trial court and re-noted the Supplemental Proceedings hearing for May 17, 2013. (CP 9). As a matter of coincidence, on April 30, 2013, Appellant received service of Note for Motion and other documents pertinent to the hearing set for May 17, 2013, via professional

⁷On April 12, 2013, Appellant's attorney, Mr. Cruikshank, received **courtesy** copies of Motion and Order for the April 30, 2013, Supplemental Proceedings despite the fact that RCW 6.32.130 requires no such notice. (CP 8). (emphasis added).

process server, Darrin Sanford, of Eclipse Process Service, LLC. (CP 38, 95).

RCW 6.32.130 requires **personal** service of a certified copy of the original order and a copy of the affidavit in orders involving **injunctive relief**. (emphasis added). Here, Respondent exceeded the statute's directive by both obtaining a certified copy (not required) of the Order and Affidavit for service to Appellant and **provided a courtesy copy of each to Appellant's attorney** (also not required). (CP 78-79). (emphasis added).

2. *Difficulties in Service on Appellant and Additional Proof Appellant Served Re-Note.*

On April 30, 2013, Appellant received service of the original certified copy of the Order for Supplemental Proceeding, and copies of the Motion and Affidavit and the new Note for Commissioner's Calendar requiring his attendance the May 17, 2013, hearing. (CP 95). In his declaration, process server Darrin Sanford details the circumstances in regards to perfection of service. (CP 94-97).

On April 30, 2013, at approximately 6:55PM, I served Glen Walker at 10521 SE 211th St. Kent, Washington, a place believed to be his residence. **I served him with a Note for Commissioners Calendar, Order for Supplemental Proceedings, Motion and Affidavit for an Order for Supplemental Proceedings. I recognized him from photos of Mr. Walker delivered to me earlier to**

me earlier in the week by Acebedo & Johnson, LLC.

(CP 95). (emphasis added).

Mr. Sanford encountered hostility from Appellant as he attempted to serve him. (CP 96). Appellant repeatedly subjected Mr. Sanford to threats and harassment. (CP 96). In fact, because Mr. Walker continued to follow Mr. Sanford to his vehicle while pelting him with profanities and attempts to intimidate him, Mr. Sanford, an experienced process server, feared for his personal safety substantially enough to call the Kent Police Department (CP 96-97). Eventually, Appellant sped off in his car before the police arrived. (CP 97).

Once again exceeding the directive of RCW 6.32.130, Respondent included a letter in the service packet that stated, "Because you evaded service, we re-noted the supplemental proceedings hearing originally scheduled for April 30, 2013. Please see the attached Note for Commissioner's Calendar for your new hearing date." (CP 75).

In his August 22, 2013, Motion for Revision, which cited the May 17, 2013, hearing, Appellant acknowledges the letter, which Respondent delivered only via process server in the service packet.

(CP 107-108). Appellant stated in the Motion for Revision that, “(the) letter **mailed** to Walker’s King county address which did not include any work papers.” (CP 107-108). (emphasis added). Although the letter included Appellant’s address, Respondent placed the letter only in the service packet and never mailed it. (CP 152-153).

Aside from erroneously claiming Respondent mailed the letter, admitting knowledge of the letter’s existence means the Appellant opened the service packet, which contained the original copy of letter along with the re-note and other pertinent documents. (CP 152-153).

Appellant contradicts himself by arguing that he failed to receive proper notice, including the re-note, while simultaneously acknowledging he received a copy of the letter “mailed to Walker’s King County address....” (CP 107-108). Appellant’s misconstruction of the facts to benefit his argument failed at the lower court and should fail again here.

3. Appellant Manufactured Evidence and Deference to the Trial Court.

Regarding the same service on Appellant, he testified at the trial court via a sworn declaration that he never left his vehicle during the attempted service. (CP 141). Appellant stated as follows:

At about 7:00 or shortly thereafter on April 30, 2013, I was in my car leaving my driveway when an adult male whose features I don't remember was walking into my driveway. Although my window was up I heard him asking if I as Glen Walker.

I did not respond to him but I rolled my window down a few inches to tell him to get off of my property he was trespassing and I would call the police and I kept driving.

I watched while he dropped a manila envelope in the driveway.

When I was on the street driving away, I saw him get back in his car and drive away in a direction on my street that leads to a dead end.

(CP 141).

A photograph of Appellant taken from Mr. Sanford's car and attached to Mr. Sanford's Declaration clearly shows Appellant not only outside of his vehicle, but standing directly outside the window of Mr. Sanford's vehicle (CP 103 and CP 154). In the photo, one can see the service packet next to Appellant's car, exactly where Mr. Sanford served Appellant. (CP 103).

The Appellate Court defers to the trier of fact for purposes of resolving conflicting testimony and evaluating the persuasiveness of the evidence and credibility of the witnesses. *Boeing Co v. Heidi*, 147 Wn.2d 78, 87, 51 P.3d 793 (2002). The trial court properly weighed the credibility of Appellant's testimony on all issues in this case and made the proper determination regarding service on Appellant.⁸ Deference should be given to the trial court regarding service on Appellant and should be affirmed.

C. APPELLANT WAIVED ARGUMENTS NOT PROPERLY ANALYZED OR CITED.

Appellant contends Respondent committed *ex parte* abuse while seeking three fee awards, two bench warrants, and two adjudications of contempt, yet fails to provide this Court with any factual citations to the record or any legal analysis. Instead, Appellant provides nothing but a block quote regarding *ex parte* orders from what Appellant refers to as the *Handbook of Civil Procedure* §64.2, p. 547, West Publishing Co., 2014. (AB, p. 13).

If Appellant fails to provide an adequately briefed argument, Appellant waives his argument. *See Norcon Builders, LLC v. GMP Homes VG, LLC*, 161 Wn.App 474, 486, 254 P.3d 835 (2011)

⁸ Having provided Appellant's counsel with courtesy copies, Respondent sought CR 11 attorney's fees against Mr. Cruikshank, but the trial court denied the request. (CP 229-230).

(declining to consider an inadequately briefed argument). *See also* RAP 10.3(a)(6) (requiring argument in support of the issues presented for review together with citations to legal authority and references to relevant parts of the record). If the Court permits Appellant’s improperly briefed arguments, it should narrow the scope to the specific items it deems properly cited and briefed.

D. RESPONDENT FOLLOWED PROPER PROCEDURE TO OBTAIN AWARDS, ORDERS AND WARRANTS.

Respondent followed proper procedures to obtain orders on: May 17, 2013, January 2, 2014, and January 23, 2014.

1. May 17, 2013.

a) Personal Service.

Pursuant to RCW 6.32.010, Respondent opted to, “require the judgment debtor appear at a specified time and place before the judge...to answer,” via an order for examination, generally known as “Supplemental Proceedings.” Appellant received personal service of notice of hearing set for May 17, 2013. (CP 95). Appellant’s attorney also received courtesy copies of the Supplemental Proceedings hearing documents. (CP 77-78). Nonetheless, both Appellant and his counsel failed to appear for the May 17, 2013, hearing. (CP 28).

While Appellant attempts to manufacture support for his claims regarding improper service, the record consistently fails to support his allegations. Appellant not only received proper service of all the documents pertinent to the May 17, 2013, hearing, but also a three sentence letter directing him to review, the “Note for Commissioner’s Calendar for your new hearing date.” (CP 75). Appellant acknowledged this letter, which Respondent provided only in the service packet. (CP 152-153).

RCW 6.32.010 provides: “If the judgment debtor or other persons fail to answer or appear the plaintiff shall be entitled to reasonable attorney fees.” (RCW 6.32.010). Additionally, the Real Estate Contract underlying this case provides for attorney’s fees under §19 C, stating:

If the Purchaser or any person or persons claiming by, through, or under the Purchaser who were properly given the Notice of Intent to Forfeit and the Declaration of Forfeiture remain in possession of the Property more than ten days after such forfeiture, the Purchaser, or such person or persons, shall be deemed tenants at will of the Seller and the Seller shall be entitled to institute an action for summary possession of the Property, and may recover from the Purchaser or such person or persons in any such proceedings the fair rental value of the Property for the use thereof from and after the date of forfeiture, plus costs, **including the Seller's reasonable attorneys' fees.**

(CP 495-496). (emphasis added).

As a result, the trial court properly awarded attorney's fees.

b) Purge Clause

Appellant incorrectly represents that the Warrant for Contempt dated May 17, 2013, contained no purge clause. The Warrant dated May 17, 2013 provided, "If the said Presiding Court is not in session when said party is taken into custody, you are authorized to release on bail in the sum of \$1,000.00 dollars, conditioned upon said party appearing in said court in Room 140 County-City Building at 1:30 P.M on the next judicial day to arrange a time for a hearing on the contempt charge." (CP 11).

A purge condition for civil contempt must meet three requirements: (1) it must serve remedial aims; (2) it must be capable of fulfillment by the contemnor; (3) its clause must be reasonably related to the cause or nature of the contempt. *In re M.B.*, 101 Wn.App. 425, 447-48, 3 P.3d 780 (2000), *review denied*, 142 Wn.3d 1027 (2001). Requiring Appellant to post bond to ensure his appearance at a show cause hearing serves the remedial aims, the clear goal in this case. Requiring Appellant to post \$1,000.00 meets the reasonable payment requirement to ensure his compliance. Appellant's posting of the bond works to ensure his appearance and

is reasonably relates to the nature of his contempt: his failure to appear. Appellant's promise to appear fails to provide sufficient confidence in this case.

A contemnor's promise of compliance is the first step. But where that promise is demonstrably unreliable, the court can insist on more than mere words of promise as a means of purging contempt. To conclude otherwise would render the statutes unenforceable and reduce the court to the level of a beggar.

Id. at 448.

Appellant's Warrant contained a purge clause and it met all of the necessary requirements. Respondent's argument fails.

2. *January 2, 2014 Supplemental Proceedings: Attorney's Fees Appropriate Under 6.32.*

On January 2, 2014, Appellant appeared without counsel before Commissioner Kevin Boyle for his Supplemental Proceedings hearing but refused swearing in claiming his main medication made him sedated at the time of the hearing. (CP 290 and CP 318-319). His attorney, Mr. Charles Cruikshank, III, failed to attend. Commissioner Boyle expressed his displeasure saying, "I am seeing what's going on here, and I am not happy about it." (Verbatim Report, Commissioner Kevin Boyle, Filed April 4, 2014, p. 7, lns 2-3).

3. January 23, 2014, Show Cause.

Appellant and his counsel failed to appear to the Show Cause hearing on January 23, 2014, despite receiving notice. (CP 290 and CP 324). Once again, the court issued a bench warrant for Appellant's arrest for his failure to appear. (CP 360-362). Appellant and his counsel bear sole responsibility for these failures. Pursuant to RCW 6.32.180 "a person who refuses to obey an order of a judge... and duly served upon him... to attend before a judge may be punished by the judge of the court out of which the execution issued, as for contempt." Additionally, a "court holds the inherent power to issue a contempt order for the purpose of trying to force compliance with its judgment," exactly as the trial court performed in the case at bar. *See Allen v. American Land Research*, 95 Wn.2d 841, 846, 631 P.2d 930 (1984).

E. APPELLANT FAILED TO FILE OBJECTIONS TO FINDINGS OF FACT REGARDING ATTORNEY'S FEES. THEY ARE VERITIES ON APPEAL.

At the trial court, Appellant filed no objections to Respondents Findings of Facts and Conclusions of Law.⁹ Appellant alleges he contested the Findings of Fact and Conclusions of Law, but he failed.¹⁰ A party seeking review before the Court of Appeals must timely preserve the issue for appeal. An appeal court may refuse to review any claim of error which was not raised at the trial court

⁹ Appellant filed a Motion in Response to Attorney's Fees on December 13, 2012, but no response to the Findings of Facts and Conclusions of Law. On April 11, 2014, Appellant filed: Defendant's Response to Motions of Plaintiff 1) Findings and Conclusions 2) Attorney's Fees, 3) Presentation. The only reference in the brief that applies to the Findings signed on April 11, 2014, follows:

The proposed findings of fact and conclusions of law seek \$903.00, which are not accompanied by sufficient evidence of reasonableness and which does not include Mr. Acebedo's claim that the additional future fees, which are 'estimated' in his declaration, and have no absolutely no evidence of law in support, are also not allowable."

(CP 417).

Since the plaintiff's claim for fees has provided no relevant legal authority, the claim must fail as a matter of law and since the reasonable documentation of the work claimed to be performed, which would include tasks that were performed, which would include tasks that were performed, lacks the specificity for findings of fact to support 'reasonableness' and therefore the entire claim fails for lack of relevant legal foundation and lack of factual evidence.

(CP 417).

¹⁰ "Bremer's motion for Findings of Fact and Conclusions of Law related to dismissal of Walker's defense and claims to set aside real estate forfeiture... This motion before Judge Hickman was heard with notice and contested." (AB 16-17).

level. RAP 2.5(A); *Postema v. Postma Enterprises, Inc.*, 118 Wn.App 185, 193, 72 P.3d 1122 (2003).

More specifically, unchallenged Findings of Fact become verities on appeal. *In re Estate of Jones*, 152 Wn.2d 1, 8, 93 P.3d 147 (2004). Appellant's brief cites numerous fee awards, but fails to provide a citation of the record indicating he preserved the objection.

Because Appellant failed to file any objection at the trial court level, the trial court lacked an opportunity to correct any potential errors. "We generally will not review an issue, theory or argument not presented at the trial court level. The purpose of this rule is to afford the trial court an opportunity to correct errors, thereby avoiding unnecessary appeals and retrials." *Demelash v. Ross Stores, Inc.*, 105 Wn.App 508, 527, 20 P.3d 447 (2001). "An appellate court may refuse to review any claim of error which was not raised in the trial court." *State v. Morgensen*, 148 Wn.App 81, 91, 197 P.3d 715 (2008).

Additionally, Appellant failed to provide the verbatim report of the April 11, 2014, Findings of Facts and Conclusions of Law. As a result, seeking review of any Conclusions of Law regarding those issues should be limited to whether the trial court's Findings of Fact

mandate a different result. *Happy Bunch, LLC v. Grandview N., LLC*, 142 Wn.App 81, 95, 173 P.3d 959 (2007).

F. APPELLANT FAILED TO MEET THE ABUSE OF DISCRETION STANDARD FOR REVIEW OF ATTORNEY'S FEES. THE TRIAL COURT SHOULD BE AFFIRMED.

Appellant failed to meet the abuse of discretion standard required for review on appeal for attorney's fees. *State v. SH*, 102 Wn.App 468 8 P3 1058 (2000). "An abuse of discretion exists only where no reasonable person would take the position adopted by the trial court." *Griggs v. Averbek Realty*, 92 Wn.2d 576, 584, 599 P.2d 1289 (1979). "The trial court has broad discretion in determining the amount of attorney's fees. *Singleton v. Frost*, 108 Wn.2d 723, 730, 742 P.2d 1224 (1987) (citation omitted).

The court looks at the circumstances in each case to determine the reasonableness of attorney's. *See id.* at 731. Attorney's fees must be allowed via statute, contract or some other means. In this case Respondent availed himself of both the Real Estate Contract and statutory law. The Real Estate Contract §19 provides:

...the Seller shall be entitled to institute an action for summary possession of the Property, and may recover from the Purchaser or such person or persons in any such proceedings the fair rental value of the Property for the use thereof from and after the date of

forfeiture, plus costs, **including the Seller's reasonable attorneys' fees.**

Additionally, statute provides for attorney's fees under the unlawful detainer provisions in RCW 61.30.100¹¹ and under RCW 6.32 for Proceedings Supplemental to Execution.¹²

Washington courts adopted the Lodestar approach in the calculation of attorney's fees. This method requires that the "trial court must determine the number of hours reasonably expended in the litigation." *Bowers v. Transamerica Title Insurance*, 100 Wn.3d 581, 597-598, 675 P.2d 193 (1983). See also *Lindy Bros. Builders, Inc. v. American Radiator & Standard Sanitary Corp.*, 487 F.2d 161 (3rd Cir. 1973). The total number of hours reasonably expended is then multiplied by the reasonable hourly rate of compensation. See *Bowers*, 100 Wn.3d at 597.

Nonetheless, the trial court maintains discretion in determining reasonableness. See *Singleton v. Frost*, 108 Wn.2d 723, 730-31, 742 P.2d 1224 (1987). The trial court should consider "... the total hours necessarily expended in the litigation by each attorney, as

¹¹ RCW 61.20.100(3) provides in part: "Any person in possession who fails to surrender possession when required shall be liable to the seller for actual damages caused by such failure and for reasonable attorney's fees and costs of the action."

¹² RCW 6.32.010 "If the judgment debtor or other persons fail to answer or appear, the plaintiff shall additionally be entitled to reasonable attorney fees."

documented by counsel, and that the total hours expended should then be multiplied by each lawyer's reasonable rate of compensation considering *inter alia* the difficulty of the problem, each lawyer's skill and experience and the amount involved." *Id.* at 733. Appellate courts exercise a supervisory role to ensure discretion is exercised on articulable grounds. *See Mahler v. Szucs*, 135 Wn.2d 398, 435, 957 P.2d 632 (1998).

Here, the Trial Court ordered attorney fees based on the Real Estate Contract, unlawful detainer statute RCW 59.12, RCW 61.30.100, and Proceedings Supplemental to Execution RCW 6.32 *et seq.* These included: Order Denying Defendant Walker's (Appellant) Motion for Revision and Granting Attorney's Fees to Plaintiff on September 13, 2013, Order Denying Defendant Walker's (Appellant) Motion for Revision and Granting Attorney's Fees to Plaintiff on January 24, 2014, and Order for Attorney Fees on April 14, 2014. (CP 274, 367, 434).

Respondent simply attempted to collect on a judgment pursuant to RCW 6.32 despite Appellant's repeated refusal to adhere to court orders thereby increasing Respondents attorney's fees for his failure to comply. The court normally refuses to vacate a verdict and grant a new trial for errors of law if the party seeking a new trial failed to

object to or invited the error. *In re K.R.*, 128 Wn.2d 129, 147, 904 P.2d 1132 (1995).

Appellant provides no legal analysis under *Bowers v. Transamerica Title Insurance*, 100 Wn.3d 581, 597-598, 675 P.2d 193 (1983) as to why the court should deem the attorney's fees as unreasonable considering the amount of time and effort required enforcing Appellant's failure to comply with court orders by simply removing themselves from a property for which they failed to pay for a year and a half and then continually fail to appear for supplemental proceedings. Appellant provides no *Bowers* analysis or the Lodestar method of calculating fees. Instead he cites case law from Bankruptcy Courts in Maryland, the 10th Circuit, and D.C., even Kentucky. Appellant fails to support his argument.

G. JULY 18, 2014, ADDITIONAL AUTHORITY IS UNTIMELY AND PROVIDES NO ANALYSIS OR FACTUAL REFERENCES TO THE RECORD. THE ADDITIONAL AUTHORITY SHOULD NOT BE CONSIDERED BY THE COURT.

On July 18, 2014, one business day before the due date of Respondent's brief, Appellant provided "Appellant's Additional Authority" via U.S. mail. The Authority provides copies of case law, that it seeks the Appeals Court to consider, along with seven

additional issues that were not raised in Appellant's additional briefing. No factual citations in support or analysis is provided.

If Appellant fails to provide an adequately briefed argument, Appellant waives his argument. *See Norcon Builders, LLC. v. GMP Homes VG, LLC*, 161 Wn.App 474, 486, 254 P.3d 835 (2011) (declining to consider an inadequately briefed argument). *See also* RAP 10.3(a)(6) (requiring argument in support of the issues presented for review together with citations to legal authority and references to relevant parts of the record.). This additional briefing should be stricken as untimely.

H. ANY NEW UNTIMELY ISSUES RAISED BY APPELLANT ARE VERITIES.

Appellant failed to create a record authorizing him to raise new issues to which he failed to object to the trial court. Appellant failed to file any objections to the Findings of Fact and Conclusions of Law filed in this case. Unchallenged Findings of Fact are verities on appeal. *In re Estate of Jones*, 152 Wn.2d 1, 8, 93 P.3d 147 (2004). The Findings of Fact and Conclusions of Law should be affirmed.

A party seeking review before the Court of Appeals must timely preserve the issue for appeal. An appellate court may refuse to review any claim of error not raised at the trial court level. *See* RAP

2.5(A); *Postema v. Postema Enterprises, Inc.*, 118 Wn.App 185, 193, 72 P.3d 1122 (2003).

I. ATTORNEY'S FEES ON APPEAL

A contract providing for an award of attorney fees at trial also supports such an award on appeal. *Atlas Supply Inc. v. Realm, Inc.*, 170 Wn.App 234, 241, 287 P.3d 606 (2012). As previously stated, the Real Estate Contract establishes Respondent's entitlement to attorney's fees and costs. The Real Estate contract provides in part that, under these circumstances, Appellant remains liable for fees and costs, "from and after the date of forfeiture, **plus costs, including the Seller's reasonable attorneys' fees.**") (emphasis added) (CP 495-496). Therefore, Respondent seeks from this Court an award of fees and costs for the fees it incurred in litigation in the Superior Court and those it incurred in this appeal. Pursuant to RAP 18.1, Respondent asks this Court to award appellate fees and costs, as well as those incurred in the trial court.

If this court issues an opinion in favor of Respondent, then pursuant to RAP 14.2, the court should award him costs. Costs may be awarded to a party prevailing on appeal. *N.W. Television Club, Inc. v. Gross Seattle, Inc.*, 96 Wn.2d 973, 640 P.2d 710 (1981).

J. FRIVOLOUS APPEAL AND SANCTIONS AGAINST COUNSEL AND APPELLANT.

The court may award terms and compensatory damages for a frivolous appeal or for a party's failure to comply with the rules of appellate procedure. RAP 18.9(a); RAP 18.1 see also, *In Re Marriage of Healy*, 35 Wn.App 402, 406, 667 P.2d 114, review denied 100 Wn.2d 1023 (1983) (noting an appeal may be so devoid of merit to warrant the imposition of sanctions and an award of attorney's fees).

The issues presented by Appellant on appeal appear so devoid of merit as to be frivolous and advanced without reasonable cause. An appeal is frivolous when it presents no debatable issues and is so devoid of merit that there is no possibility of reversal. *Streater v. White*, 26 Wn.App 430, 434, 613 P.2d 187 (1980) (citations omitted). This Court considers the following facts when evaluating whether an appeal is frivolous: (1) A civil appellant has a right to appeal under RAP 2.2, (2) all doubts as to whether the appeal is frivolous should be resolved in favor of the appellant; (3) the record should be considered as a whole; (4) an appeal that is affirmed simply because the arguments are rejected is not frivolous;

(5) an appeal is frivolous if there are no debatable issues upon which reasonable minds might differ, and is so totally devoid of merit that there was no reasonable possibility of reversal. *Griffin v. Draper*, 32 Wn.App 611, 616, 649 P.2d 123 (1982).

While Appellant holds the right to appeal and all doubts should be resolved in his favor, he provides no support for the appeal when considered as a whole. This Court should act with more than a simple affirmation of the trial court because Appellant brought this case to cause delay and continue to cause Respondent additional costs and fees in defending against it.

Appellant's counsel should also face accountability for his actions. Respondent asked the court to provide sanctions against counsel for providing false statements to the for his hearing on September 13, 2013, when it brought the motion misrepresenting facts and case law to the trial court. (CP 229-230). However, the trial court allow for no sanctions. Appellant's counsel should be held accountable for the filing of the motions and representations made both to the trial court and this Court. He further files this appeal without properly preserving the lower court record and objecting to any of the Findings of Facts or Conclusions of Law at the trial court level. This appeal is frivolous.

V. CONCLUSION.

Respondent properly followed every legal procedure in order to satisfy a judgment from Appellant. Appellant refused to work with Respondent and engaged in dilatory tactics and unnecessary litigation over trivial or nonexistent issues. Specifically, Pierce County Superior Court maintained jurisdiction over the case-in-chief and Supplemental Proceedings. (CP 25). Appellant remains barred from raising the issue of jurisdiction because the Findings of Fact became verities on appeal, Appellant waived the issue of jurisdiction by not raising it in his answer, and Appellant made arguments on the merits of the case.

Furthermore, Respondent properly personally served Appellant for the May 17, 2013, Supplemental Proceedings. (CP 95). Respondent properly served Appellant on April 30, 2013, for the May 17, 2013, hearing. (CP 95-96). Appellant failed to appear and the trial court properly issued a warrant for Appellant's arrest. (CP 11).

Respondent properly engaged in Supplemental Proceedings in order to satisfy the judgment. Appellant either refused to attend Supplemental Proceedings or refused to testify if in attendance,

resulting in three warrants for his arrest for contempt of court. (CP 11, 22-23, 363). Respondent utilized his only tool of *ex parte* proceedings to persuade Appellant to recognize the judgment.

Attorney fees and costs in this case are proper. Appellant refused to attend Supplemental Proceedings causing delays and requiring more court time, filed an appeal without merit, and misled the Court and Respondent. Respondent calculated all attorney fees and costs under the Lodestar approach. The trial court found all fees and costs reasonable.

DATED this 21st day of July, 2014.

ACEBEDO & JOHNSON, LLC

/s/ Pierre E. Acebedo
Pierre E. Acebedo, WSBA #30011
Attorney for Appellant

COURT OF APPEALS NO. 45480-7-II
IN THE COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

GLEN L. WALKER, an individual

Appellant

v.

ESTATE OF WILLIAM P. BREMER,

Respondent.

DECLARATION OF MAILING

ACEBEDO & JOHNSON, LLC.
Cindy A. Johnson, WSBA #30013
Pierre E. Acebedo, WSBA #30011
Attorneys for Respondent

1011 East Main
Suite 456
Puyallup, Washington 98372
(253) 445-4936

To: Court of Appeals, Division II
950 Broadway, Ste. 300
Tacoma, WA 98402

To: Mr. Charles M. Cruikshank III.
1417 Digby Place
Mount Vernon, WA 98271

I, Shawn S. Jones, declare:

That I am a citizen of the State of Washington over the age of eighteen years and not a party to the above-entitled action.

That on Monday, July 21, 2014, I caused to be served a true and correct copy of:

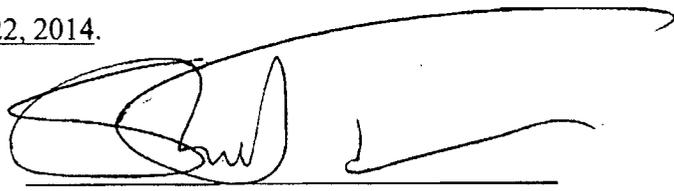
1. RESPONDENT'S BRIEF

as follows:

		Professional Process Server
		Staff Process Server
		US Regular Mail
	X	US Certified Mail
		State Campus Mail
		Hand Delivered
		By Email
		By Fax

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this Tuesday, July 22, 2014.



Shawn S. Jones

COURT OF APPEALS NO. 45480-7-II
IN THE COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

GLEN L. WALKER, an individual

Appellant

v.

ESTATE OF WILLIAM P. BREMER,

Respondent.

AMENDED DECLARATION OF MAILING

ACEBEDO & JOHNSON, LLC.
Cindy A. Johnson, WSBA #30013
Pierre E. Acebedo, WSBA #30011
Attorneys for Respondent

1011 East Main
Suite 456
Puyallup, Washington 98372
(253) 445-4936

To: Court of Appeals, Division II
950 Broadway, Ste. 300
Tacoma, WA 98402

To: Mr. Charles M. Cruikshank III.
1417 Digby Place
Mount Vernon, WA 98271

I, Shawn S. Jones, declare:

That I am a citizen of the State of Washington over the age of eighteen years and not a party to the above-entitled action.

That on Tuesday, July 22, 2014, I caused to be served a true and correct copy of:

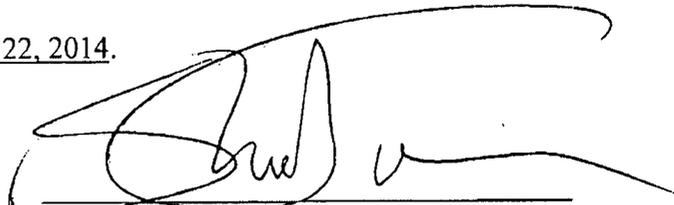
1. CORRECTED TABLE OF AUTHORITIES TO RESPONDENT'S BRIEF

as follows:

		Professional Process Server
		Staff Process Server
	X	US Regular Mail
		US Certified Mail
		State Campus Mail
		Hand Delivered
		By Email
		By Fax

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this Tuesday, July 22, 2014.



Shawn S. Jones