

FILED
SUPREME COURT
STATE OF WASHINGTON
3/31/2025 12:46 PM
BY SARAH R. PENDLETON
CLERK

Supreme Court No. 1038496

Court of Appeal No. 388778
Consolidated with No. 390641

SUPREME COURT
OF THE STATE OF WASHINGTON

PAULA S. NEIS, Trustee of the Daniel L. NEIS Revocable
Trust, and Paula S. NEIS and GLORIA RAE FRASER,
Respondents

vs.

HOWARD WOOLLETT and PETRIA WOOLLETT,
Petitioners

**PETITIONERS' REPLY IN SUPPORT OF MOTION TO
SEPARATE THE CONSOLIDATED APPEALS AND
ISSUE A MANDATE ON THE NEIS APPEAL**

Kevin W. Roberts, WSBA # 29473
Chad H. Freebourn, WSBA #35624
ROBERTS | FREEBOURN
120 N. Stevens St. Suite 300
Spokane, WA 99201
kevin@robertsfreebourn.com
chad@robertsfreebourn.com
Counsel for Petitioners

I. IDENTITY OF MOVING PARTY

Petitioners Howard and Petria Woollett, the Defendants/Third Party Plaintiff in the underlying action, are the moving parties.

II. RELIEF SOUGHT

Petitioners Woollett request the consolidated appeals be separated to allow a final mandate as to the Neis Appeal. Respondent Neis has exhausted her legal remedies, and it is appropriate to issue a mandate as to Respondent Neis under Court of Appeals Cause No. 388778.

III. ARGUMENT

Neis does not address or explain how any remaining issues involving Fraser changes the facts that a mandate should be issued as to the decision relating to Neis. The Final Judgment Petitioners Woollett obtained is against Neis and in no way relates to Frasers and would not impact any issues remaining as to the Frasers. There is a pending Supersedeas Bond that Neis has in place and the delay of the Mandate is increasing interest

on the Judgment which actually harms Neis. Therefore, the request for further needless delay is illogical. It appears Neis' counsel is arguing the interests of Fraser should be placed above his own clients' interests. The Judgment which has been affirmed is solely against Neis and has no direct relation to the Frasers.

Respondent Neis exhausted her legal remedies on appeal while the Fraser appeal remains subject to further action. In the April 2, 2024 Unpublished Opinion, the Appellate Court found that the Trial Court did not err in its findings or abuse its discretion, and that Neis was not the prevailing party. A Motion for Reconsideration was filed on April 22, 2024 and this Court denied Neis' reconsideration. See July 18, 2024 Order. Pursuant to RAP 13.3 and 13.4 Appellant Neis had thirty (30) days to seek discretionary review by the Supreme Court. Appellant Neis did not file a Petition for Review by August 17, 2024 as required by RAP 13.3, 13.4, and 18.5. To date, Neis has not filed a Petition for Review.

As a result, there remains no appellate issue with regard to the Judgment against Neis. Therefore, whether the Fraser appeal, which is subject to remand for the Trial Court to issue additional findings on the Fraser Order, results in additional appeals or not does not change the fact that Neis has exhausted all of her remedies, and a mandate should be issued.

It would be prejudicial to Neis and the Woolletts if the mandate is delayed pending the Fraser remand and potential appeal. A supersedeas bond is currently in place. The longer a mandate is delayed, the more interest accrues. The Woolletts respectfully request the matters be separated and a mandate issued so the Woolletts can recover on the Bond and pursue any unpaid amounts under the Judgment which is final and has been affirmed.

IV. CONCLUSION

Petitioners request the Court separate the cases and issue a mandate as it pertains to Respondent Neis in the underlying cause no. 388778.

*This document contains 480 number of words, excluding
the parts of the document exempted from the word count by RAP
18.17.*

DATED this 31st day of March 2025.

/s/ Kevin Roberts

Kevin W. Roberts, WSBA# 29473
Attorney for Petitioners Woollett

CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of March 2025, I caused to be served via the Court of Appeals filing system, a true and correct copy of the foregoing document to the following:

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

Martin Gales
Martin Gales PLLC
4203 E 8th Ave
Spokane, WA 99202-5222
Mgales101@gmail.com

/s/ Lauren McVicker
Lauren McVicker

ROBERTS FREEBOURN, PLLC

March 31, 2025 - 12:46 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 103,849-6
Appellate Court Case Title: Paula S. Neis, et al. v. Howard Woollett, et al.
Superior Court Case Number: 19-2-01262-0

The following documents have been uploaded:

- 1038496_Answer_Reply_20250331124608SC042619_8871.pdf
This File Contains:
Answer/Reply - Answer to Motion
The Original File Name was 2025.03.31 Reply ISO Motion for Mandate.pdf

A copy of the uploaded files will be sent to:

- chad@robertsfreebourn.com
- heather@robertsfreebourn.com
- jmontgomery@wsmattorneys.com
- mgales101@gmail.com

Comments:

Sender Name: Lauren McVicker - Email: laurenm@robertsfreebourn.com

Filing on Behalf of: Kevin W Roberts - Email: kevin@robertsfreebourn.com (Alternate Email:)

Address:
1325 W. 1st Avenue, Ste. 303
Spokane, WA, 99201
Phone: (509) 381-5262 EXT 103

Note: The Filing Id is 20250331124608SC042619