Supreme Court No. 1046022

IN THE SUPREME COURT

OF THE STATE OF WASHINGTON

BRYAN S. PEREZ and LINDA QUACH,

Petitioners,

vs.

MARY PELENTAY, individually and as Trustee
of the QUACH LIVING TRUST,

Respondent.

AMENDED PETITION FOR REVIEW

From Court of Appeals No. 865358; Appeal from King County
Superior Court Case No. 23-4-03951-1

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I. INTRODUCTION

This case is not a narrow dispute over a family property; it presents a direct and urgent threat to the stability of recorded title in Washington. Division One has affirmed a decision that sets aside facially valid, executed, notarized, and delivered deeds — without a finding of ambiguity or fraud — based solely on inadmissible post-execution statements and actions. This decision undermines the four-corners doctrine, disregards the presumption of delivery, violates the Dead Man's Statute (DMS), and misapplies RCW 64.80.080, eroding the certainty that the recording system was designed to protect. It further conflicts with *Hollis v. Garwall*, 137 Wn.2d 683, 695–96 (1999), *Crafts v. Pitts*, 162 Wn.2d 383, 385 (2007), and *Wilson v. Horsley*, 137 Wn.2d 500, 506–07 (1999), and *Branson v. Washington Fine Wine & Spirits, LLC*, No. 103394-0 (Wash. Sept. 4, 2025), as well as Division One's own precedent in

Nationstar Mortgage LLC v. Schultz, 2019 WL 6713614, at *3 and *Newport Yacht Basin Ass'n v. Supreme Nw., Inc.*, 168 Wn. App. 56, 277 P.3d 18 (2012).

These deeds comply with RCW 64.04.010–.030: in writing, signed, acknowledged, and delivered with consideration "in hand paid." Their plain language conveys title unconditionally.

Division One's ruling affects 46% of Washington's population — over 3.7 million residents — and, if followed by other divisions, could destabilize title for all 8.1 million Washingtonians, one judge on this panel serves on Division one and two. This decision places all Washingtonians property owners on notice that their property ownership can be disputed and win on mere allegations of intent outside the statutory correctly written and executed deeds.

If left unclear, it will disproportionately harm unrepresented, uneducated, and minority property owners, when they think their property deeds with no ambiguity are

binding on the face of the contract or deed and later discover evidence outside the deed can be enforced to change and add conditions whereas there were no such conditions in the deed or contract.

With homelessness already rising among low-income and minority communities, this decision increases the risk that such owners will be exploited and lose their homes. This improper decision conflicts with Division One's own precedent and long-standing Washington Supreme Court authority on the parol evidence rule.

If this court has changed their stance on parol evidence they must change Washington Pattern Jury Instructions—Civil April 2022 update (WPI 301.06 Parol Evidence), to comply with the new standard.

By recasting this as a TEDRA trust matter rather than a deed-validity case, the courts bypassed established delivery and intent rules, avoided the requirement of clear, cogent, and convincing evidence to overcome the presumption of delivery,

and admitted testimony barred by RCW 5.60.030 (DMS). If left unreviewed, this precedent will permit the unraveling of completed property transactions whenever a grantor — or their estate — later has second thoughts or decides to deal with another and claims there was no deal.

Review is essential under RAP 13.4(b)(1), (2), and (4).

II. IDENTITY OF PETITIONERS AND DECISION

Petitioners Bryan Perez and Linda Quach seek review of the COA, Division One's unpublished opinion in *Perez v. Pelentay*, No. 86535-8-I (June 30, 2025). That opinion affirmed the King County Superior Court's order granting partial summary judgment to Respondent Mary Pelentay, individually and as Trustee of the Quach Living Trust, and invalidating two July 24, 2021 deeds and August 21, 2021 deed transferring property to Perez.

III. ISSUES PRESENTED FOR REVIEW

1. Whether the COAs' opinion directly conflicts with controlling decisions of the Washington Supreme Court and its own precedent by (a) invalidating facially valid, executed, notarized, and delivered deeds, (b) admitting parol evidence to contradict unambiguous deeds in violation of the parol evidence rule, (c) disregarding the presumption of delivery upon possession of executed deeds, (d) ignoring the independent validity of the August 21, 2021 warranty deed, (e) allowing testimony barred by RCW 5.60.030 (DMS) to override unambiguous deed terms contrary to established evidentiary rules, (f) misapplying RCW 64.80.080 to revoke prior inter vivos deeds, and (g) denying a CR 15 motion to amend on a technicality, prejudicing Petitioners' ability to assert counterclaims [RAP 13.4(b)(1) & (2)].

2. Whether recorded title in Washington remains secure if facially valid, unambiguous, executed, notarized, and delivered deeds may be undone by inadmissible, post-execution

statements of a deceased grantor — destabilizing property rights, undermining the recording system, and inviting misuse of TEDRA to bypass deed law and evidentiary safeguards for a property "alleged" to have been placed in trust [RAP 13.4 (b)(4)].

IV. STATEMENT OF THE CASE

The crux of this case relates to facially valid deeds executed and delivered by Betty Quach to Petitioner Bryan Perez during her lifetime, which were later invalidated in a TEDRA proceeding brought by Respondent for a property merely "alleged" to have been placed into a trust after being transferred, utilizing inadmissible evidence, where Petitioner had no ability to bring counterclaims. The core issue threatens title stability: a deceased grantor impermissibly placed the property into a trust and inadmissible third-party communications entered under a trust dispute framework

invalidates any prior unambiguously clear deed. This raises critical questions of jurisdiction, evidentiary rules, and procedural fairness.

Perez rightfully acquired the property through valid deeds executed and delivered by Betty during her lifetime, only to have his title stripped in a TEDRA action, subjecting three to homelessness, relying on hearsay and Betty's post-execution regrets—never expressed to him directly. From Perez's perspective, an agreement was made and Betty's intent to transfer—evidenced by multiple clear and unambiguous deeds, his mortgage payoff, and a family letter endorsing his ownership—was undermined by a process of using communications to which he was not a party, ignoring evidentiary safeguards, stretching TEDRA beyond its scope to a property merely "alleged" to be placed into a trust, and denying procedural fairness, while courts overlooked facts affirming the deeds' validity.

1. The Property and the July 24, 2021 Deeds

Betty owned a single-family home at 426 S. 193rd Street, Des Moines, Washington, legally described as Lot 14, Normandy Vista Division No. 7, recorded in Volume 64 of Plats, Page 19, King County (CP872–874). On July 24, she executed and notarized two deeds conveying the property to Perez: a warranty deed reciting "FIFTY THOUSAND DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION in hand paid" and acknowledging marketable title at conveyance (CP872), and a quitclaim deed for "love and affection and other good and valuable consideration" (CP873). Neither contained conditions, restrictions, or reservations, and both were properly notarized with proof of Betty's signature.

Perez took physical possession of these executed deeds (CP872-874;1709-1734), paid over $353,000 to clear the mortgage—a fact undisputed by Pelentay (VRP Vol. III at 65). The contemporaneous Real Estate Excise Tax Affidavit further

confirmed the transfer's validity (CP1733). No evidence suggests Betty withheld delivery or lacked intent that day; instead, the record shows a complete, unconditional conveyance to Perez, who acted in reliance by assuming the financial burden.

2. The August 21, 2021 Warranty Deed

If July 24, 2021 deed(s) were invalid, just weeks later, on August 16, Betty executed and notarized a third warranty deed to Perez, effective August 21st, reciting "TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION in hand paid" and affirming "GRANTOR ACKNOWLEDGES THAT TITLE TO THE PROPERTY IS MARKETABLE AT THE TIME OF THIS CONVEYANCE" (CP874). This language is present-tense, confirming conveyance as of the effective date. It contains no conditions, restrictions, or reservations. Even if all else is ignored, this deed alone compels reversal.

Texts exchanged that day verified the notarization (CP1510-1511), and Perez accepted delivery, maintaining possession (CP1709-1734).

This deed, free of conditions, independently vested title in Perez before Betty's trust was even created on August 27 (CP22-34), rendering any later attempts to redirect the property via a trust ineffective. August 11 letter of last wishes even noted the property was "gifted to Perez", aligning with the deeds and underscoring Betty's consistent intent to transfer during her life. (CP1091). The August 3 TODD — matching the August 11 letter — was recorded September 17, after Betty recorded a deed to Pelentay, thereby revoking Pelentay's TODD (CP1169).

3. Creation of the Trust and TODD

On August 27,—after Perez's title had vested—Betty executed a TODD naming her new trust as beneficiary (CP1131-1132), but this TODD could only revoke prior

TODDs, (RCW 64.80.080). With no remaining interest to convey, Betty's attempt was futile, as a grantor without title cannot transfer property.

4. *Family Letter and Support for Perez's Ownership*

In a powerful show of family consensus, Betty's immediate family signed an April 2022 letter affirming Perez's ownership, accusing Pelentay of ignoring Betty's wishes, misleading the court, and pursuing the litigation for personal gain as a non-family outsider unfit to manage affairs (CP1498-1508). This letter, echoing Perez's consistent position, underscores Betty's true intent.

5. *TEDRA Petition, Counterclaim, and Summary Judgment*

On May 25, 2023, (over one year after Pelentay was advised the property was not part of the estate) Pelentay, as trustee/executor/beneficiary, filed a TEDRA petition on behalf of the estate of Thi Ut Quach, and as Trustee of the Quach Living Trust claiming the property as trust property (CP8-21).

The superior court treated the matter as a trust administration issue under RCW 11.96A.040(2), despite the fact that if the deeds were valid, the property never entered the trust and TEDRA jurisdiction improper. The courts overlooked that title passed via the July 24, and/or August 21, 2021 deeds—executed before the trust's creation August 27 (CP 22-34)—therefore not part of trust and no subject matter jurisdiction.

Perez filed motion to amend to add a counterclaim three times with three denials; (1)October 31 (CP364-379, 455-456), (2)November 17 (CP459-475, 598-599), and (3)January 29, 2024, motion seeking the same relief and the same information, (CP850-955). The third motion included an attached document titled, "Respondent's Motion to Amend Response ('Opposition') to Complaint to Add Counterclaims and Defenses," without the word "proposed". The court denied the motion on February 25th (CP1650-1651).

On February 2, 2024, Pelentay moved for partial summary judgment (CP956-1205). Perez opposed, citing the DMS, parol evidence rule, hearsay, and the deeds' unambiguity, among other objections (CP1401-1538), supported by declarations (CP1522-1532). March 6, the court granted summary judgment (CP1671-1677), invalidating the deeds without analyzing August 21 deed transfer, relying on inadmissible post-deed statements, ruling deeds were "conditional" despite no such language, and misinterpreting a third-party cashier’s check (CP1590) as a refund, with no mention of purpose on the check, and further not ruling on Petitioners filed pre-trial motion on Parol Evidence Rule and DMS on December 28, 2023 (CP603-650)

6. Appeal and Opinion

COA’s affirmed the superior court's ruling in an unpublished opinion dated June 30, 2025, and overlooked critical evidence and legal principles that underscore the deeds' validity.

The panel found: "The superior court had subject matter jurisdiction to hear the TEDRA petition. This was an action brought by the trustee, Pelentay, for the recovery of property *alleged* to have passed to the Quach Living Trust upon Betty's death. This was a trust matter and, therefore, within the original subject matter jurisdiction of the superior court under TEDRA" (Opinion at 9) (emphasis added). This conclusion dismissed Perez's jurisdictional challenge without addressing how the pre-trust deeds (CP872-874) precluded the property from ever entering the trust, overlooking the prejudice to Perez's defense. Further, Pelentay would benefit and receive 1/3 of the property sale (CP1151).

On the merits, the court concluded Perez "did not refute Pelentay's evidence to create a genuine issue of material fact" as to delivery (Opinion at 14), relying heavily on Betty's post-deed communications to find she "clearly stated [her] decision" to transfer the property only upon death (Opinion at 13). It highlighted: "Further, as evidenced by Betty's email to Pelentay

on August 11, Betty considered the agreement to transfer the property to Perez as 'not yet final.' (CP1083). Betty's later text message to Pelentay on August 22 clearly stated Betty's decision to sell the property upon Betty's death" (Opinion at 13).

These were not conversations with Perez but with Pelentay, suggesting Betty may have been playing both sides—as her attorney admitted (CP1202)—rather than proving no initial deal existed. The panel recognized Betty executed multiple deeds—six in five weeks—but dismissed this as mere indecision without considering how it failed to rebut delivery under clear and convincing standards, instead treating it as support for post-hoc invalidation (Opinion at 13).

The opinion further erred by concluding Betty lacked intent to deliver the July 24th warranty and quitclaim deeds based on a $50,000 "conditional" payment (CP872-873; Opinion at 14), overlooking key principles which form the basis of this Petition (RCW 64.04.010). It overlooked the August 21

deed's independent validity and crystal-clear lack of conditions, failing to analyze how its effective date before trust creation extinguished Betty's interest. The court suggested the August 27 TODD revoked prior deeds (Opinion at 3-4), misapplying RCW 64.80, which limits TODDs revoking only prior TODDs.

In sum, the COA came to its decision claiming that the communications with third-parties showed there was no agreement, (Opinion at 11-12), but then also states that Betty believed there was an agreement "Betty then detailed the payments already made and payments *still outstanding under the agreement*" And "On August 11, Betty wrote her first of what would end up being several letters of last wishes. In it, Betty stated that her property "has been gifted to Bryan Perez," per her "transaction and agreement between him and I, confirmed August 2nd, 2021 via phone." CP1091. (Opinion at 3). Betty offered him an Opt-Out, further indicating a binding agreement.

It upheld attorney fees despite these errors (Opinion at 19), ignoring the appeal's merit and the profound prejudice to Perez from this flawed process.

V. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED

A. Conflict with Controlling Precedent — RAP 13.4(b)(1) & (2)

COAs decision conflicts with controlling precedent in seven areas: (1) the validity of deeds under statutory requirements, (2) the parol evidence rule and four-corners doctrine, (3) the presumption of delivery, (4) recognition of the independent validity of the August 21 warranty deed, (5) application of the DMS, (6) interpretation of RCW 64.80.080 regarding revocation of TODDs, and (7) the standards governing leave to amend under CR15. The COAs stated that "Perez did not refute Pelentay's evidence to create a genuine issue of material fact" and Betty's post-deed communications "clearly stated [her] decision" to transfer only upon death (Opinion at 13–14).

Consideration of the barred evidence would not support the grant of partial summary judgment (CR56). Even so, disputed facts as to delivery and intent, which are questions of fact which would defeat summary judgment. These disputed facts—including possession of the deeds, payment of substantial consideration, corroborating written instruments, and a family letter confirming title to Perez precludes summary judgment when viewed in the light most favorable to the nonmoving party which the lower courts did not do as they weighed credibility and improperly resolved disputed factual inferences in favor of Pelentay. *Watkins v. ESA Mgmt. LLC*, 30 Wn. App. 2d 916, 547 P.3d 271 (2024); *Ramey v. Knorr*, 130 Wn. App. 672, 124 P.3d 314 (2005)).

Pelentay had the initial burden to prove by uncontroverted facts that there is no genuine issue of material fact the deed was invalid by clear and convincing evidence and only after the moving party has met this burden does any burden fall to the nonmoving party to set forth specific facts

evidencing a genuine issue of material fact for trial. *Welch v. Brand Insulations, Inc*., 27 Wn. App. 2d 110, 531 P.3d 265 (2023); *Jacobsen v. State*, 89 Wn.2d 104, 569 P.2d 1152 (1977)); *Schaaf v. Highfield*, 127 Wn.2d 17, 896 P.2d 665 (1995)); *In re Pappuleas' Estate*, 5 Wash. App. 826; 490 P.2d 1340 (Wash. App. 1971); *Raborn v. Hayton*, 208 P.2d 133 (Wash. 1949)). Pure questions of law are reviewed de novo. *Ramey*; *Schneider v. City of Seattle*, 24 Wn. App. 251, 600 P.2d 666 (1979)).

1. Validity of Each Deed Under Statutory Requirements

The cornerstone of Washington real property law — reaffirmed in *Hollis v. Garwall, Inc.*, 137 Wn.2d 683 (1999), *Crafts v. Pitts*, 161 Wn.2d 16 (2007), and *In re Pappuleas' Estate*, 5 Wn. App. 826 (1971) — is that a deed which is executed, notarized, and delivered vests title in the grantee, and that title cannot be disturbed absent clear, cogent, and convincing evidence of invalidity. Washington law requires

deeds to be in writing, signed, acknowledged, and delivered to convey title (RCW 64.04.010,.020,.030).

Washington Supreme Court recently affirmed in *Branson v. Washington Fine Wine & Spirits, LLC*, No. 103394-0, at 4 (Wash. Sept. 4, 2025), courts must enforce the plain language of statutes like RCW64.04 without adding unstated qualifiers to avoid limiting protections for those meeting formal requirements.

The July 24, and August 21, 2021 deeds being unconditional, integrated under RCW64.04, and properly conveyed vest title to Perez (CP872-873,1510-1511, 1709-1734). The COAs' decision to invalidate these deeds without such evidence directly contradicts these precedents, which safeguard the finality of deeds meeting statutory formalities.

2. Parol Evidence Rule and Four-Corners Doctrine

Washington law is unequivocal: extrinsic evidence is inadmissible absent a finding of ambiguity and when a deed's language is unambiguous, the grantor's intent must be

determined solely from the four corners of the document**.** *Sunnyside Valley Irrig. Dist. v. Dickie*, 149 Wn.2d 873, 880, 73 P.3d 369 (2003) *citing Zobrist v. Culp,* 95 Wash.2d 556, 560, 627 P.2d 1308 (1981); *City of Seattle v. Nazarenus*, 60 Wash.2d 657, 665, 374 P.2d 1014 (1962); *Bale v. Allison*, 294 P.3d 789, 797 n.5 (Wash. App. 2013); *Hollis v. Garwall,* Inc., 137 Wn.2d 683, 695–96, 974 P.2d 836 (1999) citing *Mountain Park Homeowner's Ass'n, Inc. v. Tydings*, 883 P.2d 1383, 1387 (Wash. 1994) (en banc) ("Only in the case of ambiguity will the court look beyond the document to ascertain intent from surrounding circumstances").

Parol evidence may clarify ambiguous terms but can neither set aside the deed's purpose nor contradict the unambiguous terms on the deed's face. *Vavrek v. Parks*, 6 Wn. App. 684, 690, 495 P.2d 1051 (1972). *Newport Yacht Basin*, 168 Wn. App. at 60; *Niemann v. Vaught Cmty. Church*, 113 P.3d 463, 467 (Wash. 2005).

RCW64.04.010 (Statute of Frauds) mandates that conveyances be in writing. RCW64.04.020 and RCW64.04.030 set forth the statutory requirements for deeds; once those requirements are met and the language is clear, courts may not rewrite the instrument based on outside statements.

The July 24 warranty deed (CP872), quitclaim deed (CP873), and August 21 Warranty deed (CP874) conveyed the property outright to Perez, recited consideration, contained no conditional language, and were notarized and delivered. The lower courts allowed extrinsic evidence to override and contradict the written terms**,** contrary to RCW64.04.010, *Vavrek, and Newport.* The deeds' terms are undisputed, stating clear conveyance with no ambiguous language.

This conflicts with *Branson's* holding that plain statutory language governs without extrinsic qualifiers (at 4), as the deeds' unambiguous terms require no clarification from post-execution statements." This also violates *Bale v. Allison*, 173 Wn. App. 435, 447, 294 P.3d 789 (2013), which prohibits

creating ambiguity where none exists, and *Newport Yacht Basin Ass'n v. Supreme Nw., Inc.*, 168 Wn. App. 56, 60, 277 P.3d 18 (2012), against contradicting clear terms.

Permitting such evidence to override unambiguous deeds introduces pervasive uncertainty, enabling estates to challenge recorded conveyances with after-the-fact hearsay, thereby destabilizing property transactions and the recording system statewide.

3. Presumption of Delivery

Possession of an executed deed by the grantee establishes a "strong presumption" of delivery, rebuttable only by "clear, cogent, and convincing evidence" that is "highly probable" and leaves no substantial doubt. *In re Pappuleas' Estate*, 5 Wn. App. 826, 828, 490 P.2d 1340 (1971); *Raborn v. Hayton*, 34 Wn.2d 105, 109, 208 P.2d 133 (1949). This presumption protects reliance interests and ensures certainty in property transfers upon the execution and delivery of a deed, it will be presumed that the instrument is what it purports to be, and the

burden is on the one asserting otherwise. *McCoy v. Lowrie*, 42 Wn.2d 24 (1954) *citing Moore v. Gillingham*, 22 Wn. (2d) 655, 157 P. (2d) 598 (1945).

Perez's physical possession of the deeds (CP872-874,1709–1734), paying off the mortgage (VRP Vol. III at 65), and a sent written tenant agreement allowing Betty to remain in the home until her passing are undisputed facts confirming delivery and reliance.

The COA found no delivery, relying solely on post-execution statements to Pelentay (e.g., CP1083,1095), which contradicts *Pappuleas* and *Raborn* by lowering the evidentiary threshold to rebut the presumption of delivery. This approach invites uncertainty, allowing delivery challenges years later based on vague, third-party statements, thereby threatening the stability of Washington's real estate market and the reliability of recorded titles.

4. Ignoring the August 21, 2021 Deed:

The court never addressed this deed's independent validity, despite its execution, notarization, and delivery before trust creation (CP874,1510–1511). A warranty deed conveys all the grantor's interest unless otherwise stated (*Crafts v. Pitts*, 161 Wn.2d 16, 162 P.3d 382 (2007)). The court's focus on the July 24 deeds overlooked an additional valid deed, depriving Perez of his property rights. The August 21 deed conveys the property for "TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION in hand paid," was signed and notarized on August 16 with an effective date of August 21 (CP874) and was delivered to and accepted (CP1709-1734), free of any conditions, with express acknowledgment that "title to the property is marketable at the time of this conveyance".

Notably the August 21 deed clearly states:

> GRANTOR ACKNOWLEDGES THAT TITLE TO THE PROPERTY IS MARKETABLE AT THE TIME OF THIS CONVEYANCE.

This is clear and unambiguous language indicates that the transfer was made at that time; i.e. at the effective date of August 21, 2021.

The trial court did not properly approach the deed as presumptively valid or require evidence establishing intent at the time—but rather after—to overturn it. The court failed to analyze this deed's validity, assuming it was superseded by later actions (Opinion at 14). This affects not only the claims, but the subject matter jurisdiction itself, which the Court failed to review. All other discussions or deeds after this are simply the result of the grantor changing her mind after the fact. This oversight ignores its compliance with RCW 64.04.030 and evidence of delivery.

If appellate courts can affirm the invalidation of deeds without even analyzing an independently valid conveyance, no property owner can be certain that recorded documents will be considered in defending their title.

5. Dead Man's Statute Violation

RCW 5.60.030 prohibits testimony or documentary evidence concerning transactions with a deceased person when offered against their estate or successors, unless waived, (*Thor v. McDearmid*, 63 Wn. App. 193, 197–98, 817 P.2d 1380 (1991); *Hirt v. Entus*, 37 Wn.2d 418, 224 P.2d 620 (1950)). This safeguard applies to statements used to prove or disprove the transaction's occurrence.

The trial court and COAs relied on, *inter alia*, emails and texts which Perez was not a part of including: (a) August 11 email from Betty to Pelentay calling an agreement "not yet final" even though it related to the Letter of Last Wishes and not the Deeds (CP1083); (b) August 16 text to Pelentay stating "Linda is getting my house for $50k" (CP1095); and (c) August 22 text to Pelentay about selling upon death (CP1098).—to contradict the deeds' terms and negate delivery.

These post-deed statements of the deceased were not to Perez, but to a third party violated RCW 5.60.030, were used to

contradict the express terms of the deeds, and as primary evidence to negate delivery. Further, they were relied upon to find a lack of intent "on that date", without any finding or consideration of evidence that she did not have every intention to transfer the property on that date, thought it was done, then changed her mind and acted as if it was not and thus the July 24 deeds were invalid (Opinion at 14). These reflect Betty's later indecision (CP1201), not her intent at signing, and there was no finding of such.

This ruling effectively nullifies RCW 5.60.030, allowing third-party hearsay from the decedent to undo executed deeds. The precedent encourages strategic use of the DMS to admit otherwise inadmissible evidence.

6. Misapplication of RCW 64.80.080 (TODD Revocation)

The panel held that an August 27 TODD (CP1131–1132) to Respondent, individually, revoked all earlier deeds. The statute is clear that a TODD revokes only a prior TODD and does not limit the effect of an inter vivos transfer of the

property.; RCW 64.80.080. Once Betty conveyed title to Perez via the August 21 deed, executed August 16, effective August 21, 2021 (CP874,) — she had no remaining interest to convey. *Miller v. Miller*, 32 Wn.2d 438, 442, 202 P.2d 277 (1949).

The COAs' contrary holding effectively rewrites RCW 64.80.080, ignores the principle that a grantor with no interest cannot convey, and undermines the finality of completed inter vivos transfers. This conflicts with *Branson's* holding that plain statutory language governs without extrinsic qualifiers (at 4), as the deeds' unambiguous terms require no clarification from post-execution statements.

This interpretation rewrites the statute and gives TODDs an effect the Legislature expressly denied them. Without correction, TODDs will become a tool for retroactively defeating valid, recorded deeds.

7. CR15 "Gotcha" Ruling:

CR15(a) states that leave to amend "shall be freely given when justice so requires." Washington precedent holds that

cases should be decided on the merits, not on technical defects, absent prejudice to the opposing party. Modern rules of civil procedure are intended to allow the court to reach the merits, as opposed to disposition on technical niceties *Carle v. Earth Stove, Inc.*, 35 Wn. App. 904, 670 P.2d 1086 (1983); *Fox v. Sackman*, 22 Wn. App. 707, 591 P.2d 855 (1979). Courts should not reject amendments for procedural reasons in the absence of prejudice to the opposing party. *Wilson v. Horsley*, 137 Wn.2d 500, 974 P.2d 316 (1999); *Will v. Frontier Contractors, Inc.*, 121 Wn. App. 119, 89 P.3d 242 (2004). A trial court should deny a motion to amend a pleading only if the amendment would prejudice the opposing party. *Ives v. Ramsden*, 142 Wn. App. 369, 174 P.3d 1231 (2008); *Caruso v. Local Union No. 690 of Int'l Bhd. of Teamsters*, 100 Wn.2d 343, 670 P.2d 240 (1983); *United States v. Hougham*, 364 U.S. 310 (1960)).

Washington courts review the denial of a motion for leave to amend a pleading for abuse of discretion. *Hick v. King County Sheriff*, 143 Wn. App. 1050, 2008 WL 921842 (Wash. App. 2008); *Shelton v. Azar, Inc*., 90 Wn. App. 923, 954 P.2d 352 (1998)).

At the hearing on Perez's second motion to amend, the superior court explained to Perez what was defective about his motion for leave to amend, "[P]er the court rules, you did not provide a copy of your proposed amended complaint." Verbatim Rep. of Proc. at 29 (Opinion at 16-17). This is not correct; the court was telling Mr. Perez he had to provide a copy of the original complaint with his requested amendment. No where on Verbatim Rep. of Proc. at 29 does it mention Mr. Perez did not provide the amended complaint. CP1650 refers to the third motion to amend not the second motion to amend.

Perez's third motion to amend included the amended pleading, but the court denied it solely because the caption did not include the word "Proposed" (CP856). This was a purely

technical defect with no prejudice to Respondent, raised in the face of CR15's directive that amendments be freely granted, and contrary to Washington's policy of resolving cases on substantive merits.

Allowing procedural "gotcha" rulings like this creates a trap for self-represented and under-resourced litigants, undermining confidence in the fairness of the judicial process.

B. Issue of Substantial Public Interest — RAP 13.4(b)(4)

This case raises an issue of profound public importance with far-reaching consequences for every property owner, lender, title insurer, and real estate practitioner in Washington: whether the state's recording system and real property market can remain secure if facially valid, executed, notarized, and delivered deeds can be undone years later based solely on inadmissible, post-execution statements of a deceased grantor.

The COAs' decision does not merely affect the parties here; it creates systemic uncertainty in title security, deed drafting, trust litigation, and the scope of TEDRA. It erodes

trust in the state's recording system, undermining economic stability in real estate, expands TEDRA beyond its intended scope, risking misuse in countless future disputes and disproportionately impacts the most vulnerable, increasing the risk of predatory litigation and loss of homes.

1. Statewide Impact on Title Stability

Washington's recording system is designed to give certainty to bona fide purchasers, lenders, and owners by ensuring that recorded documents speak for themselves. Once a deed meets statutory formalities — writing, signature, acknowledgment, and delivery — it is presumed valid. (RCW 64.04.010–.030).

The COAs allowed the invalidation of the July 24 and August 21, 2021 deeds (CP872–874) without findings of ambiguity, fraud, forgery, or incapacity, relying solely on post-execution statements to third parties (e.g., CP1083,1095).

This precedent means that any heir, creditor, or trust beneficiary could challenge a recorded deed years after delivery and Title insurers may have to investigate grantors' personal communications, even for recorded and notarized deeds. Every Washington property owner is now at risk of losing their title if an estate can produce post-transfer statements suggesting a different intent.

If allowed to stand, this case invites litigation to "reopen" any conveyance where an estate can produce post-execution statements — regardless of the deed's clarity. This undermines confidence in real estate transactions and the recording system, increasing title insurance risk and litigation cost. This sets a dangerous precedent for any transfer where a person may have remorse for the transfer; they can just email someone else and act as if the conveyance wasn't completed.

2. *Exemplar Misuse of Trust and Estate Dispute Resolution Act*

TEDRA (RCW 11.96A.030(2)(c), .040(2)) is intended to facilitate the efficient resolution of disputes within trust and estate administration, not to adjudicate adverse title claims involving property never owned by the trust.

A "matter" under TEDRA includes the "determination of any question arising in the administration of an estate or trust, or with respect to any non-probate asset, or with respect to any other asset or property interest passing at death" — meaning disputes concerning property that is actually part of a trust or estate. RCW 11.96A.030(2)(c); *see also* (2)(g). Courts have no authority to adjudicate property disputes under TEDRA if the property was transferred before the trust existed.

Here, the property had been conveyed before the trust's creation and the issue was not if it was transferred at death, but during the decedent's lifetime. The deeds to Perez—including the August 21 warranty deed — were executed, notarized, and delivered (CP872-874,1510-1511) before the Quach Trust was

created on August 27. If valid, the property never entered the trust, and TEDRA jurisdiction invalid. By accepting TEDRA jurisdiction the trial court bypassed normal civil procedure for quiet title or declaratory judgment actions.

If unreviewed, trust litigants can bypass normal civil procedures in property disputes, disadvantaging bona fide grantees, simply by later creating a trust and claiming the property was placed in the trust. If this TEDRA expansion stands, any party can sidestep normal civil procedure by creating a trust and alleging the disputed property "belongs" to it, even if it was transferred before trust creation. This weaponizes TEDRA as a shortcut to seize property without the protections of quiet title or declaratory judgment actions.

If a person's recorded, notarized deed can be overturned based on inadmissible parol evidence, the certainty of property ownership collapses for those least able to protect it.

3. *Chilling Effect on Real Estate Transactions and Deed Drafting*

Real estate attorneys, title insurers, and escrow companies rely on the principle that a clear, recorded deed is final unless challenged for traditional reasons (fraud, forgery, incapacity) under RCW64.04.010–.030. The COAs' ruling will compel practitioners to include redundant "belt-and-suspenders" language in deeds to guard against post-execution reinterpretation, contradicting the simplicity envisioned by statute.

For private transfers like Perez's, this increases transaction costs and complexity, deterring such arrangements. The decision chills real estate activity, particularly for vulnerable parties, as grantors and grantees may hesitate to rely on executed deeds fearing later invalidation based on hearsay. This erosion of trust in the deed process undermines economic stability and access to property ownership, necessitating this Court's review to restore clarity and confidence.

C. Considerations Governing Acceptance of Review

This case presents an ideal vehicle for the Washington Supreme Court to address critical issues central to the state's real property system, supported by a fully developed record and clear legal questions. It affects every property owner, lender, title insurer, and estate practitioner, involving statutory interpretation, evidentiary rules, and jurisdictional disputes without factual ambiguity. The record includes all relevant documents and communications, with uncontested execution and delivery, making it an optimal case for authoritative guidance.

1. Confirming the Finality of Properly Executed, Notarized, and Delivered Deeds

The bedrock of Washington real property law—reaffirmed in *Hollis v. Garwall, Inc.*, 137 Wn.2d 683 (1999), *Crafts v. Pitts*, 161 Wn.2d 16 (2007), and *In re Pappuleas' Estate*, 5 Wn. App. 826 (1971)—holds that a deed, once executed, notarized, and delivered, vests title, rebuttable only by clear, cogent, and convincing evidence of invalidity. The

July 24 and August 21 deeds to Perez (CP872–874) meet these criteria, with delivery evidenced by possession, mortgage payoff, and ownership actions. The lower courts' reliance on post-execution hearsay to set aside these deeds threatens the finality of every recorded conveyance. This Court's review is imperative to reaffirm that such presumptions cannot be overcome by speculation or inadmissible evidence.

2. Enforcing the Parol Evidence Rule and Dead Man's Statute in Real Property Disputes

No ambiguity exists in the deeds, yet the courts relied on extrinsic, post-deed communications to find "conditional" delivery, violating the parol evidence rule (*Hollis v. Garwall, Inc.*, 137 Wn.2d at 695–96). Similarly, Betty's private statements to Pelentay, barred by RCW 5.60.030, were used to negate the deeds, contravening *Thor v. McDearmid*, 63 Wn. App. 193 (1991). This Court's intervention is essential to restore these evidentiary safeguards, protecting property rights and ensuring judicial integrity in deed disputes.

3. Clarifying the Limited Scope of RCW 64.80.080

RCW 64.80.080 expressly limits a TODD to revoking only prior TODDs, not inter vivos deeds. The August 27, TODD (CP1131–1132), executed after the July/August deeds vested title in Perez, had no effect, as Betty lacked an interest to convey (*Miller v. Miller*, 32 Wn.2d at 442). The courts' contrary holding misapplies *Sunnyside Valley Irrig. Dist. v. Dickie*, 149 Wn.2d 873 (2003), and requires this Court's review to reaffirm the statutory boundary between TODDs and traditional deeds.

4. Defining the Jurisdictional Limits of TEDRA

TEDRA (RCW11.96A.040(2)) applies to trust-related disputes, not adverse title claims involving pre-trust property (*Matter of Saltis*, 94 Wn.2d 889, 621 P.2d 716 (1980)). The property was conveyed to Perez before the Quach Living Trust (CP874, 1201), and if valid, never entered the trust, precluding TEDRA jurisdiction. The court's acceptance of TEDRA jurisdiction, restricting Perez's procedural rights, conflicts with *Coleman v. Larson*, 49 Wash. 321, 95 P. 262 (1908). If this

TEDRA overreach stands, litigants can avoid the normal protections of property litigation by retroactively claiming trust ownership over property never owned by the trust, effectively weaponizing TEDRA to seize property.

Review is warranted to clarify that TEDRA cannot be misused to bypass jurisdictional limits or strip protections from grantees in property disputes.

D. Attorney's Fees

The award of attorney's fees to Respondent under RCW11.96A.150 must be reversed. The property never entered the trust and TEDRA jurisdiction never attached. *See* RCW11.96A.030(2)(c); RCW 11.96A.040(2). Without jurisdiction, the superior court lacked authority to award fees. *Coleman v. Larson*, 49 Wash. 321, 95 P. 262 (1908).

Even if TEDRA were applicable, equitable fee-shifting cannot be justified here. Petitioners defended recorded, notarized, and delivered deeds supported by substantial consideration. Their defenses were grounded in well-

established Washington precedent, including the parol evidence rule, presumption of delivery, and limitations on RCW64.80.080. Punishing Petitioners with fees for asserting meritorious claims of title undermines equity and chills future litigants from defending property rights secured by statute.

Petitioners respectfully request an award of their reasonable attorney's fees and costs incurred in the COA and in this Court under RAP 18.1 and RCW 11.96A.150. Unlike Respondent, Petitioners' position advances controlling law and protects the statewide interest in the stability of recorded title. Equitable considerations weigh strongly in favor of awarding Petitioners their fees, both to offset the burden of defending valid deeds against an improper TEDRA action and to deter misuse of TEDRA in future title disputes.

VI. CONCLUSION AND RELIEF REQUESTED

This case presents the Court with a rare opportunity to provide much-needed clarity on core questions of Washington property law and procedural fairness. The issues here are not

abstract or academic — they affect the day-to-day security of title for millions of Washingtonians. A clear, authoritative ruling will protect the integrity of the state's entire real property system.

The COAs' decision:

a) Directly conflicts with controlling Washington Supreme Court precedent and other COAs cases on the parol evidence rule, presumption of delivery, and the DMS.

b) Creates an issue of exceptional public importance by destabilizing recorded title and undermining the reliability of Washington's recording system.

c) Departs from the usual course of proceedings by allowing TEDRA jurisdiction over pre-trust property transfers, admitting testimony barred by RCW5.60.030, and denying a CR15 amendment on a procedural technicality.

d) Presents a perfect vehicle for review — with a fully developed record, clean legal issues, and far-reaching consequences for property owners, estate practitioners, lenders, and title insurers statewide.

If left uncorrected, this decision tells every Washington property owner:

a) Even if you sign, notarize, deliver, and record a deed — and even if the grantee pays full consideration — your estate can later undo it based on oral statements to someone else, after the fact, with no written conditions in the deed.

b) TODDs can be misused to revoke traditional deeds, contrary to statute.

c) Trustee can circumvent standard civil procedure and evidentiary safeguards by recasting adverse title claims as TEDRA disputes.

d) These results are not only contrary to law — they are dangerous. They undermine public confidence

in the recording system, create uncertainty in every real estate transaction, and open the door to opportunistic litigation against the unrepresented, the elderly, and the financially vulnerable.

For these reasons, Petitioners **Bryan Perez and Linda Quach** respectfully request that this Court:

1. **Grant review** under RAP13.4(b)(1), (2) and (4);
2. **Reverse** the Court of Appeals' June 30, 2025 opinion;
3. **Hold** the July 24 and August 21, 2021 deeds are valid;
4. **Dismiss** the TEDRA petition for lack of subject matter jurisdiction;
5. **Vacate** the award of attorney's fees;
6. **Remand** for entry of judgment quiet title to Perez, and grant counterclaim filing;
7. **Award** attorney fees, court cost, or any other costs related to COA and this petition to the Petitioner; and
8. **Grant** such other and further relief as justice requires.

This document contains 6,500 words, excluding the parts of the document exempted by the word county by RAP 18.17.

DATED: October 3, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, the undersigned declare: I am over the age of eighteen years and not a party to the cause; I certify under penalty of perjury under the laws of the United States and of the State of Washington that on October 3, 2025, I caused the following document(s):

AMENDED PETITION FOR REVIEW

To be served on the following via e-mail through the Washington State Appellate Courts' Portal, which automatically serves a copy of the uploaded file upon all active case participants with an email address and any additional interested individuals for which an email address is manually entered.

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

Ashley Sandler

Ashley Sandler, Paralegal
Appellate Counsel

FILED
6/30/2025
Court of Appeals
Division I
State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

In the Matter of the Estate of: QUACH LIVING TRUST, MARY PELENTAY, Individually and as Trustee of the Quach Living Trust, U/T/I August 27, 2021, Respondent, v. BRYAN PEREZ, individually, and LINDA QUACH, and any community assets pursuant to any Committed Intimate Relationship, Appellants.	No. 86535-8-I DIVISION ONE UNPUBLISHED OPINION

LEE, J.[1] — This case was brought by Mary Pelentay, the Trustee of the Quach Living Trust, against Bryan Perez and Linda Quach for the recovery of real property, which Pelentay alleged belonged to the Trust. Thi Ut "Betty" Quach[2] was diagnosed with terminal cancer, and in her final months she made several different plans for the disposition of her assets, including six different deeds purportedly conveying her home to three different parties, which included Perez and the Trust. After Betty died, Perez and his partner, Linda (Betty's sister), moved into the property, claiming that Perez was the lawful owner by deed.

[1] Judge Lee is serving in Division One of this court pursuant to RCW 2.06.040.

[2] To distinguish the Quach sisters, they will be referred to as Betty and Linda. No disrespect is intended.

Pelentay brought this action on behalf of the Trust to quiet title and eject Perez and Linda. The superior court granted Pelentay's motion for partial summary judgment, ordering quiet title in the Trust and ejectment of Perez and Linda. Perez and Linda appeal, asserting, among other alleged errors, that the superior court improperly considered evidence barred by the parol evidence rule and dead man's statute, and that there were genuine issues of material fact precluding summary judgment. Because we find that the superior court did not abuse its discretion in considering evidence at summary judgment, and because there was no genuine issue of material fact as to Betty's lack of intent to deliver the deeds to Perez, we affirm.

FACTS

Betty died on December 19, 2021. She had been diagnosed with cancer earlier in 2021. Pelentay, Betty's longtime friend, helped Betty get her affairs in order. Pelentay assisted Betty in hiring a trust and estate attorney, Nicholas Alexander, who began working with Betty in late July or early August 2021. Alexander described "a sense of urgency" surrounding Betty's end of life planning, further complicated by Betty's indecision and her seeming attempts to accommodate her family's wishes. Clerk's Papers (CP) at 1201. Betty owned a house located in Des Moines, WA (the property), which is the subject of the dispute in this appeal.

On July 24, 2021, Betty signed a statutory warranty deed purporting to convey the property to Perez. This warranty deed conveyed the property "for and in consideration of FIFTY THOUSAND DOLLARS AND OTHER GOOD AND

VALUABLE CONSIDERATION in hand paid." CP at 1423. That same day, Betty signed a quitclaim deed, conveying the property to Perez "for and in consideration of: fifty thousand dollars and love and affection." CP at 1425.

On August 2, Betty e-mailed Perez, informing him that, effective August 3, he was to be designated the "sole gift recipient" for the property. CP at 984. However, this was contingent on an agreement that (1) Perez, through Linda, would pay $50,000, and (2) Jason Bangs, Betty's longtime romantic partner, would remain a tenant of the property for six months or receive a cash payout of $17,400 if Bangs decided to not remain a tenant on the property. Betty then detailed the payments already made and payments still outstanding under the agreement.

On August 3, Betty executed a transfer on death deed (TODD), naming Perez as the sole beneficiary. On August 11, Betty wrote her first of what would end up being several letters of last wishes. In it, Betty stated that her property "has been gifted to Bryan Perez," per her "transaction and agreement between him and I, confirmed August 2nd, 2021 via phone." CP at 1091. But Betty told Pelentay in an e-mail on August 11, that the letter was "not yet final" and that she would "make edits." CP at 1083. Betty wrote second and third versions of the letter on August 16 and August 20.

Throughout early- and mid-August, Perez and Linda continued to make payments to Betty for the property. On August 16, Betty text messaged Pelentay, "Linda is getting my house for $50k." CP at 1095. By August 17, Perez and Linda had paid Betty $27,600. August 21, Betty signed another statutory warranty deed, conveying the property to Perez for "TEN DOLLARS AND OTHER GOOD AND

VALUABLE CONSIDERATION." CP at 1427. Although Betty signed the warranty deed on August 21 and the document contained language stating a "Document Effective Date" of August 21, the document was notarized on August 16. CP at 1427. Also on August 21, Betty and Perez e-mailed each other about the agreement, with Perez writing, "[T]o get more clarity this is the last and final documents needed to seal the agreements with no misinterpretations." CP at 1432. In a 4:21 AM e-mail on August 22, Betty told Perez:

> I actually have been quite stressed by this [] transaction and the affect it has had on Linda and my relationship, there is [a] ton of tension and she is very bothered and said we regret[] making the offer. This really hurts me to the core. I can[']t go anyplace knowing I caused this. I have been able to recover most [of the] funds issued in cash by Linda and can pay her back if you want to opt out. I can find another alternative or just move[] forward as planned and shouldn't ever have desired to do something for myself.
>
> Anyways, we can chat more but hopefully this helps you with a final decision. Like I said I can pay most of what has already been cash paid to me back to Linda and pretend this never happened.

CP at 1432. The e-mails between Betty and Perez also included an unsigned rental agreement for Bangs and a spreadsheet detailing that the total amount owed on the house was $95,000 more than they had earlier discussed. Eight hours after Betty's 4:21 AM e-mail on August 22 to Perez, Betty text messaged Pelentay and told her, "Ok all done and decision is to sell home upon death and split proceeds amongst family out right." CP at 1098.

Documents executed by Betty on August 27 demonstrate Betty's decision to sell the property. Betty established the Quach Living Trust and named Pelentay as her successor trustee. She executed a bill of transfer and notice of assignment

transferring the property to the Quach Living Trust. She signed a TODD, conveying the property to Pelentay and revoking "all prior dispositions of every kind previously made" with respect to the property. CP at 1131. And lastly, Betty wrote a new letter of last wishes which removed the earlier provision regarding the gifting of the property to Perez; instead, the new letter referenced the TODD to Pelentay, directing Pelentay to sell the property and divide the proceeds "equally amongst immediate family members." CP at 1144 (boldface omitted).

On September 2, Betty had her bank issue a cashier's check to Linda for $27,600. Linda endorsed the cashier's check and the money cleared out of Betty's bank account.

Betty wrote her final letter of last wishes on November 16. In that final letter, Betty stated that the property was subject to a TODD to Pelentay, and directed that the property be sold with equal thirds of the proceeds going to Bangs; Pelentay; and the final third to cover any outstanding debt with the remainder to go to St. Jude, Seattle Children's Hospital, and The Goodtimes Project.

Betty's uncertainty about the final disposition of the property continued to her final days. On December 14, she text messaged Pelentay, telling Pelentay that she wanted to update the TODD to leave the property to Bangs. Pelentay told Betty that she would need to speak with Alexander regarding the proposed change, and Betty told her, "It's what I want." CP at 1159. Pelentay died several days later, on December 19, without executing any new TODD.

In January 2022, Bangs moved out of the property; Bangs never received any payment from Perez. Also in January, Pelentay had significant work done to

the property after Jennie Quach, Betty's other sister and a licensed realtor, effectively told Pelentay that the property "would not sell" without the work. CP at 1562. Pelentay was later sued for payment of the work performed on the property and had to pay the contractor $80,267.01.

In February 2022, Pelentay received $1,140,000 in insurance policy proceeds from Betty's death. Pelentay distributed the insurance proceeds "as directed in Betty's November 16, 2021 Letter of Last Wishes." CP at 1065.

In April 2022, Perez sent Pelentay a "letter formally informing [Pelentay] to stop further actions," telling Pelentay that he was the legal owner of the property, that "YOU HAVE NO LEGAL RIGHTS TO THE FORESAID PROPERTY," and "[i]f you fail to stop unlawful actions, you will be subject to all appropriated civil actions. If you want a WAR get your combat bo[o]ts on. I have had mine on for 34 years. Battle ground will be the King County Court house." CP at 887, 889. Perez and Linda moved into the property in May 2022, and Perez subsequently paid off the $353,000 mortgage balance on the property.

On May 25, 2023, Pelentay, acting individually and as trustee, filed a TEDRA petition against Perez and Linda, asserting causes of action for quiet title and lis pendens, constructive trust, ejectment, trespass, unjust enrichment, and attorney fees. Pelentay sought the court's permission to sell the property, reimburse herself for costs incurred, and then distribute the proceeds "pursuant to Betty Quach's November 19 [sic], 2021 Letter of Last Wishes." CP at 19.

On February 2, 2024, Pelentay filed a motion for partial summary judgment, seeking a constructive trust, a writ of ejectment, and attorney fees and costs.

Perez opposed the motion as a self-represented litigant, arguing that the evidence Pelentay relied upon were violations of the dead man's statute, parol evidence rule, and rule against hearsay, among others. Perez contended that the deeds conveying the property to him were unambiguous, recorded, in compliance with chapter 64.04 RCW, and that any later conveyances by Betty were ineffective because she no longer had an interest to convey.

On March 6, 2024, the superior court granted Pelentay's motion for partial summary judgment. The superior court found that Betty lacked the present intent to deliver the July 24, 2021 deed that Perez recorded. The superior court also found that there was no issue of material fact as to Betty's intent to transfer the property to Perez; that Betty, Perez, and Linda had "never reached a meeting of the minds;" and that no valid agreement was ever formed. CP at 1674. The superior court ordered quiet title in favor of Pelentay as trustee, authorized sale of the property, authorized a writ of ejectment, and granted attorney fees and costs to Pelentay.

On April 3, 2024, Perez and Linda, now represented by counsel, timely filed a notice of appeal. Subsequently, the superior court granted Perez and Linda's motion to stay judgment and sale of the property pending the appeal.

ANALYSIS

A. SUBJECT MATTER JURISDICTION

Perez contends that the superior court lacked subject matter jurisdiction over the case. Perez acknowledges that superior courts have jurisdiction over probate matters, but that whether the case was properly before the court as a probate matter is "consequential," because TEDRA petitions are "generally placed on a fast track that limits discovery and does not allow a jury trial." Br. of Appellant at 17, 18. Perez argues that the question before the court was not a probate matter; rather, the issue was whether an in vivo warranty deed was valid. We disagree.

Whether a particular court has jurisdiction is a question of law we review de novo. *Young v. Clark*, 149 Wn.2d 130, 132, 65 P.3d 1192 (2003). "Where a court lacks subject matter jurisdiction to issue an order, the order is void." *Buecking v. Buecking*, 179 Wn.2d 438, 446, 316 P.3d 999 (2013), *cert. denied*, 574 U.S. 869 (2014).

"Under TEDRA, superior courts have original subject matter jurisdiction over trusts 'and all matters relating to trusts.'" *Matter of Estate of Ferara*, 29 Wn. App. 2d 139, 162, 540 P.3d 194 (2023) (quoting RCW 11.96A.040(2)). A "matter" under TEDRA includes the "determination of any question arising in the administration of an estate or trust, or with respect to any nonprobate asset, or with respect to any other asset or property interest passing at death." RCW 11.96A.030(2)(c). "TEDRA gives courts broad authority to 'proceed with such administration and settlement in any manner and way that to the court seems right and proper, all to

the end that the matters be expeditiously administered and settled by the court.'" *Ferara,* 29 Wn. App. at 164 (quoting RCW 11.96A.020(2)).

The superior court had subject matter jurisdiction to hear the TEDRA petition. This was an action brought by the trustee, Pelentay, for the recovery of property alleged to have passed to the Quach Living Trust upon Betty's death. This was a trust matter and, therefore, within the original subject matter jurisdiction of the superior court under TEDRA.[3] RCW 11.96A.040(2).

B. PARTIAL SUMMARY JUDGMENT

Perez argues that the July 2021 deeds transferred the property from Betty to him, and that, because the deeds are facially valid and unambiguous, any evidence subsequent to July 24, 2021 is irrelevant, hearsay, and in violation of the parol evidence rule or dead man's statute. Perez contends that Betty deeded away any interest she had in the property in July 2021, so none of her subsequent acts, which he characterizes as a "change of heart," matter to the determination of ownership of the property. Br. of Appellant at 25. Perez also asserts that the superior court should have granted his motion to strike many of Pelentay's

[3] Perez makes a passing reference to "probate venue" in his assignments of error. Br. of Appellant at 4. Venue was an issue that Perez raised at the superior court, but Perez makes no arguments in his appellate brief relating to the issue. Therefore, Perez has waived any attempted challenge to "probate venue" on appeal. *See Cowiche Canyon Conservancy v. Bosely*, 118 Wn.2d 801, 809, 828 P.2d 549 (1992). Regardless, venue was proper because the property at issue was located in the same county as the superior court. *See* RCW 11.96A.050(1)(b) (Venue is appropriate for trusts in the superior court of "the county where any real property that is an asset of the trust is located.").

summary judgment exhibits because they violated the parol evidence rule and dead man's statute.[4] We disagree.

1. Motion to Strike

In order to determine whether the superior court properly granted partial summary judgment, we must first determine if the superior court properly considered only admissible evidence. *See Burmeister v. State Farm Ins. Co.*, 92 Wn. App. 359, 365, 966 P.2d 921 (1998) (Courts should "consider only admissible evidence in a motion for summary judgment."). The superior court appears to have denied Perez's motion to strike when it stated in the partial summary judgment order that the court considered all of the submitted exhibits.

"We review a trial court's evidentiary rulings for an abuse of discretion." *Gilmore v. Jefferson County Pub. Transp. Benefit Area*, 190 Wn.2d 483, 494, 415 P.3d 212 (2018). A court abuses its discretion when its rulings are manifestly unreasonable or based on untenable grounds. *Id.*

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[4] In his appellate brief, Perez does not identify any specific evidence as being violative of the dead man's statute. When questioned at oral argument about specific evidence of violations of the dead man's statute, Perez suggested that certain emails were violations. Wash. Ct. of Appeals oral arg., *In Re Quach Living Trust*, No. 86535-8-I (Apr. 22, 2025), at 18 min., 21 sec., https://www.tvw.org/watch/?clientID=9375922947&eventID=2025041404&startStreamAt=1101&stopStreamAt=1165.

Issues appealed which are not supported by references to the record should not be considered. *See* RAP 10.3(a)(6); *Satomi Owners Ass'n v. Satomi, LLC*, 167 Wn.2d 781, 808, 225 P.3d 213 (2009) (Without adequate and cogent briefing, the court should decline to consider an issue.). Moreover, the dead man's statute does not bar documentary evidence. *Thor v. McDearmid*, 63 Wn. App. 193, 202, 817 P.2d 1380 (1991). Beyond counsel's limited reference to documentary evidence at oral argument, we are left to speculate as to the scope and specifics of the alleged dead man's statute violations. Therefore, we decline to address the issue.

The parol evidence rule states, "'extrinsic evidence is not admissible to add to, subtract from, vary, or contradict written instruments which are contractual in nature and which are valid, complete, unambiguous, and not affected by accident, fraud, or mistake.'" *Emrich v. Connell*, 105 Wn.2d 551, 555-56, 716 P.2d 863 (1986) (quoting *Buyken v. Ertner*, 33 Wn.2d 334, 341, 205 P.2d 628 (1949)). The rule applies only to writings intended by the parties to be an integration or, "final expression of the terms of the agreement." *Id.* at 556. In making the determination of whether the parties intended the written document to be a final expression of terms, the court, acting as fact finder, must consider all relevant extrinsic evidence. *Id.*

Here, the parties do not dispute the terms of the July 24, 2021 deeds. Rather, the parties dispute the validity of the July 24 deeds. Thus, the challenged evidence was not used to "add to, subtract from, vary, or contradict" the deeds in violation of the parol evidence rule.[5] *Id.* at 555 (quoting *Buyken*, 33 Wn.2d at 341).

When there is no agreement, the parol evidence rule is inapplicable. *See id.* at 555-56. The record shows that the superior court considered the extrinsic evidence to determine whether the parties had reached an agreement at the time of the July 24, 2021 deeds. That was proper. Determining that they had not

[5] Perez relies on *Newport Yacht Basin Ass'n of Condo. Owners v. Supreme Nw., Inc.*, 168 Wn. App. 56, 60, 277 P.3d 18 (2012), for the proposition that extrinsic evidence should not be considered when a deed is clear and unambiguous. However, in *Newport Yacht*, the court addressed whether extrinsic evidence could be used to show that the grantor intended to convey a lesser interest than the fee simple interest indicated in the deed. *Id.* at 60-61. Thus, the terms of the deed were disputed, but that a valid conveyance was made was not. *Id.* at 72. Here, unlike in *Newport Yacht*, whether the interests in the July 24 deeds were validly conveyed is at issue, not the terms of the deeds.

reached an agreement, the superior court did not abuse its discretion in rejecting Perez's parol evidence challenge.[6]

2. Grant of Partial Summary Judgment

"We review summary judgment orders de novo, engaging in the same inquiry as the trial court. Summary judgment is warranted only when there is no genuine dispute of material fact and the moving party is entitled to judgment as a matter of law." *Northgate Ventures LLC v. Geoffrey H. Garrett PLLC*, 10 Wn. App. 2d 850, 856, 450 P.3d 1210 (2019). We view all facts and reasonable inferences in the light most favorable to the nonmoving party. *Id.*

The issue before the superior court was whether the July 24, 2021 deeds were conveyed. "A deed does not take effect until delivery." *Raborn v. Hayton*, 34 Wn.2d 105, 109, 208 P.2d 133 (1949).[7] "To constitute a delivery, it must clearly appear that it was the intention of the grantor that the deed would pass title *at the time*." *Anderson v. Ruberg*, 20 Wn.2d 103, 107, 145 P.2d 890 (1944) (emphasis added). "The intention may be made manifest by acts or words of both or by one without the other, but what is said or done must clearly manifest the intention of

[6] Perez argues that Pelentay's motion for partial summary judgment should have been stricken because it contained "over two hundred [technical] errors in violation of LCR 7." Br. of Appellant at 3. Perez fails to provide any argument on appeal to support this challenge. We do not consider issues on appeal "not supported by any reference to the record, nor by any citation of authority." *Cowiche Canyon Conservancy*, 118 Wn.2d at 809. Without any identification as to what these two hundred technical errors are, we decline to consider the issue.

[7] At oral argument, Perez's counsel agreed that delivery is necessary for a deed's conveyance to be valid. Wash. Ct. of Appeals oral arg., *In Re Quach Living Trust*, No. 86535-8-I (Apr. 22, 2025), at 3 min., 34 sec., https://www.tvw.org/watch/?clientID=9375922947&eventID=2025041404&startStreamAt=214&stopStreamAt=272.

the grantor that the deed shall *at once* become operative and that the grantor shall lose control over [the deed]." *Puckett v. Puckett*, 29 Wn.2d 15, 19, 185 P.2d 131 (1947) (emphasis added). "Possession by the grantee raises a presumption of delivery, with its included intent, that can be rebutted only by clear and convincing evidence." *Raborn*, 34 Wn.2d at 109.

Perez's possession of the July 24, 2021 deeds raised a presumption that Betty had intended to convey the property to him at the time the deeds were executed. However, as to the issue of Betty's intent to deliver with regard to the July 24, 2021 deeds, the undisputed evidence shows that Betty did not have the intent to deliver the July 24 deeds on that date because the transfer of the property was conditional, and Betty was in an ongoing process of deciding how to dispose of the property.

The undisputed record shows that Betty executed multiple deeds purporting to convey the property—six deeds during a five-week period. And Betty made frequent and significant changes to her letters of last wishes during that same period. Further, as evidenced by Betty's email to Pelentay on August 11, Betty considered the agreement to transfer the property to Perez as "not yet final." CP at 1083. Betty's later text message to Pelentay on August 22 clearly stated Betty's decision to sell the property upon Betty's death.

The undisputed record also shows that Perez never fulfilled the conditions discussed by the parties before Betty's death, including Perez paying Betty $50,000, and providing a six-month tenancy or payment of equivalent value to Bangs. Linda even accepted and endorsed Betty's cashier's check that returned

the funds Perez and Linda had advanced towards the purported purchase of the property.

Perez did not refute Pelentay's evidence to create a genuine issue of material fact that Betty did not have the intent to deliver the July 24, 2021 deeds on that date. Instead Perez merely asserted that Pelentay's evidence was inadmissible, that the deed conveyances were valid because the deed was unambiguous, and that Betty's two subsequent conveyances to him reinforced her intent to convey. Perez also asserts that while consideration may "not have been finalized immediately after the deed executions," he did settle "the debt on the house at $353,500.00." CP at 1416.

Perez was entitled to the presumption that the July 24 deeds were valid based on his possession of the deeds. *See Raborn*, 34 Wn.2d at 109. But this presumption was rebutted by the undisputed evidence that clearly and convincingly showed Betty did not deliver the July 24 deeds because she did not intend to pass title to Perez on that date; the deeds were conditioned on terms that Perez did not meet before Betty's death. The record shows continuing negotiations between Perez and Betty after July 24; Betty's subsequent purported conveyances of the property; Betty's return of any advanced funds for the property to Linda, which Linda accepted; and the surrounding context that Betty was terminally ill and in the midst of ongoing decision-making on how to dispose of her possessions, which is evidenced by her changing letters of last wishes.

As to the critical issue of whether the July 24 deeds were delivered and, thus, valid, the undisputed record shows that Betty did not intend for title to the

property to pass to Perez on the day Betty executed the July 24 deeds. Therefore, there is no genuine issue as to material fact that the July 24 deeds did not transfer title of the property to Perez on July 24. Accordingly, the superior court did not err in finding that Pelentay was entitled to judgment as a matter of law, nor in granting partial summary judgment in favor of Pelentay.[8]

C. PEREZ'S MOTIONS FOR LEAVE TO AMEND

Perez argues that the superior court erred in denying his motions for leave to amend. Perez contends that his four motions for leave to amend his pleading document should have been granted. He asserts that the superior court's rulings were based on technical grounds and in violation of CR 15(a), which directs such motions to be "freely given when justice so requires." We disagree.

"CR 15(a) governs amendments to pleadings and specifically provides that 'a party may amend [his] pleading only by leave of court . . . and leave shall be freely given when justice so requires.'" *Hook v. Lincoln County Noxious Weed Control Bd.*, 166 Wn. App. 145, 159, 269 P.3d 1056 (2012) (alterations in original) (quoting CR 15(a)). When "'a party moves to amend a pleading, a copy of the proposed amended pleading, denominated "proposed" and unsigned, shall be

[8] Perez makes passing reference to the superior court's "one-sentence denial of his motion for reconsideration." Br. of Appellant at 2. Perez requests that the denial be vacated. Because we affirm the superior court's order granting partial summary judgment, the trial court did not abuse its discretion in denying Perez's motions for reconsideration. *See Hernandez v. Edmonds Memory Care, LLC*, 10 Wn. App. 2d 869, 883, 450 P.3d 622 (2019) ("This court reviews a trial court's denial of a motion for reconsideration for an abuse of discretion. Because we affirm the superior court's order awarding the laborers attorney fees, the superior court did not abuse its discretion by denying EMC's motion for reconsideration on this issue." (footnote omitted)).

attached to the motion.'" *Id.* (quoting CR 15(a)). When the word "shall" is used, it is "presumptively imperative and operates to create a duty." *Id.* The opposing party and the court have legitimate needs in seeing the proposed amended pleading to "address and assess relevant issues of prejudice and futility." *Id.*

A trial court's denial of a motion to amend a pleading is reviewed for manifest abuse of discretion. *Ives v. Ramsden*, 142 Wn. App. 369, 386, 174 P.3d 1231 (2008). "A trial court abuses discretion when its decision is based on untenable grounds or reasons." *Wilcox v. Lexington Eye Inst.*, 130 Wn. App. 234, 241, 122 P.3d 729 (2005), *review denied*, 157 Wn.2d 1022 (2006).

Despite being informed by the superior court of CR 15's requirements, Perez failed to attach a "proposed amended pleading" in every motion to amend that he filed. Perez's third motion to amend included an attached document titled, "Respondent's Motion to Amend Response ('Opposition') to Complaint to Add Counterclaims and Defenses." CP at 856. However, this document did not comply with the requirements of CR 15(a)—that an amended pleading, denominated "proposed," be attached to the motion to alert the court and parties of the precise amendment sought.

At the hearing on Perez's second motion to amend, the superior court explained to Perez what was defective about his motion for leave to amend, "[P]er the court rules, you did not provide a copy of your proposed amended complaint." Verbatim Rep. of Proc. at 29. The superior court wrote in its order denying Perez's next motion to amend, "Respondents' Motion fails to adhere to the requirements of Civil Rule 15(a)—specifically Respondents failed to provide a copy of their

'proposed amended pleading.'" CP at 1650. Despite clear direction by the court as to what was required from Perez to amend his pleading, Perez failed to comply.

In light of the record before us, the superior court did not abuse its discretion in denying Perez's defective motions for leave to amend.

D. JUDICIAL BIAS

Perez argues that the superior court judge was biased, either against him "personally or pro se litigants generally." Br. of Appellant at 14. As evidence of the superior court's bias, Perez points us to the superior court judge admonishment of "both parties for the sin of supposedly taking up too much of its time," Perez being told "to get an attorney," the superior court refusing to hear "further motions to shorten time," the superior court telling the parties "that the case had taken up too much of the court's time and that it was somehow a bad thing that the clerks at the court knew about the case." Br. of Appellant at 14-15. And "most substantively," Perez points to the superior court's denial of his motions to add counterclaims. Br. of Appellant at 15. On this record we do not find evidence of judicial bias.

"Under the appearance of fairness doctrine, a judicial proceeding is valid only if a reasonably prudent, disinterested observer would conclude that the parties received a fair, impartial and neutral hearing." *State v. Gamble*, 168 Wn.2d 161, 187, 225 P.3d 973 (2010). "Evidence of a judge's actual or potential bias is required." *In re Marriage of Meredith*, 148 Wn. App. 887, 903, 201 P.3d 1056, *review denied*, 167 Wn.2d 1002 (2009). "A trial court is presumed to perform its functions regularly and properly without bias or prejudice." *Id.*

Perez supports his claim of judicial bias by citing to the judge advising him to hire a lawyer. Indeed, the superior court judge identified for Perez the resources where he might seek legal support and identified free legal clinics available through the King County Bar Association or Washington State Bar Association. This is not evidence of bias.

Perez also supports his claim of judicial bias by contending the superior court was frustrated by the case. The record reflects that the superior court judge was frustrated, but that frustration was directed at both parties. The record shows that Perez filed 19 motions, and Pelentay filed 14 motions, all between May 2023 and March 2024. The superior court judge admonished both parties for their excessive motion practice, and chastised Pelentay's counsel for objecting during oral arguments at the summary judgment hearing. We find no evidence of actual or potential bias on the part of the superior court judge against Perez or against self-represented litigants; whatever frustrations the judge expressed on the record were directed at both parties.

E. ATTORNEY FEES

Perez argues that the superior court erred in granting attorney fees to Pelentay because Perez should have prevailed below. And Perez asks us for fees on appeal, arguing that the appeal is not frivolous and appellate fees to Pelentay would be "unconscionable." Reply Br. of Appellant at 32. Pelentay also asks us for fees and costs on appeal pursuant to RAP 14.2, RAP 18.1, and RCW 11.96A.150.

1. Attorney Fees at the Superior Court

"An award of attorney fees is left to the trial court's discretion and will not be disturbed absent a clear showing of abuse." *Matter of Pearsall-Stipek*, 136 Wn.2d 255, 265, 961 P.2d 343 (1998). Under TEDRA, RCW 11.96A.150(1) grants the superior court and any court on appeal the discretion to order "costs, including reasonable attorneys' fees, to be awarded" as "the court determines to be equitable." The court may consider any factors that it deems relevant and appropriate. RCW 11.96A.150(1).

The superior court ordered that Pelentay be awarded her attorney fees and costs "pursuant to RCW 11.96A.150." CP at 1677. Pelentay was the prevailing party, and RCW 11.96A.150 provided a basis for the superior court to award her attorney fees and costs. We find that the superior court did not abuse its discretion in granting Pelentay attorney fees.

2. Attorney Fees on Appeal

We have discretion to grant attorney fees on appeal. *MacKenzie v. Barthol*, 142 Wn. App. 235, 242, 173 P.3d 980 (2007). "Reasonable attorney fees are recoverable on appeal only if allowed by statute, rule, or contract, and RAP 18.1(a)." *Malted Mousse, Inc. v. Steinmetz*, 150 Wn.2d 518, 535, 79 P.3d 1154 (2003).

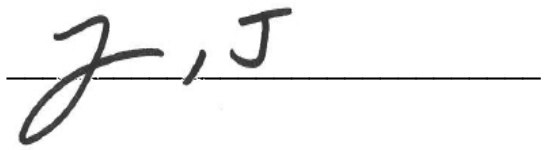
"RAP 18.1(b) requires a party to 'devote a section of its opening brief to the request for the fees or expenses.'" *Gardner v. First Heritage Bank*, 175 Wn. App. 650, 676-77, 303 P.3d 1065 (2013) (quoting RAP 18.1(b)). Failure to provide citations to authority or arguments in favor of a fee request is a failure to comply

with RAP 18.1(b), and will result in denial of the request for attorney fees. *Id.* at 677.

Perez requests attorney fees on appeal. He supports his request for fees on appeal in his opening brief by stating: "Fees on appeal should be awarded to the Appellant." Br. of Appellant at 23. And in his conclusion, he writes, "This court should award attorney fees, court cost, or any other costs related to this appeal to the Appellant." Br. of Appellant at 58. Without any citations to authority or arguments to comply with RAP 18.1(b), his request for attorney fees is denied.

Pelentay also requests attorney fees and costs on appeal, citing RAP 14.2, RAP 18.1, and RCW 11.96A.150. As the prevailing party on appeal, with a statutory basis for her request under RCW 11.96A.150(1), we grant Pelentay's request for her reasonable attorney fees and costs.

We affirm.



WE CONCUR:

APPELLATE COUNSEL

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