

**FILED**  
**MAY 9, 2023**  
**In the Office of the Clerk of Court**  
**WA State Court of Appeals Division III**

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

In the Matter of the Guardianship of	)	
	)	No. 34236-1-III
DONALD RAYMOND MITCHELL,	)	Consolidated with <sup>†</sup>
	)	
and	)	
	)	UNPUBLISHED OPINION
SEVERAL OTHER SIMILAR CASES	)	
CONSOLIDATED ON APPEAL. <sup>†</sup>	)	

---

<sup>†</sup> No. 34311-1-III, *In re Guardianship of Krista L. Blair*; No. 34273-5-III, *In re Guardianship of Ernest Bowen*; No. 34295-6-III, *In re Guardianship of Richard E. Bowers*; No. 34288-3-III, *In re Guardianship of Cleora K. Boyd*; No. 34287-5-III, *In re Guardianship of Linda S. Brangwin*; No. 34251-4-III, *In re Guardianship of David P. Campbell*; No. 34303-1-III, *In re Guardianship of Anna Carey*; No. 34310-3-III, *In re Guardianship of Jared Collier*; No. 34297-2-III, *In re Guardianship of Carisa M. Cornelius*; No. 34248-4-III, *In re Guardianship of Christopher Dean*; No. 34289-1-III, *In re Guardianship of Sarah DeMary*; No. 34281-6-III, *In re Guardianship of Catherine Desjardins*; No. 34284-1-III, *In re Guardianship of Steven Eberhart*; No. 34247-6-III, *In re Guardianship of Aaron Cory Eisenman*; No. 34300-6-III, *In re Trust of Minor Portia Elvidge*; No. 34309-0-III, *In re Guardianship of Lynn Fairbanks*; No. 34253-1-III, *In re Guardianship of Michael Fenske*; No. 34272-7-III, *In re Guardianship of Marlo Foster*; No. 34294-8-III, *In re Guardianship of Marlene Friesen*; No. 34282-4-III, *In re Guardianship of Alejandro Garcia*; No. 34267-1-III, *In re Guardianship of Ron Gehring*; No. 34258-1-III, *In re Guardianship of Thomas Getchell*; No. 34296-4-III, *In re Special Needs Trust of Jessica Harmon*; No. 34237-9-III, *In re Guardianship of Bart Harrington*; No. 34299-9-III, *In re Guardianship of Robert D. Harris*; No. 34290-5-III, *In re Est. of Rex Lee Hartley*; No. 34256-5-III, *In re Guardianship of Teresa C. Higgins*; No. 34238-7-III, *In re Guardianship of Michaele Hood*; No. 34242-5-III, *In re Guardianship of Marjorie K. Hopper*; No. 34269-7-III, *In re Guardianship of Connie L. House*; No.

No. 34236-1-III

*In re Guardianship of Mitchell, et al.*

SIDDOWAY, J. — Hallmark Care Services, Inc. and Lori Petersen assign error to two sets of judgments and orders in these appeals. The appeals were commenced with their notices of appeal of 76 judgments dated January 19, 2016, that were entered against

---

34241-7-III, *In re Guardianship of Bertha L. Jenkins*; No. 34255-7-III, *In re Guardianship of Robert E. Loss*; No. 34271-9-III, *In re Guardianship of June I. Love*; No. 34279-4-III, *In re Guardianship of Bella Mally*; No. 34301-4-III, *In re Guardianship of Helen Martin*; No. 34259-0-III, *In re Guardianship of Murphy McCoy*; No. 34265-4-III, *In re Guardianship of Margaret McDirmid*; No. 34260-3-III, *In re Guardianship of Malcolm D. McLellan*; No. 34240-9-III, *In re Guardianship of Carl McMorris*; No. 34275-1-III, *In re Guardianship of Bernetta Melton*; No. 34250-6-III, *In re Guardianship of Thomas Miller, Jr.*; No. 34268-9-III, *In re the Guardianship of Sharon Westerman Moore*; No. 34266-2-III, *In re Guardianship of Gustavo Morales*; No. 34264-6-III, *In re Guardianship of Ruth Morales*; No. 34302-2-III, *In re Guardianship of Rosalind Elena Morris*; No. 34304-9-III, *In re Guardianship of Clayton Nalley*; No. 34285-9-III, *In re Guardianship of Joseph H. Naylor*; No. 34305-7-III, *In re Guardianship of Louise L. Nichols*; No. 34308-1-III, *In re Guardianship of H. Kurt Olson*; No. 34276-0-III, *In the Guardianship of Barbara A. Oppegaard*; No. 34244-1-III, *In re Guardianship of Lewis Palmer*; No. 34293-0-III, *In re Guardianship of Sharon Louise Pitner*; No. 34278-6-III, *In re Guardianship of Lucas F. Rivero*; No. 34270-1-III, *In re Guardianship of Holly Mae Sanford*; No. 34262-0-III, *In re Guardianship of Janet Lynn Shaw*; No. 34291-3-III, *In re Nehemiah Daniel Slater*; No. 34307-3-III, *In re Guardianship of Judd Smelcer*; No. 34286-7-III, *In re Guardianship of Joan S. Smith*; No. 34283-2-III, *In re Guardianship of Leslie Stanich*; No. 34239-5-III, *In re Guardianship of Kristen Patrice Sternberg*; No. 34245-0-III, *In re Guardianship of Nanci Jo Stocker*; No. 34249-2-III, *In re Guardianship of Elvella Storrud*; No. 34254-9-III, *In re Guardianship of Margaret L. Sullivan*; No. 34261-1-III, *In re Guardianship of Jared Trimble*; No. 34257-3-III, *In re Guardianship of Robert W. Tuckerman*; No. 34274-3-III, *In re Guardianship of Arthur Underwood*; No. 34263-8-III, *In re Guardianship of Betty Vingo*; No. 34246-8-III, *In re Guardianship of Donna Vogel*; No. 34298-1-III, *In re Guardianship of Dawn Wesselman*; No. 34280-8-III, *In re Guardianship of Ralph Carl White*; No. 34320-1-III, *In re Guardianship of Jeffrey R. Williams*; No. 34252-2-III, *In re Guardianship of Walter L. Withers*; No. 34292-1-III, *In re Guardianship of Mary E. Wright*; No. 34277-8-III, *In re Guardianship of Linda Zauner*; No. 34243-3-III, *In re Guardianship of James Zingale*.

No. 34236-1-III

*In re Guardianship of Mitchell, et al.*

them and in favor of Spokane County as contempt sanctions (the contempt judgments). After the superior court vacated the contempt judgments on its own motion in September 2019 and then denied Hallmark's and Petersen's requests for awards of costs, Hallmark and Petersen appealed the cost orders, which this court treated as amending the 2016 notices of appeal. Representative copies of the original and amended notices of appeal with the challenged contempt judgment and cost order are attached in an appendix (Ex. A).

Also before us is a motion to dismiss this appeal as moot, which was filed by an attorney for Spokane County's Guardianship Monitoring Program.

We dismiss the appeals of the contempt judgments as moot. We affirm the trial court's orders denying Hallmark's and Petersen's requests for cost awards.

#### FACTS AND PROCEDURAL BACKGROUND

After Lori Petersen, a certified professional guardian, was disciplined by the Certified Professional Guardianship Board with a 12-month suspension, review was initiated in Spokane County Superior Court of guardianships in which two certified professional guardianship agencies (CPGAs) by which she had been employed—Hallmark Care Services, Inc. d/b/a Castlemark Guardianship and Trusts, and Hallmark Care Services, Inc. d/b/a Eagle Guardianship and Professional Services (collectively Hallmark)—were serving as court-appointed guardians. *In re Guardianship of Holcomb,*

No. 34236-1-III

*In re Guardianship of Mitchell, et al.*

No. 33356-6-III, slip op. at 4, 7-8 (Wash. Ct. App. Oct. 18, 2018) (unpublished).<sup>1</sup> The Hallmark CPGAs and Petersen were removed as guardians, and in May and June 2015 Hallmark and/or Petersen filed notices of appeal in over 120 guardianships. They challenged the court's appointment of a special master, its removal of them as guardians, and judgments entered against them for the cost of guardians ad litem in the cases in which they were removed. *Id.* at 16-17. The appeals were consolidated, with *Guardianship of Holcomb* serving as the anchor case.

In February 2016, Hallmark and Petersen filed this second set of appeals, seeking review of contempt judgments entered against them in 76 guardianship matters. After Hallmark's and Petersen's removals as guardian, the superior court had ordered them to file accountings. When they failed to do so in the 76 cases, the court entered a \$228 judgment as a contempt sanction in each case. Appeal of the contempt judgments was stayed pending a decision and issuance of the mandate in *Holcomb*.

Early in the *Holcomb* appeal, a Spokane County deputy prosecutor moved for permission to appear as amicus curiae for Spokane County's Guardianship Monitoring Program, an arm of the county's superior court administrator's office (hereafter "the Monitoring Program"). He contended that the individual guardianships lacked the funds

---

<sup>1</sup> Available at [https://www.courts.wa.gov/opinions/pdf/333566\\_unp.pdf](https://www.courts.wa.gov/opinions/pdf/333566_unp.pdf).

No. 34236-1-III

*In re Guardianship of Mitchell, et al.*

to defend the court's orders. The motion was granted by our commissioner, who ruled that the prosecutor's participation as special amicus would assist this court within the meaning of RAP 10.6(a). In the same ruling, our commissioner held that orders removing the Hallmark CPGAs as guardians were not appealable by them because the CPGAs were not aggrieved parties.

This court's opinion filed in *Guardianship of Holcomb* in October 2018 reversed all of the judgments imposing guardian ad litem fees against Hallmark and Petersen, concluding that the judgments were entered without affording Hallmark and Petersen due process. The court's reasons and more of the underlying facts are recounted in the opinion in that first appeal. Following remand, Spokane County abandoned its earlier effort to recover guardian ad litem fees from Hallmark and Petersen.

Following our decision in *Guardianship of Holcomb* and issuance of the mandate, notification to the parties in this appeal of a briefing schedule prompted the deputy prosecutor who had served as special amicus to seek leave under RAP 7.2(e) for the Spokane County Superior Court to dismiss the contempt judgments on its own motion. The prosecutor's RAP 7.2(e) motion was supported by a declaration from then-superior court presiding Judge Harold D. Clarke III, in which Judge Clarke explained:

6. Commissioner [Steven] Grovdahl issued sanctions to be [paid] to Spokane County at a rate of \$3.00 a day for every day [Petersen] and her guardianship agencies failed to perform accountings in each

Guardianship. Commissioner Grovdahl thereafter entered judgment in each of the Guardianships referenced in Attachment “A.”

7. Appellant never performed the accountings.

....

9. Having reviewed the issues in this case I am at this time respectfully requesting this Court to grant the Superior Court Jurisdiction pursuant to RAP 7.2 to enter an order vacating the orders imposing sanctions on Appellant.

10. The reason for vacating the orders at this time is that the sanctions were originally imposed to coerce Appellants to perform their legal obligations in preparing accountings in each of the Guardianships for which she was removed in the summer of 2015.

11. Civil Contempt Sanctions can be imposed only as long as it is possible for a party to purge themselves of the contempt by performing the Court’s directions. See *In Re King v. Department of Social and Health Services*, 110 Wn.2d 793, 804, 756 P.2d 793 (1988); *United States v. Rylander*, 460 U.S. 752, 103 S. Ct. 1548, 75 L.Ed.2d 521 (1983).

12. Since Appellant and her businesses have not yet had control over the estates in question for a number of years, she would not presently be in a position to provide accurate accountings at this stage. Moreover, any accountings prepared at this point would be of no value to the present Guardians. It is therefore pointless to pursue sanctions at this juncture.

13. A copy of the Superior Court’s proposed order vacating the judgments imposing sanctions in these matters which the Court proposes to enter after a presentment hearing as soon as practical is attached hereto.

*Mot. to Permit Super. Ct. to Enter an Ord., Ex. 2, Decl. of Harold D. Clarke, III* at 2-4, *In re Guardianship of Mitchell*, No. 34236-1-III (Wash. Ct. App. Aug. 6, 2019) (on file with court). Our commissioner granted the motion in a letter ruling on August 9, 2019.

The superior court’s proposed order vacated its October 2015 order imposing sanctions and the resulting judgments. Hallmark and Petersen filed a response in the trial

No. 34236-1-III

*In re Guardianship of Mitchell, et al.*

court in which they agreed that the orders and judgments should be vacated. But they objected to the proposed order's characterization of the order imposing sanctions as "lawful" and to its characterization of the underlying claims in the case as being "fully resolved." *E.g.*, Clerk's Papers (CP) at 27972-27974. Hallmark and Petersen also filed a declaration with the trial court identifying a total of \$2,558.50 in statutory attorney fees and other amounts that they asked be awarded to them as costs.<sup>2</sup>

Presentment of the proposed orders vacating the contempt judgments took place before Judge Clarke on September 13, 2019. He entered orders vacating the October 2016 orders imposing sanctions and resulting judgments at that time, but took the cost issue under advisement.

On September 23, 2019, Judge Clarke entered an "Order Re: Statutory Fees and Costs" that denied Hallmark's and Petersen's requests for costs. He determined that neither the superior court nor the Monitoring Program—against whom Hallmark and Petersen sought to recover the costs—were parties to the guardianship cases. He also determined that *if* Hallmark and Petersen were parties, they did not prevail in any substantive way because the court had vacated the contempt sanctions on its own motion.

---

<sup>2</sup> This amount consisted of \$1,306.80 for "Copies, LAR0.7 Motion, Motion to waive fees, Motion for Stay 8712 copies x \$.15 (22 service parties, 76 separate cases)," \$100.00 for "Mailing Costs (22 service parties)," \$290.00 for "Filing Fee - Court of Appeals," \$196.00 for "Transcription Costs - Statement of Arrangments [sic] (paid to Ct. Reporter)," and \$665.70 for "Current motion 4438 x .[1]5 = 665.70." CP at 27983.

After the superior court vacated the contempt orders and judgments, but before Hallmark and Petersen filed their amended notices of appeal, the Monitoring Program moved to dismiss this appeal as moot. Hallmark and Petersen opposed the motion. It was referred to the panel for decision. Hallmark and Petersen timely filed amended notices of appeal of the cost orders.

## ANALYSIS

### I. APPEAL OF THE JUDGMENTS IMPOSING CONTEMPT SANCTIONS IS MOOT

The Monitoring Program moved to dismiss these appeals as moot, arguing that since the superior court has vacated the orders imposing sanctions and resulting judgments, this court can no longer provide effective relief. It cites *State v. Gentry* for the propositions that “[o]rdinarily, this Court will not consider a question that is purely academic,” and, “A case is moot if a court can no longer provide effective relief.” 125 Wn.2d 570, 616, 888 P.2d 1105 (1995).

Hallmark and Petersen argue that dismissal is unwarranted for two reasons: the Monitoring Program lacks standing to bring the motion to dismiss, since it is neither a party nor has it been recognized as *amicus curiae* in this appeal, and there is a matter—specifically, their requests for costs—that has not yet been addressed. Hallmark and Petersen also move to strike the attachments to the Monitoring Program’s motion to dismiss, which they argue are not part of the trial or appellate record in this matter.

On the issue of standing, the motion to dismiss acknowledged that the deputy



No. 34236-1-III

*In re Guardianship of Mitchell, et al.*

prosecutor filing the motion had been granted special amicus statute in different but related appeals. It pointed out that this court had continued to give the deputy prosecutor notice of these appeals, and evidently had not given notice to the individual guardianships. According to the certificate of mailing attached to Hallmark's and Petersen's amended notices of appeal, they directed copies of those notices to only the deputy prosecutor. *See, e.g.,* Appendix, Ex. B. This court's amended perfection letter dated November 19, 2019, was addressed to only two lawyers: the lawyer for Hallmark and Petersen, and the deputy prosecutor. The amended perfection letter provided that "[t]he Amicus Curiae Respondent's brief is due in this court 30 days after service of the appellant's brief." Letter, *In re Guardianship of Miller*, No. 34236-1-III (Wash. Ct. App. Nov. 19, 2019) (boldface omitted) (available from court).

Amicus curiae status may be granted by motion or on the court's request.

RAP 10.6. The motion for leave to file an amicus brief may be filed with the brief.

RAP 10.6(b). "The appellate court may ask for an amicus brief at any stage of review."

RAP 10.6(c). The amended perfection letter sent to counsel in November 2019 implicitly granted the deputy prosecutor's request to file the motion to dismiss and authorized his participation in these appeals as special amicus.

Turning to the motion to strike, RAP 17.4(f) directs a person who files a motion to file all supporting papers with its motion. A motion to dismiss an appeal as moot will

No. 34236-1-III

*In re Guardianship of Mitchell, et al.*

generally be supported by evidence that is not part of the appellate record. Unlike attachments to briefs that are relevant to the substance of errors assigned on appeal, evidentiary support for a motion to dismiss an appeal need not be added to the appellate record.

Hallmark and Petersen contend this appeal should not be dismissed as moot because they objected to the trial court's basis for vacating its contempt orders and judgments and because this court can still meaningfully review the order denying their requests for awards of costs.

These appeals are moot with respect to the contempt judgments, the original object of the appeals. "A vacated judgment has no effect," and "[t]he rights of the parties are left as though the judgment had never been entered." *In re Marriage of Leslie*, 112 Wn.2d 612, 618, 772 P.2d 1013 (1989). Hallmark and Petersen objected to the trial court's reasons for vacating the orders and judgments, arguing that they should have been vacated because the underlying court order that required the accountings to be filed was not lawful. *E.g.*, Rep. of Proc. (Sept. 13, 2019) at 53, 55. They explained that the purpose of their response in opposition to the proposed orders was to make a record that they disagreed that the trial court had a lawful basis for ordering the accountings. *Id.* at 53, 55. That record has been made. This court can offer no other effective relief.

The appeal is not moot with respect to the orders denying Hallmark's and

No. 34236-1-III

*In re Guardianship of Mitchell, et al.*

Petersen’s requests for awards of costs, because effective relief can be granted: if they successfully argue that the trial court erred in denying their requests, we can remand for entry of cost awards.

Accordingly, the motion to dismiss is granted in part and denied in part. We dismiss review of Hallmark’s and Petersen’s appeals of the contempt judgments. We deny the motion to dismiss their appeals of the cost orders.

II. THE SUPERIOR COURT DID NOT ABUSE ITS DISCRETION IN REFUSING TO AWARD COSTS

The superior court denied Hallmark’s and Petersen’s requests for costs after concluding (1) neither the superior court nor the Monitoring Program are “parties” to the underlying proceedings; and (2) even if Hallmark and Petersen are parties, they are not “prevailing parties” because the superior court vacated the contempt orders and judgments on its own motion.

We review a decision denying costs for abuse of discretion. *Fluke Cap. & Mgmt. Servs. Co. v. Richmond*, 106 Wn.2d 614, 625, 724 P.2d 356 (1986); *Prosser Hill Coal. v. County of Spokane*, 176 Wn. App. 280, 292, 309 P.3d 1202 (2013). Discretion is abused when its exercise is manifestly unreasonable or based on untenable grounds or reasons. *T.S. v. Boy Scouts of Am.*, 157 Wn.2d 416, 423, 138 P.3d 1053 (2006). A discretionary decision is based on untenable grounds if the record does not support the court’s findings; it is made for untenable reasons if the court applies the wrong legal standard or the facts

No. 34236-1-III

*In re Guardianship of Mitchell, et al.*

do not satisfy the correct standard; and it is manifestly unreasonable if, based on the facts and correct standard, it is outside the range of acceptable choices. *In re Parentage of Schroeder*, 106 Wn. App. 343, 349, 22 P.3d 1280 (2001).

A. RCW 4.84.010, 4.84.030, and 4.84.090: a “prevailing party” is one who recovers an affirmative judgment in his or her favor

Hallmark and Petersen’s argument on the merits begins with RCW 4.84.030, which provides that “[i]n any action in the superior court . . . the prevailing party shall be entitled to his or her costs and disbursements.” “[T]he term ‘prevailing party’ is not defined in the same manner in every statute.” *AllianceOne Receivables Mgmt., Inc. v. Lewis*, 180 Wn.2d 389, 394, 325 P.3d 904 (2014). Determining who is a prevailing party “‘depends upon the extent of the relief afforded the parties.’” *Prosser Hill Coal.*, 176 Wn. App. at 293 (quoting *Riss v. Angel*, 131 Wn.2d 612, 633, 934 P.2d 669 (1997)); *Durland v. San Juan County*, 174 Wn. App. 1, 25, 298 P.3d 757 (2012).

“In general, a prevailing party is one who receives an affirmative judgment in his or her favor.” *Riss*, 131 Wn.2d at 633. This is the case for RCW 4.84.010 and RCW 4.84.030, and seemingly RCW 4.84.090 as well. *Burman v. State*, 50 Wn. App. 433, 445, 749 P.2d 708 (1988) (RCW 4.84.030); *Stout v. State*, 60 Wn. App. 527, 528, 803 P.2d 1352 (1991) (RCW 4.84.010); *see State ex rel. Lemon v. Coffin*, 52 Wn.2d 894, 896-97, 332 P.2d 1096 (1958) (stating “By the terms of RCW 4.84.030, the prevailing party is entitled as a matter of right . . . to other specific items as provided in RCW 4.84.090.”

No. 34236-1-III  
*In re Guardianship of Mitchell, et al.*

(emphasis added)).

Hallmark and Petersen did not receive affirmative judgments in their favor, so the trial court did not abuse its discretion by refusing to award them costs under RCW 4.84.010, .030, and .090.

B. RCW 4.84.060: “Defendant” eligibility for costs

When a cost statute’s prevailing party determination does not depend on receipt of an affirmative judgment, the determination turns on “whether the claimant meets the conditions of the specific statute” that authorizes the costs. *AllianceOne*, 180 Wn.2d at 394. Hallmark and Petersen also claim entitlement to costs under RCW 4.84.060. RCW 4.84.060 provides, “In all cases where costs and disbursements are not allowed to the *plaintiff*, the *defendant* shall be entitled to have judgment in his or her favor for the same.” (Emphasis added.) Chapter 4.84 RCW does not define “plaintiff” or “defendant.” The ordinary meaning of “plaintiff” is “[t]he party who brings a civil suit in a court of law”; the ordinary meaning of “defendant” is “[a] person sued in a civil proceeding or accused in a criminal proceeding.” BLACK’S LAW DICTIONARY 1391, 528 (11th ed. 2019).

Hallmark and Petersen characterize the superior court as having brought 76 actions against them, making the superior court a “plaintiff” and making them “defendants” within the meaning of RCW 4.84.060. But the superior court plainly did

No. 34236-1-III

*In re Guardianship of Mitchell, et al.*

not bring a civil suit; in entering the contempt judgments, it was exercising its authority as a court to “impose a sanction for contempt of court under [chapter 7.21 RCW].”

RCW 7.21.020. Hallmark and Petersen were plainly not being sued in a civil proceeding or accused in a criminal proceeding; they were being sanctioned as alleged contemnors.

The trial court did not abuse its discretion by refusing to award Hallmark and Petersen costs under RCW 4.84.060.

- C. RCW 4.84.250 and RCW 4.84.270: in “actions for damages,” a defendant is a prevailing party only if there is an “entry of judgment” under which the plaintiff “recovers” nothing or less than was offered in settlement

Hallmark and Petersen also invoke RCW 4.84.250, the small claims statute, under which, as of 2019, a prevailing party can be taxed and allowed a reasonable attorney fee as part of the costs, “in any *action for damages* where *the amount pleaded* by the prevailing party as hereinafter defined” is less than \$10,000. (Emphasis added.)

RCW 4.84.270 provides that “[t]he defendant, or party resisting relief” shall be deemed the prevailing party for purposes of RCW 4.84.250 where “the plaintiff, or party seeking relief *in an action for damages*” recovers nothing, or the same or less than the amount offered it in settlement. (Emphasis added.) In its controlling decision in *AllianceOne*, the Washington Supreme Court held that “[w]ithout an entry of judgment by the court, there is no recovery and there can be no prevailing party under RCW 4.84.250 and .270.”

180 Wn.2d at 396. *AllianceOne* holds that for a defendant or party resisting relief to

No. 34236-1-III

*In re Guardianship of Mitchell, et al.*

recover reasonable attorney fees under RCW 4.84.250, it must show “(1) the damages sought were equal to or less than \$10,000, (2) [the defendant or party resisting relief] was deemed the prevailing party, and (3) there was an entry of judgment.” *Id.* at 398.

Because AllianceOne had voluntarily dismissed its collection action against Lewis, the Supreme Court held that Lewis failed the second and third requirements. *Id.* at 399.

These cases plainly did not involve an “action for damages”; they involved the imposition of remedial sanctions. *See* RCW 7.21.030. In addition, *AllianceOne* compels the conclusion that where the superior court vacated the contempt judgments on its own motion, there was no entry of judgment and no prevailing party. The trial court did not abuse its discretion by refusing to award Hallmark and Petersen a reasonable attorney fee under RCW 4.84.250 and .270.

D. RCW 4.84.170: County liability where private parties would be liable

RCW 4.84.170 provides in relevant part that “[i]n all *actions prosecuted . . . in the name and for the use of any county . . .* the . . . county shall be liable for costs in the same case and to the same extent as private parties.” (Emphasis added.) Similar to the inapplicability of RCW 4.84.060, the court’s imposition of a remedial sanction for contempt is plainly not an “action prosecuted in the name and for the use of [the] county.” Even if it were, Hallmark and Petersen would have to be able to point to the basis on which a private party would be liable for costs “in the same case and to the same

No. 34236-1-III

*In re Guardianship of Mitchell, et al.*

extent,” which they fail to do.

The trial court did not abuse its discretion by refusing to award Hallmark and Petersen costs under RCW 4.84.170.

E. RCW 4.84.080: Not a cost authorization provision

RCW 4.84.080 does not authorize an award of costs but merely sets the statutory attorney fee amount. This section “is given force [only] in the context of related rules.”

*AllianceOne*, 180 Wn.2d at 394.

F. Due process

Finally, Hallmark and Petersen recount acts of alleged judicial misconduct below that they contend amount to violations of due process. The alleged acts and violations are untethered to any reasoned argument for costs that was advanced in the superior court. A party is not entitled to an award of costs as a matter of due process; recovery of costs is a matter of substance, not procedure, and “is purely a matter of statutory regulation.”

*Platts v. Arney*, 46 Wn.2d 122, 128, 278 P.2d 657 (1955) (citing *State ex rel. Fosburgh v. Ronald*, 25 Wn.2d 276, 277, 170 P.2d 865 (1946)). We have reviewed and rejected all of the statutory bases on which Hallmark and Petersen claim to be entitled to costs. Their ““naked castings into the constitutional seas are not sufficient to command judicial consideration and discussion.”” *State v. Johnson*, 179 Wn.2d 534, 558, 315 P.3d 1090 (2014) (quoting *State v. Blilie*, 132 Wn.2d 484, 493 n.2, 939 P.2d 691 (1997)).



No. 34236-1-III

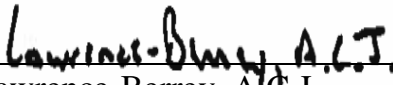
*In re Guardianship of Mitchell, et al.*

We dismiss the appeals of the contempt judgments as moot. We affirm the trial court's orders denying Hallmark's and Petersen's requests for cost awards.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.

  
Siddoway, J.

WE CONCUR:

  
Lawrence-Berrey, A.C.J.

  
Staab, J.

No. 34236-1-III

*In re Guardianship of Mitchell, et al.*

Appendix

# Appendix

## Appendix

**Guardianship of:**

<b>Last Name</b>	<b>First Name</b>	<b>Trial Court #</b>	<b>COA #</b>
Blair	Krista L.	10-4-01235-6	343111
Bowen	Ernest	97-4-00967-9	342735
Bowers	Richard	02-4-00989-3	342956
Boyd	Cleora K.	12-4-01327-8	342883
Brangwin	Linda S.	00-4-9437-6	342875
Campbell	David P.	11-4-00044-5	342514
Carey	Anna	08-4-00665-6	343031
Collier	Jared	10-4-01013-2	343103
Cornelius	Carisa M.	05-4-00548-5	342972
Dean	Christopher	06-4-01476-8	342484
Demary	Sarah	08-4-01645-7	342891
Desjardins	Catherine	10-4-00727-1	342816
Eberhart	Steven	12-4-00510-1	342841
Eisenman	Aaron Cory	07-4-00293-8	342476
Elvidge	Portia	06-4-00102-0	343006
Fairbanks	Lynn	10-4-00531-7	343090
Fenske	Michael	11-4-04556-6	342531
Foster	Marlo	95-4-01412-9	342727
Friesen	Marlene	02-4-00384-4	342948
Garcia	Alejandro	11-4-00300-2	342824
Gehring	Ron	01-4-00294-7	342671
Getchell	Thomas	01-4-01342-6	342581
Harmon	Jessica	03-4-00764-3	342964
Harrington	Bart	13-4-00268-1	342379
Harris	Robert D.	05-4-01384-4	342999
Hartley	Rex Lee NKA Jonathan Hartley	01-4-00821-0	342905
Higgins	Teresa C. nka Teresa Horan	12-4-00250-1	342565
Hood	Michaele	13-4-00267-3	342387
Hopper	Margorie K.	12-4-00511-9	342425
House	Connie L.	12-4-01004-0	342697
Jenkins	Bertha L.	12-4-00690-5	342417
Loss	Robert E.	02-4-01201-1	342557
Love	June	94-4-00022-7	342719
Mally	Bella	08-4-00968-0	342794
Martin	Helen	06-4-01260-9	343014
McCoy	Murphy	12-4-00405-8	342590
McDirmid	Margaret	12-4-00964-5	342654
McLellan	Malcom D.	97-4-01092-8	342603
McMorris	Carl	12-4-01005-8	342409
Melton	Bernetta	97-4-01239-4	342751
Miller	Thomas	05-4-01226-1	342506
Mitchell	Donald Raymond ***	00-4-09873-4	342361
Moore	Sharon Westerman	14-4-00950-1	342689
Morales	Gustavo	12-4-01459-2	342662
Morales	Ruth	12-4-00610-7	342646

No. 34236-1-III

*In re Guardianship of Mitchell, et al.*

Appendix

**Guardianship of:**

<b>Last Name</b>	<b>First Name</b>	<b>Trial Court #</b>	<b>COA #</b>
Morris	Rosalind Elena	07-4-00944-4	343022
Nalley	Clayton	09-4-00820-7	343049
Naylor	Joseph H.	12-4-00677-8	342859
Nichols	Louise. L.	09-4-01110-1	343057
Olson	H. Kurt	10-4-00513-9	343081
Oppengaard	Barbara A.	03-4-01220-5	342760
Palmer	Lewis	08-4-00098-4	342441
Pitner	Sharon Louise	88-4-01012-1	342930
Rivero	Lucas F.	07-4-01357-3	342786
Sanford	Holly ****	92-4-00006-9	342701
Shaw	Janet Lynn	96-4-01378-3	342620
Slater	Nehemiah Daniel	02-4-01155-3	342913
Smelcer	Judd	09-4-01453-3	343073
Smith	Joan S.	12-4-00998-0	342867
Stanich	Leslie	12-4-00381-7	342832
Sternberg	Kristen Patrice	12-4-01415-1	342395
Stocker	Nanci Jo	07-4-00756-5	342450
Storrud	Elvella	06-4-01226-9	342492
Sullivan	Margaret L.	12-4-00181-4	342549
Trimble	Jared	12-4-00509-7	342611
Tuckerman	Robert W.	12-4-00311-6	342573
Underwood	Arthur	98-4-00390-3	342743
Vingo	Betty	12-4-00595-0	342638
Vogel	Donna	10-4-01437-5	342468
Wesselman	Dawn	08-4-00910-8	342981
White	Ralph Carl	09-4-00282-9	342808
Williams	Jeffery R.	88-4-00487-2	343201
Withers	Walter L.	04-4-00274-7	342522
Wright	Mary E.	02-4-00316-0	342921
Zauner	Linda	06-4-01018-5	342778
Zingale	James	09-4-00704-9	342433

No. 34236-1-III  
*In re Guardianship of Mitchell, et al.*  
Appendix

## Exhibit A

WORKING COPY

FILED  
March 14, 2016  
Court of Appeals  
Division III  
State of Washington

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR SPOKANE COUNTY**

In re the Guardianship(s) of	Cause No.
1. Donald R. Mitchell	04-09873-4
2. Bart Harrington	13-04-00268-1
3. Michael Hood	13-04-00267-3
4. Kirsten P Sternberg	12-04-01415-1
5. Carl McMorris	12-04-01005-8
6. Bertha L Jenkins	12-04-00690-5
7. Marjorie K Hopper	12-04-00511-9
8. James Zingale	09-04-00704-9
9. Lewis Palmer	08-04-00098-4
10. Nanci Jo Stocker	07-04-00756-5
11. Aaron Corey Eisenman	07-04-00293-8
12. Christopher Dean	06-04-01476-8
13. Elvella Storrud	06-04-01226-9
14. Thomas Miller	05-04-01226-1
15. Walter L Withers	04-04-00274-7
16. Robert E Loss	02-04-01201-1
17. Thomas Getchell	01-04-01342-6
18. Malcolm McLellan	97-04-01092-8
19. Janet L Shaw	96-04-01378-3
20. Ron Gehring	01-04-00294-7
21. Jonathan Hartley	01-04-00821-0
22. Mary E Wright	02-04-00316-0
23. Marlene Friesen	02-04-00384-4
24. Richard E. Bowers	02-04-00989-3
25. Jessica Harmon	03-04-00764-3
26. Carisa M. Cornelius	05-04-00548-5

FILED  
FEB 11 2016  
Timothy W. Fitzgerald  
SPOKANE COUNTY CLERK

WORKING COPY

24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR SPOKANE COUNTY**

<b>In re the Guardianship(s) of</b>	<b>Cause No.</b>
27. Robert D Harris	05-04-01384-4
28. Portia Elvidge	06-04-00102-0
29. Helen Martin	06-04-01260-9
30. Rosalind Morris	07-04-00944-4
31. Anna Carey	08-04-00665-6
32. Clayton Nalley	09-04-00820-7
33. Louise Nichols	09-04-01110-1
34. Judd Smelcer	09-04-01453-3
35. H Kurt Olson	10-04-00513-9
36. Lynn Fairbanks	10-04-00531-7
37. Jared Collier	10-04-01013-2
38. Krista Blair	10-04-01235-6
39. Donna Vogel	10-04-01437-5
40. David P Campbell	11-04-00044-5
41. Michael Fenske	11-04-01556-6
42. Margaret Sullivan	12-04-00181-4
43. Teresa Horan (Higgins)	12-04-00250-1
44. Robert Tuckerman	12-04-00311-6
45. Murphy McCoy	12-04-00405-8
46. Jared Trimble	12-04-00509-7
47. Betty Vingo	12-04-00595-0
48. Ruth Morales	12-04-00610-7
49. Margaret McDirmid	12-04-00964-5
50. Gustavo Morales	12-04-01459-2
51. Sharon Moore	14-04-00950-1
52. Connie House	12-04-01004-0

WORKING COPY

47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR SPOKANE COUNTY**

<b><i>In re the Guardianship(s) of</i></b>	<b>Cause No.</b>
53. Holly Sanford	92-04-00006-9
54. June I Love	94-04-00022-7
55. Marlo Foster	95-04-01412-9
56. Ernest Bowen	97-04-00967-9
57. Arthur Underwood	98-04-00390-3
58. Bernetta Melton	97-04-01239-4
59. Barbara A Oppegaard	03-04-01220-5
60. Linda Zauner	06-04-01018-5
61. Lucas F. Rivero	07-04-01357-3
62. Bella Mally	08-04-00968-0
63. Ralph C White	09-04-00282-9
64. Catherine Desjardins	10-04-00727-1
65. Alejandro Garcia	11-04-00300-2
66. Leslie Stanich	12-04-00381-7
67. Steven Eberhart	12-04-00510-1
68. Joseph Naylor	12-04-00677-8
69. Joan Smith	12-04-00998-0
70. Jeffrey R. Williams	00-04-01277-4
71. Linda Brangwin*	4-94376
72. Cleora Boyd*	12-04-01327-8
73. Sarah DeMary*	08-04-01645-7
74. Nehemiah Slater*	02-04-01155-3
75. Sharon Louise Pitner*	88-04-01012-1
76. Dawn Wesselman*	08-04-00910-8



WORKING COPY

70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR SPOKANE COUNTY**

**In re the Guardianship(s) of**  
*See Attached*

**NOTICE OF APPEAL  
TO COURT OF APPEALS (DIV. III)**

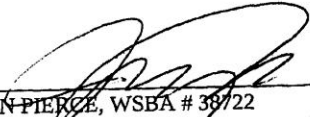
**NOTICE OF APPEAL to TO COURT OF APPEALS (DIV. III)**

Hallmark Care Services, Inc. d.b.a Castlemark Guardianship and Trusts, CPG# 5128;  
Hallmark Care Services, Inc. d.b.a. Eagle Guardianship and Professional Services, CPG# 5132;  
and, Lori Petersen , seek review by the designated appellate court of the following decisions of  
the Superior Court:

Final "Judgment" entered on January 19, 2016 (postmarked/mailed January 20, 2016)

The above-listed cases were commenced together, tried together, and are appealed as a  
single action. As such, only one filing fee need be paid pursuant to RAP 5.1(b).

Dated this 11th day of February, 2016.

By:   
JOHN PIERCE, WSBA # 38722  
LAW OFFICE OF JOHN PIERCE, P.S.  
Attorney for Appellant/ CPG Respondents

WORKING COPY

**CERTIFICATE OF MAILING**

93 I certify that a copy of the foregoing documents were delivered by First Class Mail, Postage Pre-paid, and addressed to the following:

Safe Haven Guardianship Agency, LLC  
921 W. Broadway, Ste. 301  
Spokane, WA 99201

Kelly B. Moore  
Moore Guardianship Services  
5008 N. Lee St.  
Spokane, WA 99201

James Sternberg  
5211 Navajo Trail  
Pickney, MI 48169

Special Notice Requested

Lawrence Garvin  
Attorney at Law  
601 W. Main Ave., Ste 714  
Spokane, WA 99201

Paul L. Calabro  
Attorney at Law  
309 S. Liberty Lake Rd., #2  
Liberty Lake, WA 99019

Winston Cook  
Cook Guardianship Services  
520 N. Grant Ave  
Medical Lake, WA 99022

Jody Schierman  
PO Box 11501  
Spokane Valley, WA 99201

Peggy Bureta  
3012 W. Fairview Ave.  
Spokane, WA 99205

Charmaine Getchell  
618 S. Jefferson, #4  
Spokane, WA 99204

Lin O'Dell  
PO Box 9898  
Spokane, WA 99209

Amanda Witthauer  
921 W Broadway Ste 204  
Spokane, WA 99201

James Spurgetis  
422 W Riverside Ave., Ste. 620  
Spokane, WA 99201

Janice Burke  
PO Box 3384  
Yakima, WA 98903

Kristi Kilbourne  
Paladin Services LLC  
8511 E Sprague Ave.  
Spokane Valley, WA 99212

Constance O'Hara  
816 W Francis Ste 382  
Spokane, WA 99205

Leslie A Bening  
518 S. Windswept Trail  
Post Falls, ID 83854

Thea A Skomo  
Assurance Guardianship Service  
1314 S. Grand, Ste. 2, PMB 278  
Spokane, WA 99202

No. 34236-1-III  
*In re Guardianship of Mitchell, et al.*  
Appendix

WORKING COPY

Judith K Robertson  
Training and Guardianship Services  
PO Box 30008  
Spokane, WA 99224

Wanda Powers  
2311 E Bismark  
Spokane, WA 99208

Evelyn Blackman  
3317 E Fairview  
Spokane, WA 99219

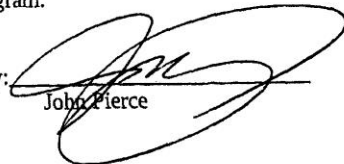
Special Notice Requested

Marci Arthur  
Division of Develop Disabilities  
1611 W Indiana  
Spokane, WA 99205

Special Notice Requested


cc: Spokane Guardianship Monitoring Program.

Dated this 11th day of February, 2016.

By:   
John Pierce

No. 34236-1-III  
In re Guardianship of Mitchell, et al.  
Appendix

WORKING COPY

(Copy Receipt)	(Clerk's Date Stamp)
 <p><b>SUPERIOR COURT OF WASHINGTON COUNTY OF SPOKANE</b></p> <p>In Re the Guardianship of:</p> <p><u>Donald Mitchell</u></p> <p>An Incapacitated Person</p>	<p>CASE NO. <u>4-9873-4</u></p> <p><b>JUDGMENT SUMMARY (JDSUM)</b></p> <p><b>Clerk's Action Required</b></p>

**JUDGMENT SUMMARY**

1. Judgment Creditor(s): Spokane County
2. Judgment Debtor(s):  Lori Peterson  
 Castlemark Guardianship  
 Eagle Guardianship  
 Empire Guardianship  
 Hallmark Guardianship
3. Principal Judgment Amount: \$ 228.00
4. Interest to Date of Judgment: \$ 0
5. Attorney Fees: \$ 0
6. Costs: \$ 0

No. 34236-1-III

*In re Guardianship of Mitchell, et al.*

Appendix

WORKING COPY

7. The principal judgment amount shall accrue interest at 12% per year.

8. Attorney for Judgment Creditor(s): n/a

9. Attorney for Judgment Debtor(s): John Pierce

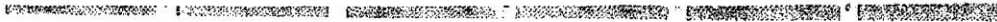
Dated:

1/19/16

Signed:




JUDGE/COURT COMMISSIONER



FILED  
 JAN 20 2016  
 Timothy W. Fitzgerald  
 SPOKANE COUNTY CLERK

(Copy Receipt)

(Clerk's Date Stamp)

 <p><b>SUPERIOR COURT OF WASHINGTON          COUNTY OF SPOKANE</b></p>	
<p>In Re the Guardianship of:</p> <p style="text-align: center;"><u>Donald Mitchell</u></p> <p style="text-align: center;">An Incapacitated Person</p>	<p>CASE NO. <u>4-9873-4</u></p> <p><b>JUDGMENT SUMMARY          (JDSUM)</b></p> <p><b><u>Clerk's Action Required</u></b></p>

**JUDGMENT SUMMARY**

1. Judgment Creditor(s): Spokane County
2. Judgment Debtor(s):  Lori Peterson  
 Castlemark Guardianship  
 Eagle Guardianship  
 Empire Guardianship  
 Hallmark Guardianship
3. Principal Judgment Amount: \$ 228.00
4. Interest to Date of Judgment: \$ 0
5. Attorney Fees: \$ 0
6. Costs: \$ 0

**16900464-4** *lf* *WFF*  
 JUDGMENT SUMMARY (10/01)

No. 34236-1-III

*In re Guardianship of Mitchell, et al.*

Appendix

7. The principal judgment amount shall accrue interest at 12% per year.
8. Attorney for Judgment Creditor(s): n/a
9. Attorney for Judgment Debtor(s): John Pierce

Dated: 1/19/16

Signed:   
JUDGE/COURT COMMISSIONER

No. 34236-1-III

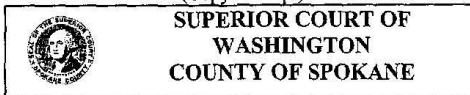
*In re Guardianship of Mitchell, et al.*

Appendix

FILED  
JAN 30 2016  
Timothy W. Fitzgerald  
SPOKANE COUNTY CLERK

(Copy Receipt)

(Clerk's Date Stamp)



In the Guardianship of:

CASE NO.

1. Sharon Louise Pitner,
2. Ron Gehring;
3. Rex Lee Hartley;
4. Mary E. Wright;
5. Marlene Friesen;
6. Richard E. Bowers;
7. Jessica Harmon;
8. Carisa M. Cornelius;
9. Robert D. Harris;
10. Portia Elvidge;
11. Helen Martin;
12. Rosalind Morris;
13. Anna Carey;
14. Dawn Wesselman;
15. Clayton Nalley;
16. Louise Nichols;
17. Judd Smelcer;
18. H. Kurt Olson;
19. Lynn Fairbanks;
20. Jared Collier;
21. Krista Blair;
22. Donna Vogel;
23. David Campbell;
24. Michael Fenske;
25. Margaret Sullivan;
26. Teresa Higgins;
27. Robert W. Tuckerman;

1. 88-4-01012-1
2. 01-4-00294-7
3. 01-4-00821-0
4. 02-4-00316-0
5. 02-4-00384-4
6. 02-4-00989-3
7. 03-4-00764-3
8. 05-4-00548-5
9. 05-4-01384-4
10. 06-4-00102-0
11. 06-4-01260-9
12. 07-4-00944-4
13. 08-4-00665-6
14. 08-4-00910-8
15. 09-4-00820-7
16. 09-4-01110-1
17. 09-4-01453-3
18. 10-4-00513-9
19. 10-4-00531-7
20. 10-4-01013-2
21. 10-4-01235-6
22. 10-4-01437-5
23. 11-4-00044-5
24. 11-4-01556-6
25. 12-4-00181-4
26. 12-4-00250-1
27. 12-4-00311-6

98734-



No. 34236-1-III

*In re Guardianship of Mitchell, et al.*

Appendix

---

28. Murphy McCoy;	28. 12-4-00405-8
29. Jared Trimble;	29. 12-4-00509-7
30. Betty Vingo;	30. 12-4-00595-0
31. Ruth Morales;	31. 12-4-00610-7
32. Margaret McDirmid;	32. 12-4-00964-5
33. Gustavo Morales;	33. 12-4-01459-2
34. Sharon Moore;	34. 14-4-00950-1
35. Jeffrey R. Williams;	35. 88-4-00487-2
36. Holly Mae Sanford;	36. 92-4-00006-9
37. June Love;	37. 94-4-00022-7
38. Marlo Foster;	38. 95-4-01412-9
39. Ernest Bowen;	39. 97-4-00967-9
40. Bernetta E. Melton;	40. 97-4-01239-4
41. Arthur Underwood;	41. 98-4-00390-3
42. Barbara A. Oppegaard;	42. 03-4-01220-5
43. Linda Zauner;	43. 06-4-01018-5
44. Lucas Rivero;	44. 07-4-01357-3
45. Bella Mally;	45. 08-4-00968-0
46. Ralph C. White;	46. 09-4-00282-9
47. Catherine Desjardins;	47. 10-4-00727-1
48. Alejandro Garcia;	48. 11-4-00300-2
49. Leslie Stanich;	49. 12-4-00381-7
50. Steven Eberhart;	50. 12-4-00510-1
51. Joseph Naylor;	51. 12-4-00677-8
52. Joan S. Smith;	52. 12-4-00998-0
53. Connie L. House;	53. 12-4-01004-0
54. Janet L. Shaw	54. 96-4-01378-3
55. Malcolm McLellan	55. 97-4-01092-8
56. Thomas Getchell	56. 01-4-01342-6
57. Robert Loss	57. 02-4-01201-1
58. Walter L. Withers	58. 04-4-00274-7
59. Thomas Miller Jr.	59. 05-4-01226-1
60. Elvella Storrud	60. 06-4-01226-9
61. Christopher Dean	61. 06-4-01476-8

---

No. 34236-1-III  
*In re Guardianship of Mitchell, et al.*  
Appendix

- |                        |                  |
|------------------------|------------------|
| 62. Aaron Eisenman     | 62. 07-4-00293-8 |
| 63. Nanci J. Stocker   | 63. 07-4-00756-5 |
| 64. Lewis Palmer       | 64. 08-4-00098-4 |
| 65. James Zingale      | 65. 09-4-00704-9 |
| 66. Marjorie K. Hopper | 66. 12-4-00511-9 |
| 67. Bertha Jenkins     | 67. 12-4-00690-5 |
| 68. Carl McMorris      | 68. 12-4-01005-8 |
| 69. Kirsten Sternberg  | 69. 12-4-01415-1 |
| 70. Michael Hood       | 70. 13-4-00267-3 |
| 71. Bart Harrington    | 71. 13-4-00268-1 |
| 72. Donald Mitchell    | 72. 4-98734      |
| 73. Nehemiah Slater    | 73. 02-4-01155-3 |
| 74. Sarah DeMary       | 74. 08-4-01645-7 |
| 75. Cleora Boyd        | 75. 12-4-01327-8 |
| 76. Linda Brangwin     | 76. 4-94376      |

ORDER ON CONTEMPT REVIEW

(AFSR)

THIS MATTER came before the court on a review of Order on Contempt which was entered October 29, 2015.

**I. FINDINGS**

The court finds that this matter was set before Commissioner Grovdahl on January 13, 2016, at 9:00 a.m. in Courtroom 306 pursuant to the Order on Contempt dated October 29, 2015. That at that place and time neither the Respondents nor their attorney appeared. That the court inquired of the staff members who were present from the Guardianship Monitoring Program and they indicated that there had been no accountings filed by the Respondents since the entry of the Order which compelled the same. The court finds that the Respondents continue to be in contempt and that to date pursuant to the October 29, 2015 order provisions, they have been in non-compliance 76 days for each of the above-referenced cases at \$3.00

No. 34236-1-III

*In re Guardianship of Mitchell, et al.*

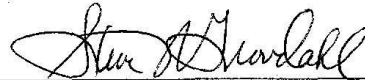
Appendix

per day for each case for a total of \$228 per case. That judgment should enter for such amount on each case as of January 13, 2016. Until the Order on Contempt is complied with that there shall continue to be assessed a monetary penalty.

**II. ORDER**

It is hereby ORDERED that judgment herein be entered for each of the above cases in the amount of \$228.00 for the period from October 29, 2015 through January 13, 2016.

DATED this 19<sup>th</sup> day of January, 2016.



JUDGE/COURT COMMISSIONER

No. 34236-1-III

*In re Guardianship of Mitchell, et al.*

Appendix

WORKING COPY

CN: 498734

**SN: 247**

PC: 9

FILED  
Court of Appeals  
Division III  
State of Washington  
10/24/2019 10:39 AM

FILED  
OCT 08 2019  
Timothy W. Fitzgerald  
SPOKANE COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR SPOKANE COUNTY

In re the Guardianship(s) of	Cause No.
1. Donald R. Mitchell	04-09873-4
2. Bart Harrington	13-04-00268-1
3. Michael Hood	13-04-00267-3
4. Kirsten P Sternberg	12-04-01415-1
5. Carl McMorris	12-04-01005-8
6. Bertha L Jenkins	12-04-00690-5
7. Marjorie K Hopper	12-04-00511-9
8. James Zingale	09-04-00704-9
9. Lewis Palmer	08-04-00098-4
10. Nanci Jo Stocker	07-04-00756-5
11. Aaron Corey Eisenman	07-04-00293-8
12. Christopher Dean	06-04-01476-8
13. Elvella Storrud	06-04-01226-9
14. Thomas Miller	05-04-01226-1
15. Walter L Withers	04-04-00274-7
16. Robert E Loss	02-04-01201-1
17. Thomas Getchell	01-04-01342-6
18. Malcolm McLellan	97-04-01092-8
19. Janet L Shaw	96-04-01378-3
20. Ron Gehring	01-04-00294-7
21. Jonathan Hartley	01-04-00821-0
22. Mary E Wright	02-04-00316-0
23. Marlene Friesen	02-04-00384-4
24. Richard E. Bowers	02-04-00989-3
25. Jessica Harmon	03-04-00764-3
26. Carisa M. Cornelius	05-04-00548-5

No. 34236-1-III

*In re Guardianship of Mitchell, et al.*

Appendix

WORKING COPY

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR SPOKANE COUNTY**

<b>In re the Guardianship(s) of</b>	<b>Cause No.</b>
27. Robert D Harris	05-04-01384-4
28. Portia Elvidge	06-04-00102-0
29. Helen Martin	06-04-01260-9
30. Rosalind Morris	07-04-00944-4
31. Anna Carey	08-04-00665-6
32. Clayton Nalley	09-04-00820-7
33. Louise Nichols	09-04-01110-1
34. Judd Smelcer	09-04-01453-3
35. H Kurt Olson	10-04-00513-9
36. Lynn Fairbanks	10-04-00531-7
37. Jared Collier	10-04-01013-2
38. Krista Blair	10-04-01235-6
39. Donna Vogel	10-04-01437-5
40. David P Campbell	11-04-00044-5
41. Michael Fenske	11-04-01556-6
42. Margaret Sullivan	12-04-00181-4
43. Teresa Horan (Higgins)	12-04-00250-1
44. Robert Tuckerman	12-04-00311-6
45. Murphy McCoy	12-04-00405-8
46. Jared Trimble	12-04-00509-7
47. Betty Vingo	12-04-00595-0
48. Ruth Morales	12-04-00610-7
49. Margaret McDirmid	12-04-00964-5
50. Gustavo Morales	12-04-01459-2
51. Sharon Moore	14-04-00950-1
52. Connie House	12-04-01004-0

No. 34236-1-III

*In re Guardianship of Mitchell, et al.*

Appendix

WORKING COPY

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR SPOKANE COUNTY**

<b>In re the Guardianship(s) of</b>	<b>Cause No.</b>
53. Holly Sanford	92-04-00006-9
54. June I Love	94-04-00022-7
55. Marlo Foster	95-04-01412-9
56. Ernest Bowen	97-04-00967-9
57. Arthur Underwood	98-04-00390-3
58. Bernetta Melton	97-04-01239-4
59. Barbara A Oppegaard	03-04-01220-5
60. Linda Zauner	06-04-01018-5
61. Lucas F. Rivero	07-04-01357-3
62. Bella Mally	08-04-00968-0
63. Ralph C White	09-04-00282-9
64. Catherine Desjardins	10-04-00727-1
65. Alejandro Garcia	11-04-00300-2
66. Leslie Stanich	12-04-00381-7
67. Steven Eberhart	12-04-00510-1
68. Joseph Naylor	12-04-00677-8
69. Joan Smith	12-04-00998-0
70. Jeffrey R. Williams	88-4-004872
71. Linda Brangwin*	4-94376
72. Cleora Boyd*	12-04-01327-8
73. Sarah DeMary*	08-04-01645-7
74. Nehemiah Slater*	02-04-01155-3
75. Sharon Louise Pitner*	88-04-01012-1
76. Dawn Wesselman*	08-04-00910-8

No. 34236-1-III

*In re Guardianship of Mitchell, et al.*

Appendix

WORKING COPY

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR SPOKANE COUNTY**

**In re the Guardianship(s) of  
DONALD RAYMOND MITCHELL, et  
al.**

**No. 342361**

**NOTICE OF APPEAL  
TO COURT OF APPEALS (DIV. III)**

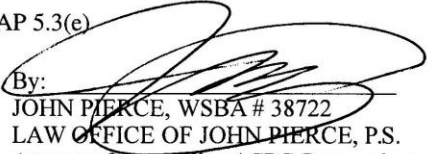
**NOTICE OF APPEAL to TO COURT OF APPEALS (DIV. III)**

Hallmark Care Services, Inc. d.b.a Castlemark Guardianship and Trusts, CPG# 5128;  
Hallmark Care Services, Inc. d.b.a. Eagle Guardianship and Professional Services, CPG# 5132;  
and, Lori Petersen , seek review by the designated appellate court of the following decisions of  
the Superior Court:

Final "Order", denying Defendants' motion for statutory fees and costs as prevailing  
party, entered on September 24, 2019 (postmarked/mailed September 24, 2019 with no  
service parties listed).

The above-listed cases were commenced together, tried together, and are appealed as a  
single action, consolidated under the caption above. RAP 3.3. Appellants are filing a single  
notice for all consolidated cases pursuant to RAP 5.3(e)

Dated this 8th day of October, 2019.

By:   
JOHN PIERCE, WSBA # 38722  
LAW OFFICE OF JOHN PIERCE, P.S.  
Attorney for Appellant/ CPG Respondents

No. 34236-1-III

*In re Guardianship of Mitchell, et al.*

Appendix  
WORKING COPY

**CERTIFICATE OF MAILING**

I certify that a copy of the foregoing documents were delivered by First Class Mail, Postage Pre-paid , and addressed to the following:

Steve Kinn  
Spokane County Prosecutor's Office  
Civil Department  
1115 W. Broadway Ave.  
Spokane, WA 99260

First Class Mail, Postage Pre-paid  
 Hand Delivered  
 Overnight Mail  
 Telecopy (fax)

Dated this 8th day of October, 2019.



John Pierce, Atty. in Appellate



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

COPY  
ORIGINAL FILED  
SEP 24 2019

SPOKANE COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF SPOKANE

Re: Guardianships/Trusts of:

Sharon Louise Pitner	Cause No. 88-4-01012-1
Ron Gehring	Cause No. 01-4-00294-7
Rex Lee Hartley	Cause No. 01-4-00821-0
Mary E. Wright	Cause No. 02-4-00316-0
Marlene Friesen	Cause No. 02-4-00384-4
Richard E. Bowers	Cause No. 02-4-00989-3
Jessica Harmon	Cause No. 03-4-00764-3
Carisa M. Cornelius	Cause No. 05-4-00548-5
Robert D. Harris	Cause No. 05-4-01384-4
Portia Elvidge	Cause No. 06-4-00102-0
Helen Martin	Cause No. 06-4-01260-9
Rosalind Morris	Cause No. 07-4-00944-4
Anna Carey	Cause No. 08-4-00910-8
Dawn Wesselman	Cause No. 08-4-00910-8
Clayton Nalley	Cause No. 09-4-00820-7
Louise Nichols	Cause No. 09-4-01110-1
Judd Smelcer	Cause No. 09-4-01453-3
H. Kurt Olson	Cause No. 10-4-00513-9
Lynn Fairbanks	Cause No. 10-4-00531-7
Jared Collier	Cause No. 10-4-01013-2
Krista Blair	Cause No. 10-4-01235-6
Donna Vogel	Cause No. 10-4-01437-5
David Campbell	Cause No. 11-4-00044-5
Michael Fenske	Cause No. 11-4-01556-6
Margaret Sullivan	Cause No. 12-4-00181-4
Teresa Higgins	Cause No. 12-4-00250-1
Robert W. Tuckerman	Cause No. 12-4-00311-6
Murphy McCoy	Cause No. 12-4-00405-8
Jared Trimble	Cause No. 12-4-00509-7
Betty Vingo	Cause No. 12-4-00595-0
Ruth Morales	Cause No. 12-4-00610-7

**ORDER RE:  
STATUTORY FEES  
AND COSTS**

Appendix

WORKING COPY

1	Margaret McDimid	Cause No. 12-4-00964-5
	Gustavo Morales	Cause No. 12-4-01459-2
2	Sharon Moore	Cause No. 14-4-00950-1
	Jeffrey R. Williams	Cause No. 88-4-00487-2
3	Holly Mae Sanford	Cause No. 92-4-00006-9
	June Love	Cause No. 94-4-00022-7
4	Marlo Foster	Cause No. 95-4-01412-9
	Ernest Bowen	Cause No. 97-4-00967-9
5	Bernetta E. Melton	Cause No. 97-4-01239-4
	Arthur Underwood	Cause No. 98-4-00390-3
6	Barbara A. Oppegaard	Cause No. 03-4-01220-5
	Linda Zauner	Cause No. 06-4-01018-5
7	Lucas Rivero	Cause No. 07-4-01357-3
	Bella Mally	Cause No. 08-4-00968-0
8	Ralph C. White	Cause No. 09-4-00282-9
	Catherine Desjardins	Cause No. 10-4-00727-1
9	Alejandro Garcia	Cause No. 11-4-00300-2
	Leslie Stanich	Cause No. 12-4-00381-7
10	Steven Eberhart	Cause No. 12-4-00510-1
	Joseph Naylor	Cause No. 12-4-00677-8
11	Joan S. Smith	Cause No. 12-4-00998-0
	Connie L. House	Cause No. 12-4-01004-0
12	Janet L. Shaw	Cause No. 96-4-01378-3
	Malcolm Mclellan	Cause No. 97-4-01092-8
13	Thomas Getchell	Cause No. 01-4-01342-6
	Robert Loss	Cause No. 02-4-01201-1
14	Walter L. Withers	Cause No. 04-4-00274-7
	Thomas Miller Jr.	Cause No. 05-4-01226-1
15	Elvella Storrud	Cause No. 06-4-01226-9
	Christopher Dean	Cause No. 06-4-01476-8
16	Aaron Eisenman	Cause No. 07-4-00293-8
	Nanci J. Stocker	Cause No. 07-4-00756-5
17	Lewis Palmer	Cause No. 08-4-00098-4
	James Zingale	Cause No. 09-4-00704-9
18	Marjorie K. Hopper	Cause No. 12-4-00511-9
	Bertha Jenkins	Cause No. 12-4-00690-5
19	Carl McMorris	Cause No. 12-4-01005-8
	Kirsten Sternberg	Cause No. 12-4-01415-1
20	Michaele Hood	Cause No. 13-4-00267-3
	Bart Harrington	Cause No. 13-4-00268-1
21	Donald Mitchell	Cause No. 4-98734
	Nehemiah Slater	Cause No. 02-4-01155-3
22	Sarah DeMary	Cause No. 08-4-01645-7
	Cleora Boyd	Cause No. 12-4-01327-8
23	Linda Brangwin	Cause No. 4-94376

1           This matter came before the Court on Friday, September 13, 2019 upon this  
2 Court's Motion for Presentment and the motions of Lori Peterson d/b/a Empire Care  
3 Services, an individual; and, Hallmark Care Services Inc., a Washington Corporation  
4 d/b/a Castlemark Guardianship and Trusts, d/b/a Empire Guardianship and Professional  
5 Services to vacate certain Judgments as referenced in the motion, together with a Motion  
6 for Attorney Fees and Costs.

7           At the time of the hearing the Court entered two orders. The first was the order  
8 brought on for presentment by the Court which vacated the October 28, 2015 sanction  
9 order against Lori Peterson, et al., and the second was an Order Vacating Certain  
10 Judgments in June 2015 against Lori Peterson, et al.

11           As to the Motion for Statutory Fees and Costs, the Court reserved ruling to  
12 ascertain the procedural aspects of entering the order in light of the pending appeal and  
13 to consider the substance of the motion.

14           The Court is now satisfied it can proceed to enter an order on the issue of the fee  
15 request so as to allow review by the Court of Appeals.

16           Lori Peterson, et al., asserts a right to statutory attorney's fees and costs under  
17 RCW 4.84.010 et seq. The request is basis upon the theory it is a prevailing party. To  
18 succeed on that theory this Court would have to find it was a party, or the Guardianship  
19 Monitoring Program was a party, and that Peterson, et al. prevailed under the statute.

20           This Court holds that the Court and the Guardianship Monitoring Program are not  
21 parties for the purposes of the award of statutory in this matter as they are not named  
22 parties in any capacity in the cases at issue.

23



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

CN: 498734  
**SN: 246**  
PC: 4

**FILED**  
SEP 24 2019  
TIMOTHY W. FITZGERALD  
SPOKANE COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF SPOKANE

Re: Guardianships/Trusts of:

Sharon Louise Pitner	Cause No. 88-4-01012-1
Ron Gehring	Cause No. 01-4-00294-7
Rex Lee Hartley	Cause No. 01-4-00821-0
Mary E. Wright	Cause No. 02-4-00316-0
Marlene Friesen	Cause No. 02-4-00384-4
Richard E. Bowers	Cause No. 02-4-00989-3
Jessica Harmon	Cause No. 03-4-00764-3
Carisa M. Cornelius	Cause No. 05-4-00548-5
Robert D. Harris	Cause No. 05-4-01384-4
Portia Elvidge	Cause No. 06-4-00102-0
Helen Martin	Cause No. 06-4-01260-9
Rosalind Morris	Cause No. 07-4-00944-4
Anna Carey	Cause No. 08-4-00910-8
Dawn Wesselman	Cause No. 08-4-00910-8
Clayton Nalley	Cause No. 09-4-00820-7
Louise Nichols	Cause No. 09-4-01110-1
Judd Smelcer	Cause No. 09-4-01453-3
H. Kurt Olson	Cause No. 10-4-00513-9
Lynn Fairbanks	Cause No. 10-4-00531-7
Jared Collier	Cause No. 10-4-01013-2
Krista Blair	Cause No. 10-4-01235-6
Donna Vogel	Cause No. 10-4-01437-5
David Campbell	Cause No. 11-4-00044-5
Michael Fenske	Cause No. 11-4-01556-6
Margaret Sullivan	Cause No. 12-4-00181-4
Teresa Higgins	Cause No. 12-4-00250-1
Robert W. Tuckerman	Cause No. 12-4-00311-6
Murphy McCoy	Cause No. 12-4-00405-8
Jared Trimble	Cause No. 12-4-00509-7
Betty Vingo	Cause No. 12-4-00595-0
Ruth Morales	Cause No. 12-4-00610-7

**ORDER RE:  
STATUTORY FEES  
AND COSTS**

Appendix

WORKING COPY

1	Margaret McDirmid	Cause No. 12-4-00964-5
	Gustavo Morales	Cause No. 12-4-01459-2
2	Sharon Moore	Cause No. 14-4-00950-1
	Jeffrey R. Williams	Cause No. 88-4-00487-2
3	Holly Mae Sanford	Cause No. 92-4-00006-9
	June Love	Cause No. 94-4-00022-7
4	Marlo Foster	Cause No. 95-4-01412-9
	Ernest Bowen	Cause No. 97-4-00967-9
5	Bernetta E. Melton	Cause No. 97-4-01239-4
	Arthur Underwood	Cause No. 98-4-00390-3
6	Barbara A. Oppegaard	Cause No. 03-4-01220-5
	Linda Zauner	Cause No. 06-4-01018-5
7	Lucas Rivero	Cause No. 07-4-01357-3
	Bella Mally	Cause No. 08-4-00968-0
8	Ralph C. White	Cause No. 09-4-00282-9
	Catherine Desjardins	Cause No. 10-4-00727-1
9	Alejandro Garcia	Cause No. 11-4-00300-2
	Leslie Stanich	Cause No. 12-4-00381-7
10	Steven Eberhart	Cause No. 12-4-00510-1
	Joseph Naylor	Cause No. 12-4-00677-8
11	Joan S. Smith	Cause No. 12-4-00998-0
	Connie L. House	Cause No. 12-4-01004-0
12	Janet L. Shaw	Cause No. 96-4-01378-3
	Malcolm Mclellan	Cause No. 97-4-01092-8
13	Thomas Getchell	Cause No. 01-4-01342-6
	Robert Loss	Cause No. 02-4-01201-1
14	Walter L. Withers	Cause No. 04-4-00274-7
	Thomas Miller Jr.	Cause No. 05-4-01226-1
15	Elvella Storrud	Cause No. 06-4-01226-9
	Christopher Dean	Cause No. 06-4-01476-8
16	Aaron Eisenman	Cause No. 07-4-00293-8
	Nanci J. Stocker	Cause No. 07-4-00756-5
17	Lewis Palmer	Cause No. 08-4-00098-4
	James Zingale	Cause No. 09-4-00704-9
18	Marjorie K. Hopper	Cause No. 12-4-00511-9
	Bertha Jenkins	Cause No. 12-4-00690-5
19	Carl McMorris	Cause No. 12-4-01005-8
	Kirsten Sternberg	Cause No. 12-4-01415-1
20	Michaele Hood	Cause No. 13-4-00267-3
	Bart Harrington	Cause No. 13-4-00268-1
21	Donald Mitchell	Cause No. 4-98734 ✓
	Nehemiah Slater	Cause No. 02-4-01155-3
22	Sarah DeMary	Cause No. 08-4-01645-7
	Cleora Boyd	Cause No. 12-4-01327-8
23	Linda Brangwin	Cause No. 4-94376

1           This matter came before the Court on Friday, September 13, 2019 upon this  
2 Court's Motion for Presentment and the motions of Lori Peterson d/b/a Empire Care  
3 Services, an individual; and, Hallmark Care Services Inc., a Washington Corporation  
4 d/b/a Castlemark Guardianship and Trusts, d/b/a Empire Guardianship and Professional  
5 Services to vacate certain Judgments as referenced in the motion, together with a Motion  
6 for Attorney Fees and Costs.

7           At the time of the hearing the Court entered two orders. The first was the order  
8 brought on for presentment by the Court which vacated the October 28, 2015 sanction  
9 order against Lori Peterson, et al., and the second was an Order Vacating Certain  
10 Judgments in June 2015 against Lori Peterson, et al.

11           As to the Motion for Statutory Fees and Costs, the Court reserved ruling to  
12 ascertain the procedural aspects of entering the order in light of the pending appeal and  
13 to consider the substance of the motion.

14           The Court is now satisfied it can proceed to enter an order on the issue of the fee  
15 request so as to allow review by the Court of Appeals.

16           Lori Peterson, et al., asserts a right to statutory attorney's fees and costs under  
17 RCW 4.84.010 et seq. The request is basis upon the theory it is a prevailing party. To  
18 succeed on that theory this Court would have to find it was a party, or the Guardianship  
19 Monitoring Program was a party, and that Peterson, et al. prevailed under the statute.

20           This Court holds that the Court and the Guardianship Monitoring Program are not  
21 parties for the purposes of the award of statutory in this matter as they are not named  
22 parties in any capacity in the cases at issue.

23





No. 34236-1-III  
*In re Guardianship of Mitchell, et al.*  
Appendix

## Exhibit B

No. 34236-1-III

*In re Guardianship of Mitchell, et al.*

Appendix  
WORKING COPY

**CERTIFICATE OF MAILING**

I certify that a copy of the foregoing documents were delivered by First Class Mail, Postage Pre-paid , and addressed to the following:

Steve Kinn  
Spokane County Prosecutor's Office  
Civil Department  
1115 W. Broadway Ave.  
Spokane, WA 99260

First Class Mail, Postage Pre-paid  
 Hand Delivered  
 Overnight Mail  
 Telecopy (fax)

Dated this 8th day of October, 2019.



John Pierce, Atty. L. Appellants