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

In Re the Estate of:

Case No.: 10-4-00500-2 SEA

STEPHEN GEORGE POTHIER,  
Deceased.

SECOND DECLARATION OF  
COREY DENEVAN IN SUPPORT  
OF MOTION FOR CONTEMPT

I, Corey T. Denevan, am over age eighteen and competent to provide testimony in these proceedings and make the following declaration based upon personal knowledge.

1. I am an attorney licensed to practice law in the State of Washington.

2. I am a shareholder at the firm of Aiken, St. Louis & Siljeg P.S., and represent Kara Pothier as the successor administrator of this estate.

3. On at least two separate occasions, June 1, 2010 and June 3, 2010, I spoke with Richard Wills and instructed him that I wanted an inventory and accounting from his clients as ordered by the Court on February 24, 2010, and I provided him with a deadline of June 7, 2010. Attached hereto as **Exhibit A** is a true and correct copy of an e-mail sent to Mr. Wills requesting an accounting and inventory of the estate from his clients.

4. During our conversations, Mr. Wills never asserted that his clients had already provided an inventory and accounting of the estate, nor did he ask me how the correspondence from his client failed to meet the criteria of any accounting or inventory. Quite the contrary, Mr. Wills stated that he had asked his clients for an inventory and accounting or the

1 information necessary to prepare an inventory and accounting on numerous occasions and  
2 they refused to provide him with any information.

3 5. After my imposed deadline for the production of an inventory and accounting  
4 of June 7, 2010 passed, I prepared and filed the motion for contempt.

5 6. Attached hereto as **Exhibit B** is an actual copy of the Rules of Professional  
6 Conduct 1.16, which Mr. Wills presented to the Court at the June 11, 2010 hearing. The  
7 highlighted sections were done by Mr. Wills prior to the hearing. At the June 11, 2010  
8 hearing, Mr. Wills argued that he had contacted the Washington State Bar Association Ethics  
9 Hotline and explained that his clients had engaged or were likely going to engage in illegal  
10 activity and that he could not represent them as it was a breach of RPC 1.16 and the ethics  
11 hotline opined that he should withdraw and that the court should allow him to withdraw  
12 without further inquiry. The court obliged. Mr. Wills now tries to refute these facts in his  
13 declaration. *Wills' Declaration*, p. 2-3, ¶9.

14 7. I informed Mr. Grindeland of Mr. Wills' assertions at the June 11, 2010  
15 hearing, and encouraged him to obtain a recorded copy of the hearing. I did not have time to  
16 obtain a recording of the hearing, but will do so if the Court deems it necessary to further  
17 impeach Mr. Wills' declaration.

18 8. To the extent that Mr. Grindeland suggests that I agreed to produce documents,  
19 there appears to be a misunderstanding. I agreed to consider the request, if Mr. Harper agreed  
20 to pay for the costs incurred by the estate to obtain the documents, or at least share in the  
21 expense. I invited Mr. Grindeland to call me back after he spoke to his client about my offer.  
22 Mr. Harper and his counsel have rejected the offer made to them. In light of the rejection the  
23 offer is no longer outstanding.

24 9. On June 8, 2010, I spent 1.9 hours working on a motion for contempt. I  
appeared at the hearing on the motion for contempt on June 21, 2010. My time to appear at  
that hearing was apportioned against Mr. Harper and Mr. Pothier and has been paid. I have

1 spent an additional total of 6.3 hours reviewing the response to the motion for contempt. After  
2 review of the responsive documents it was necessary for me to conduct further legal research,  
3 review of volumes of correspondence, discuss the facts of the case with my partner, Richard  
4 Furman, and then write and edit the pleadings. I anticipate that I will spend an additional 1.5  
5 hours preparing for and attending the hearing on this matter. My hourly rate is \$250.00 per  
6 hour. I am asking the court for an award of attorney fees and costs in the amount of \$2,425 to  
7 be apportioned against William Pothier and Dominic Harper.

8 I declare under penalty of perjury as defined by the laws of the State of Washington  
9 that the foregoing is true and correct based upon my recollection and belief.

10 Signed at Seattle, Washington this 29<sup>th</sup> day of June, 2010.

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13 AIKEN, ST. LOUIS & SILJEG, P.S.

14  
15 By 

16 Corey T. Denevan, WSBA No. 32114  
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# EXHIBIT A

## Corey Denevan

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**From:** Corey Denevan  
**Sent:** Tuesday, June 01, 2010 4:26 PM  
**To:** Richard Wills  
**Cc:** Leah Shepherd; Richard Furman  
**Subject:** RE: Estate of Steven Pothier: Deposition of Domonic Harper  
**Attachments:** NoticeofDeposition.pdf; LetterWillsSpoilation.pdf

Dear Richard,

Your comments set forth below are well founded. Please disregard the Subpoena to your client in its entirety.

Attached you will find a Notice of Deposition for your client for June 8, 2010, at my office. I am assuming that your permission to serve by e-mail is still authorized. If June 8, 2010 does not work, then perhaps June 14, 15 or 16<sup>th</sup> will work. If I do not receive confirmation by 5 pm tomorrow that your client will appear on one of the four dates I have proposed, then I will serve a Subpoena on your client for his deposition on a date that is convenient for my schedule. I am not trying to be unduly combative with you, I am simply trying to move this case along.

Pursuant to the court's order of February 24, 2010, your clients were required to produce an inventory and full accounting of the estate within a reasonable time. It has been more than 90 days since that order. We expect to receive the inventory and full accounting on or before June 7, 2010.

As to the production of documents, I will prepare and serve more thorough Interrogatories and Request for Production of Documents in the very near future. In anticipation of more through discovery, please find a letter regarding preservation of evidence attached hereto.

I look forward to hearing from you tomorrow.

Best Regards,

CTD  
Corey T. Denevan  
Attorney at Law

Aiken, St. Louis, & Siljeg, P.S.  
1200 Norton Building  
801 Second Avenue  
Seattle, Washington 98104-1517  
TEL: 206-624-2650  
FAX: 206-623-5764

### TAX ADVICE DISCLOSURE

To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including any attachments), unless otherwise specifically stated, was not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any matters addressed herein.

### CONFIDENTIAL AND/OR PRIVILEGED COMMUNICATION

This communication may contain information that is confidential and/or protected by attorney-client privilege. It was intended only for the named recipient. If you have received this communication in error. Please delete it immediately and contact the sender to advise them of improper delivery. Thank you.

# EXHIBIT B



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RULE 1.16  
DECLINING OR TERMINATING REPRESENTATION

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall, notwithstanding RCW 2.44.040, withdraw from the representation of a client if:

(1) the representation will result in violation of the Rules of Professional Conduct or other law;

(2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or

(3) the lawyer is discharged.

(b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if:

(1) withdrawal can be accomplished without material adverse effect on the interests of the client;

(2) the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent;

(3) the client has used the lawyer's services to perpetrate a crime or fraud;

(4) the client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement;

(5) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;

(6) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or

(7) other good cause for withdrawal exists.

(c) A lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation. When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.

## Comment

[1] A lawyer should not accept representation in a matter unless it can be performed competently, promptly, without improper conflict of interest and to completion. Ordinarily, a representation in a matter is completed when the agreed-upon assistance has been concluded. See Rules 1.2(c) and 6.5. See also Rule 1.3, Comment [4].

## Mandatory Withdrawal

[2] A lawyer ordinarily must decline or withdraw from representation if the client demands that the lawyer engage in conduct that is illegal or violates the Rules of Professional Conduct or other law. The lawyer is not obliged to decline or withdraw simply because the client suggests such a course of conduct; a client may make such a suggestion in the hope that a lawyer will not be constrained by a professional obligation.

[3] When a lawyer has been appointed to represent a client, withdrawal ordinarily requires approval of the appointing authority. See also Rule 6.2. Similarly, court approval or notice to the court is often required by applicable law before a lawyer withdraws from pending litigation. Difficulty may be encountered if withdrawal is based on the client's demand that the lawyer engage in unprofessional conduct. The court may request an explanation for the withdrawal, while the lawyer may be bound to keep confidential the facts that would constitute such an explanation. The lawyer's statement that professional considerations require termination of the representation ordinarily should be accepted as sufficient. Lawyers should be mindful of their obligations to both clients and the court under Rules 1.6 and 3.3.

## Discharge

[4] A client has a right to discharge a lawyer at any time, with or without cause, subject to liability for payment for the lawyer's services. Where future dispute about the withdrawal may be anticipated, it may be advisable to prepare a written statement reciting the circumstances.

[5] Whether a client can discharge appointed counsel may depend on applicable law. A client seeking to do so should be given a full explanation of the consequences. These consequences may include a decision by the appointing authority that appointment of successor counsel is unjustified, thus requiring self-representation by the client.

[6] If the client has severely diminished capacity, the client may lack the legal capacity to discharge the lawyer, and in any event the discharge may be seriously adverse to the client's interests. The lawyer should make special effort to help the client consider the consequences and may take reasonably necessary protective action as provided in Rule 1.14.

## Optional Withdrawal

[7] A lawyer may withdraw from representation in some circumstances. The lawyer has the option to withdraw if it can be accomplished without material adverse effect on the client's interests. Withdrawal is also justified if the client persists in a course of action that the lawyer reasonably believes is criminal or fraudulent, for a lawyer is not required to be associated with such conduct even if the lawyer does not further it. Withdrawal is also permitted if the lawyer's services were misused in the past even if that would materially prejudice the client.



The lawyer may also withdraw where the client insists on taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement.

[8] A lawyer may withdraw if the client refuses to abide by the terms of an agreement relating to the representation, such as an agreement concerning fees or court costs or an agreement limiting the objectives of the representation.

#### Assisting the Client upon Withdrawal

[9] Even if the lawyer has been unfairly discharged by the client, a lawyer must take all reasonable steps to mitigate the consequences to the client. The lawyer may retain papers as security for a fee only to the extent permitted by law. See Rule 1.15A.

[Amended effective September 1, 2006.]

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