NO. 945039

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

WASHINGTON CAPITAL MORTGAGE, INC., a Washington corporation,

Respondent,

vs.

EVAN BARIAULT,

Petitioner,

and

BRAVERN BUSINESSES, LLC,

Defendant.

RESPONSE TO PETITION FOR REVIEW

LAW OFFICES OF RICHARD McKINNEY

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IDENTITY OF RESPONDING PARTY

Washington Capital Mortgage asks that this Court deny review of the decision identified in the Petition for Review.

ISSUES PRESENTED FOR REVIEW

1. Did the trial court abuse its discretion in determining that Evan Bariault (EB) failed to make reasonable inquiry of the facts and law associated with his motion to overturn the default judgment in this case?

2. Is there a right to have an evidentiary hearing on whether EB should have been subject to CR 11 sanctions?

3. Should this Court award attorney fees to appellate counsel for WCM notwithstanding the language of RAP 18.1(j)?

COUNTERSTATEMENT OF THE FACTS

1. Contrary to Item No. 1 on p. 2 of the Petition for Review (Petition) Whitaker did not file a declaration denying service upon him of the Summons and Complaint until more than two months after Bravern Businesses (BB) filed a motion to set aside a default. **CP 986, 1027.**

See also initial Whitaker declaration which does not mention lack of service by the Secretary of State (SOS). **CP 39.**

2. Item No. 2 in Petition states that Mr. Bariault (EB) determined a party must "demonstrate" reasonable diligence before serving EB through the SOS.

Contrary to this contention RCW 25.15.025 [now repealed but in effect when service was performed] does not require a prior demonstration of due diligence. The statute states only that due diligence must be exercised.

Notwithstanding the statute BB's initial position before the trial court was that Washington Capitol Mortgage (WCM) must show reasonable diligence and that WCM failed to do so. Because of this imagined failure BB contended that service was invalid. **CP 37** ll. 8-10.

The statute does not say that there must first be an independent demonstration of reasonable diligence. EB misapprehended the law and based most of his initial filing upon this misapprehension. Filing papers based upon an unjustified legal theory is one of the bedrock bases for CR 11 sanctions. ***Doe v. Blood Bank***, 55 Wn. App. 106, 112, 780 P.2d 833 (1989) states, "It is just as conceivable . . . there was simply an unjustified misapprehension of the law, in which case CR 11 was violated." Judge Spector based the imposition of CR 11 sanctions against EB partly upon this misapprehension of the law. **CP 1158-59**, Findings 11-13.

3. Item No. 3 on page 2 of the Petition states that "Nothing in the SOS records evidenced that Whitaker had been served only that mailing had occurred."

RCW 25.15.025(2) permits service by mailing in stating "The secretary of state shall be an agent upon whom any such process . . . may be served if . . . (b) The registered agent cannot with reasonable diligence be found."

Thus service was accomplished upon BB through service upon the SOS if reasonable diligence is first exercised. Contrary to the Petition there is no need to file any proof of separate service attempts upon BB.

4. Item Nos. 4-6 on page 3 of the Petition relate to Kalivas' declaration of attempted service upon Whitaker. **CP 291-92.** There was much sound and fury about this declaration at the trial court. Numerous documents were primarily related to Kalivas' declaration. Examples of those related documents are **CP 405-06, 413 et seq., 995-96, 1001-03.**

However both parties at the trial court focused on Kalivas' declaration of service upon BB in a different case. EB's initial declaration in this case (**CP 75**) correctly notes that WCM brought two actions against BB. Copies of the two Complaints in those two separate actions are Exhibits to that declaration. **CP 157-65, 181-86.**

CP 172-76 is the judgment resulting from the Complaint in the second case (Cause No. 14-2-31833-2).

CP 193-96 is the judgment resulting from the first case (Cause No. 14-2-29631-2, the present case). There was much controversy

about the Kalivas declaration in the other case (**CP 291-92)** because he initially stated that the Bravern Building (where Whitaker the registered agent of BB lived) was open to public access. The much ballyhooed Kalivas declaration (**CP 291-92**) of attempted service relates to the other case against BB (14-2-31833-2). Neither attorney Huguenin nor EB recognized this when debating about the efficacy of **CP 291-92.**[1] Compounding the error the Petition before this Court treats **CP 291-92** as related to attempted service in the present case and misses the fact that **CP 291-92** relates to an entirely different case that is not at issue. The declaration of attempted service in the present case may be found in **CP 452-53**.

5. Kalivas' declaration of diligence in the present case is not even arguably inaccurate or deficient. ***Crystal Ltd. v. Factoria Ctr. Invs.***, 93 Wn. App. 606, 969 P.2d 1093 (1999) holds that two unsuccessful efforts to serve a party constitutes reasonable diligence. The Kalivas declaration in **CP 452-53** attests to two failed efforts to serve Whitaker at the Bravern Building.

As an aside the much disputed Kalivas declaration in the other case is not clearly inaccurate for two reasons:

[1] The author of this Response was only tangentially involved in this case at the trial court level and not at all involved with respect to the issue of Kalivas' declaration.

- The Bravern Building was partly accessible and partly inaccessible. See **CP 1077-79** which is the declaration Kathleen Beeby who worked at the Bravern Building.

- It is a fair inference from Beeby's declaration that service upon Whitaker was not possible because the individual floor where Whitaker lived was inaccessible to an uninvited visitor to Whitaker.

There is no way whereby anyone without an invitation from Whitaker could serve him at the registered agent's address of the Bravern Building. So he could "not with reasonable diligence be found at the registered office" in the language of (now repealed) RCW 25.15.025(2)(b) which provides one of the conditions for authorized service upon the SOS. Quibbling over the accessibility of part of the Bravern Building does not derogate from Kalivas' and Prince's efforts to serve the Summons and Complaint in the other case. See **CR 353-55** which is the Prince Declaration of attempted service in the other case.

The only real relevance of the other case to the present case is that Whitaker denied getting any Summons and Complaint in either of the two cases of WCM against him (**CP 1027**). Thus the trial court would have had to believe that the mailings of the two Summons and Complaints by the SOS to Whitaker in two separate cases did not arrive at his mail box. See **CP 152** and **179** which constitute proof of service by mail by the SOS

of both lawsuits upon Whitaker. Quite understandably the trial court did not believe this tale.[2] At the very least the trial court did not abuse its discretion in disbelieving Whitaker. The point here is that EB was unreasonable in believing Whitaker that he did not receive either mailing from the SOS. EB relied upon improper service of process as the only colorable part of his motion to set aside the judgment in Cause No. 14-2-29631-2.

6. EB violated the rules of evidence with numerous pejorative allegations against Kalivas to impeach and even impugn him (Item No. 7 on page 5 of Petition). The trial court found this effort flouted good faith practice by EB. Findings Nos. 18 and 19 at **CP 1159-60** were that EB's improper impeachment efforts were without legal authority.

Appellate counsel for EB applies more skill than EB in wrenching the adverse allegations against Kalivas into his Petition. The Petition incorporates the negative allegations against Kalivas by stating that these allegations provided EB with greater cause to file his initial motion in this case. However, the Petition on p. 3 does not mention that the most

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[2] Contrary to page 15 of Petition, the trial judge did not "leap" to a credibility conclusion. In Findings 20-21 at **CP 1160** she found valid service of process through the SOS. In part such a Finding may be based solely on WCM's undisputed service on the SOS which constituted service on BB irrespective of the subsequent path of SOS' mailing to BB. ***Thomas***, pp. 13-15 of Petition involves facts substantially, but not completely accurate in the Complaint in that case. Thomas, Plaintiff, made over $500,000 in house payments but did not make all the payments as alleged in the Complaint. In contrast the present case does not involve substantially accurate facts but involves an all or nothing determination as to whether SOS or Whitaker was telling the truth.

scurrilous allegations against Kalivas – forgery, racketeering, and mail and wire fraud – were based upon Federal Court findings imposed by default. Later Hon. Samuel Steiner of U.S. Bankruptcy Court refused to find that these serious allegations and the resulting default judgment against Kalivas led to a non-dischargeable judgment because the judgment did not emanate from a contested hearing. **CP 327-28.**

7. Contrary to Item No. 8 on page 3 of the Petition, there was no evidence of fraud in obtaining the judgment against BB. In his initial motion EB relied on a theory of fraud in obtaining the judgment under CR 60(b) (4). However, the supporting evidence for this theory did not suggest fraud in obtaining the judgment but instead alleged overreaching in the actions of Greenhalgh, Gonzalez or others during their dealings with Whitaker leading up to the lawsuit.

The trial court in Findings Nos. 9 and 10 (**CP 1158**) stated that EB's allegations of fraud did not relate to the means of obtaining the judgment and that EB misapprehended the law in asserting that 60(b)(4) includes fraud in the parties' underlying dealings prior to litigation. **CP 29-35, 37.**

Of course, the trial court is correct that fraud in the underlying transactions between the parties may not be a basis for overturning a judgment under CR 60(b) (4). ***Dalton v. State***, 130 Wn. App. 653, 124

P.3d 305, 313 (2005) and discussion of EB's misapprehension of the law in **CP 406-08**.

8. At pp. 5-7 the Petition stretches to demonstrate a J-V between BB and DLW, the contractor on this project. However it is undisputed that there was never produced a signed copy of the J-V.

The lack of any evidence of the alleged BB-DLW J-V is extremely significant particularly given that EB falsely swore in his initial pleadings in this case that a "true and correct" copy of the written J-V agreement was attached. **CP 76, 113-21**. Later EB stated that he knew from the outset that Whitaker did not have a signed copy of the purported J-V with DLW. **CP 1063**.

However, all parties agreed that there was a valid *signed* J-V between BB and Carlos Gonzalez who was the only one of those two joint venturers that was investing any money in the construction project. **CP 104, et seq.** is an unsigned copy of that J-V. **CP 329, 1196** are Gonzalez's confirmations that the BB-Gonzalez J-V was valid, but Gonzalez's declaration notes the radically different terms of his J-V with BB and the supposed J-V between BB and DLW which was allegedly signed on the precise day that the BB-DLW J-V was dated (even though no signed copy of that J-V ever materialized). Under this actual J-V between BB and Gonzalez, BB agreed to accept payment of only a

"nominal" payment from Gonzalez. **CP 105**, para. 8. The anticipation of only a nominal payment would explain why Whitaker ignored this project and ignored two lawsuits against BB connected with this project. Other important facts about the Gonzalez-BB J-V explain the chronology which EB has inaccurately claimed evidences fraud against Whitaker.

8.1 Gonzalez and Whitaker entered their J-V on March 25, 2014, before Kalivas or Wilson played any part in the events which EB has claimed was an intricate plot to the defraud Whitaker. Thus the Gonzalez-BB J-V, so pivotal to the subsequent events in this case could not have been part of a plot to "use[d] [BB] as a straw buyer to obtain developmental property in Burien . . . and then later cut [BB] out of the deal through misrepresentation, fraud, forgery, deceit and more." For this language of EB see **CP 28**.

8.2 Gonzalez invested substantial money in completing the construction project at issue in this case. Whitaker invested no money or real estate or time. **CP 105, 107**, paras. 7 and 19.

8.3 The Gonzalez-BB J-V gave Gonzalez almost unfettered power to bind the J-V. **CP 106-07**, paras. 9 and 19 of J-V.

8.4 Gonzalez explained at **CP 330**, para. 4 that pursuant to his authorization in the previously referenced J-V at **CP 104, et seq.**, he authorized DLW to work on the construction project at issue.

8.5 It was Gonzalez whom EB should have first interviewed before filing litigation in this factually complex transaction. Yet the Petition blithely dismisses this because Gonzalez lived in California and therefore EB supposedly could not contact him (Petition n.4 on p. 9).

8.6 The Petition implies that in California Gonzalez was on the far side of Uranus and was unreachable. Such an argument leads appellate counsel to assert that the first of two legal issues in this case is whether EB violated CR 11 because he did not interview Kalivas or Wilson or those parties favorable to them. A more inclusive statement of the legal issue is whether EB violated CR 11 because he refused a pre-filing interview attempt of Gonzalez or of those individuals associated with WCM.

Not only was Gonzalez well within hailing distance but he had tried desperately, repeatedly but unsuccessfully to contact Whitaker, before financial pressures on WCM and Gonzalez led to polarizing litigation against Whitaker. **CP 331**. Because of Gonzalez's repeated unsuccessful importunities that Whitaker get involved in this project and provide input to Gonzalez, there was every reason to believe that Gonzalez would have been a willing interviewee if EB had only contacted him.

8.7 However, such communication was destined not to materialize because EB was spoiling for a fight. Meaningful communication between Gonzalez and his partner, Whitaker, would

probably have defused the dispute which led to this litigation. However, such communication would have removed EB's opportunity to win a judgment that reimbursed EB for fees that Whitaker was not paying. **CP 1076**.

ARGUMENT

1. Reasonable Inquiry.

It is axiomatic that an appellate court may only reverse a trial court award of CR 11 sanctions if the trial court abused its discretion. ***Physicians Ins. Exch. v. Fisons Corp.***, 122 Wn.2d 299, 858 P.2d 1054 (1993).

Plaintiff urged to the trial court that EB should have inquired of DLW (the contractor on the construction project at issue) and WCM (the financier of the construction project at issue) as to their auspices in doing construction work on the project and about whether there was a J-V between BB and DLW. **CP 1191** includes case law requiring an inquiry of a party's potential adversary before filing an action against that adversary. *See e.g.* ***Allen v. Utley***, 129 F.R.D. 1 (D. D.C. 1990); ***Danik v. Hartmarx***, 120 F.R.D. 439 (D. D.C. 1998).

A fortiori EB should have contacted Gonzalez who was the partner of BB with reference to the construction project at issue.

Cascade Brigade (p. 10 of Petition) asks the reviewing court to assess "the knowledge that (EB) reasonably could have been acquired at the time the pleading was filed… and [to assess] the difficulty of acquiring sufficient information."

DLW and WCM were not looking for more litigation at the time that the two lawsuits were filed against BB. Litigation only ensued because Whitaker disdained repeated efforts to contact him to discuss the construction project at issue. See documents starting at **CP 276** and **329**.

DLW and WCM would have been happy to disabuse Whitaker of any notion that he (who was only entitled to a "nominal" payment under the terms of his J-V) was being defrauded. Most importantly Gonzalez would have talked openly and perhaps almost interminably about his knowledge of the status of the construction project.

Rather than taking these steps EB scuttled to his old haunts in the Prosecuting Attorney's office and began making misdirected allegations about Kalivas' fraud against Whitaker who made zero investment in this project, who lied about having a written J-V with DLW (with alleged contract terms that were widely at variance with the profit allocation specified in the actual J-V between Gonzalez and BB) and who refused repeated imprecations that he respond to demands for his cooperation in completing the construction project.

Judge Spector found that EB failed to make adequate factual or legal inquiry on eight occasions. **CP 1156-62**, Finding Nos. 6, 8, 9, 10, 13, 16, 19, 22. This compilation does not even include the failure of EB even to try to reach Gonzalez who had a stable and longstanding residence in California. Surely a finding of inadequate investigation by EB was within the trial court's discretion particularly when the trial court reduced the requested attorney fee award by approximately 90% of what WCM's counsel swore under oath was the actual time spent. See p. 15, *infra.*

As a postscript the opinion of attorney Fitzpatrick (**CP 1177-83**) that EB fully investigated this case is no more than an invasion of the province of the trial court which was fully equipped and authorized to make a CR 11 ruling without the assistance of the partner of appellate attorney Talmadge. *See* ***State v. O'Connell***, 83 Wn.2d 797, 523 P.2d 872 (1974) which holds an expert opinion on attorney conduct invades the province of the court. ***O'Connell*** was reaffirmed in another factual setting in ***Erics v. Denver***, 118 Wn.2d 451, 824 P.2d 1207 (1992).

2. Evidentiary Hearing

EB's Petition through his new counsel asserts for the first time in Issue 2 that there was a Due Process right to an evidentiary hearing before imposing CR 11 sanctions. However, every Federal Circuit known to have ruled on the issue has held that there is no Due Process right to an

evidentiary hearing before the imposition of Rule 11 sanctions. ***Haviland v. Specter***, 2014 WL 1064411 (3d Cir. 2014); ***In Re USA Commercial Mtg. Co.***, 2011 WL 6325882 (9th Cir. 2011); ***Baker v. Alderman***, 158 F.3d 516 (11th Cir. 1998); ***Union Planters Bank v. L & J Develop., Inc.***, 115 F.3d 378 (6th Cir. 1997); ***Merriman v. Security Ins. Co. of Hartford,*** 100 F.3d 1187 (5th Cir. 1996); ***Aetna Ins. Co. v. Meeker,*** 953 F.2d 1238 (11th Cir. 1992) (failure to request evidentiary hearing seems central to this decision); ***Dodd Ins. Services, Inc. v. Royal Ins. Co. of America***, 935 F.2d 1152 (10th Cir. 1991); ***Chemiakin v. Yefimov***, 932 F.2d 124 (2d Cir. 1991); ***In Re Kunstler***, 914 F.2d 505, 521 (4th Cir. 1990) (explicitly rejects due process right to an evidentiary hearing on Rule 11 sanctions); ***Muthig v. Brant Point Nantucket, Inc.***, 838 F.2d 600 (1st Cir. 1988); ***McLaughlin v. Bradlee***, 803 F.2d 1197 (D.C. Cir. 1986). These uniform holdings reflect the language of the original Rule 11 Advisory Committee quoted in ***McLaughlin.*** The "court must to the extent possible limit the scope of sanction proceedings to the record." These practices help to "assure that the efficiencies achieved through more effective operation of the pleading regimen will not be offset by the cost of satellite litigation over the imposition of sanctions."

One important consideration that should guide the trial court's determination whether to hold an evidentiary hearing is the amount of

sanctions imposed. ***In Re USA Commercial Mtg. Co.***, *supra*; ***Kuntsler***, *supra*; ***Merriman***, *supra*. In the present case Judge Spector awarded a total of 12.4% of McKinney's requested fees (2000 granted; 16,172 requested) and 4.4% of co-counsel Huguenin's requested fees (1875 granted; 42,650 requested). See **CP 1052-53** and **CP 1054, et seq.** for fee requests and compare with trial court's findings on fees at **CP 1161**.

This authority on evidentiary hearings for Rule 11 violations is federal authority, but our appellate courts have applied federal law in interpreting CR 11 because the rules are almost identical and the state rule emanated from the federal rule. ***Bryant v. Joseph Tree, Inc.***, 119 Wn.2d 210, 218-19, 829 P.2d 1099 (1992) and cases cited therein.

In summary there is overwhelming authority that there is no due process right to an evidentiary hearing on Rule 11 sanctions, that the drafters of Rule 11 warned against spawning satellite litigation on sanctions, that the trial court has discretion on the issue of granting a hearing, that such a hearing is particularly unnecessary if the amount of sanctions awarded is small. Yet Petitioner makes the new argument that because ***Woodruff v. Spence*** and its progeny grant the right to an evidentiary hearing on whether there was service of process, that same right applies when an attorney faces a CR 11 award against him (Petition, p. 18, et seq.).

There are two answers to this brand new contention. First, cases which interpret the right to a hearing on whether there was valid service of process condition that right to having first requested an evidentiary hearing to the trial court before its decision. ***In Re Custody of K.R.H.***, 192 Wn. App. 1011 (2016) (unpublished); ***Northwick v. Long***, 192 Wn. App. 256, 364 P.3d 1067 (2015) (Part of reason for no necessity for evidentiary hearing was that party challenging validity of service did not request full hearing until he had already lost in submitting the issue based upon a paper record); ***Leen v. Demopolis***, 62 Wn. App. 473, 815 P.2d 269 (1991).

In the present case not only did EB not request an evidentiary hearing on the issue of service on Whitaker, but EB actually *opposed* an evidentiary hearing on that issue. **CP 417**. With regard to the issue at hand, it appears to WCM that EB never requested a hearing on CR 11 sanctions.[3]

Second, all legal rights do not receive the same procedural safeguards. ***Mathews v. Eldridge***, 424 U.S. 319, 96 S. Ct. 893, 47 L. Ed.2d 18 (1976) (no right to an evidentiary hearing upon termination of Social Security disability benefits). ***Mathews*** reviews instances where

[3] EB filed a dizzying array of motions: for reconsideration, to file new evidence, for reconsideration of the denial of filing new evidence . . . ad infinitum. Despite losing six times at the trial court, EB never asked for an evidentiary hearing on CR 11 sanctions.

some rights may only be terminated after an evidentiary hearing (e.g. termination of welfare benefits) and other instances where an evidentiary hearing is not required before depriving one of other valuable rights. The only conclusion is that each particularized right is subject to its own fact-specific body of precedent. Notwithstanding a three part test in ***Mathews,*** it is difficult to make a generalized distinction between those rights which require an adversarial hearing before termination from those rights which do not require such a hearing.

The only certainty is that there has been far less willingness of the courts to insist upon an evidentiary hearing before assessing Rule 11 sanctions than there has been to require such a hearing on the issue of whether service of process has been accomplished. Even when federal on nonconstitutional bases. *See e.g.* ***King v. McCord***, 621 F.2d 205 (5th Cir. 1980). Unless there is a constitutional lynchpin to the claim to an evidentiary hearing before imposing CR 11 sanctions, it should not be considered by this Court because it was not raised at trial.

Even when courts have considered an evidentiary hearing on Rule 11 sanctions, they have often required the party requesting a full-scale hearing to articulate the exact facts which will be contested. ***Haviland***, *supra*, requires the requesting party to articulate in advance

what contested factual issues will be resolved at the hearing. In the present case it is difficult to imagine what contested facts would have been resolved at an evidentiary hearing other than the issue of whether Whitaker was served by mail by the SOS. Yet EB waived a hearing on that issue by actually opposing such a hearing. See p. 16 *supra.* Moreover Whitaker was deceased by the time when the court began to consider CR 11 sanctions thereby mooting the efficacy of a hearing on the critical issue of service of process by the SOS among other issues

ATTORNEY FEES IN RESPONDING TO PETITION FOR REVIEW

Appellate counsel for Respondent WCM is well aware that under RAP 18.1(j) fees are ordinarily not granted for responding to a Petition for Review unless the responding party previously received attorney fees from the Court of Appeals. In this case, however, WCM did not even appear before the Court of Appeals. WCM is defending a $3,875 award of sanctions which was financially unrealistic to defend despite EB's pique at meeting a challenge to his self-professed exalted level of practice. **CP 1075.**

Yet the offense to justice and fair play became too much to bear when, after losing on direct review and reconsideration in the Court of Appeals, EB actually utilized some counsel's view of the ultimate silver bullet and hired Phil Talmadge to take this appeal to the Supreme Court.

WCM asks for fees on two bases. RAP 18.1(j) was obviously not intended for a scenario wherein a Respondent answering a Petition for Review forfeited all participation at the Court of Appeals level. This Court has the inherent right to waive its own rules. ***Ashley v. Superior Court***, 83 Wn.2d 630, 636-37, 521 P.2d 711 (1974) and case cited therein.

Alternatively this Court can sua sponte award fees under RAP 18.9(a). The Petition for Review seeks a ruling that there is a constitutional right to an evidentiary hearing before CR 11 sanctions may be imposed. Such a ruling would be inconsonant with the overwhelming authority in the country, especially when there was never even a trial court request for an evidentiary hearing. A claim to a Due Process right to an evidentiary hearing before imposing CR 11 sanctions is contrary to established law across the nation. The Due Process claim is even more dubious within the context of the facts of this case (analyzing wrong declaration of service by Kalivas; few, if any, contested facts regarding EB's CR 11 violations except SOS service upon Whitaker who was deceased long before it occurred to Mr. Talmadge to assert a constitutional right to a contested hearing). It is not too much to assert that the Petition for Review is groundless, given the abuse of discretion standard of review. If it is groundless then WCM is entitled to attorney fees under RAP 18.9(a) or because WCM hereby asks for CR 11 sanctions due to the

new CR 11 violation associated with the Petition's urging for the first time of a constitutional right that is not otherwise recognized and is contrary to the express language of the Advisory Committee formulating the original Rule 11. It has not been unthinkable to use all available sanctions against various Chief Executives in our nation's history. Likewise it should not be unthinkable to award CR 11 sanctions against any offending member of the State Bar.

CONCLUSION

The Petition for Review should be denied for the reasons set forth on pp. 12-13 and 13-18 herein. Attorney fees should be granted because EB intractably continues his appeal armed only with a challenge to the accuracy of two certificates of service upon Whitaker by the SOS and with a ginned up Due Process claim previously rejected across the country.

June 6, 2017

Respectfully submitted,

Richard McKinney

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Attorney for Washington Capital Mortgage

DECLARATION OF SERVICE

On said day below I mailed via U.S. Mail, postage paid, a true and accurate copy of the ***Response to Petition for Review*** in the Supreme Court of the State of Washington, No. 945039, to the following individuals:

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

DATED: June 6, 2017, at Lynnwood, Washington.

Ila McCullough