

72964-1

72964-1

ORIGINAL

No. 72964-1

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COURT OF APPEALS  
DIVISION 1  
OF THE STATE OF WASHINGTON

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In re the Marriage of

Frank J.B. D'Orr, Respondent/Trial Court Petitioner

and

Olga V. Makalova, Appellant/Trial Court Respondent

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BRIEF OF APPELLANT

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Robert J Blazak/WSBA# 13796  
Attorney For Appellant  
149 SW. 1 54<sup>th</sup> St.  
Burien, WA 98166  
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FILED  
COURT OF APPEALS DIV 1  
STATE OF WASHINGTON  
2015 APR 7 AM 11:13

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## **I. ASSIGNMENTS OF ERROR**

### **A. Assignments of Error**

Assignment of Error No. 1 The court erred in denying the respondent's motion to vacate the default orders and default judgment entered on August 6, 2014.

Assignment of Error No. 2 The court erred in entering an order denying the respondent's motion for reconsideration on December 29, 2014.

### **B. Issues Pertaining to Assignments of Error**

- 1 What constitutes an appearance in a case pursuant to RCW. 4. 28.210?
2. Did the Appellant appear in the modification action?
3. Was the Appellant entitled to notice of the motion for default pursuant to CR 55 (a)(3)?
4. Was the Appellant given notice of the motion for default?
5. Should a default have been entered against Appellant without notice when she appeared in the action, pursuant to CR 55(a)(3)?
6. Is the Appellant entitled to have the default order and default parenting plan and child support order vacated because she was not given notice of the default hearing?

## II. STATEMENT OF THE CASE

This case involves the basic question of fairness and notice of a default motion to a party who has made an appearance in the case. Respondent, Mr. Frank D'Orr, and Appellant, Olga Makalova, were divorced by decree entered in February, 2003. There is a long history of post decree actions in this case. The latest action is a modification action filed by Respondent wherein he is seeking to modify the child support order and parenting plan. His modification action was filed on July 8, 2014 (CP 1-12), at which time he also obtain a default order (CP 15-16). There are significant events prior to this date however which form the basis of Appellant's appeal.

A Return of Service was filed on June 16, 2014. CP 286-287. That Return of Service states that Appellant was served with a Summons, Parenting Plan, Petition for Modification and several exhibits. It does not doesn't state the date of the petition. Appellant filed her response to the petition on June 17, 2014. CP 221 - 224. She also filed her own proposed parenting plan (CP 225-234) and requested the court to adopt her proposed parenting plan (CP 223). Her response included the following:

**1.2 Notice of Further Proceedings**  
PO Box 66281, Burien, WA 98166

Appellant filed a Certificate of Service stating she emailed her response to Respondent on June 16, 2014. CP 165.

On July 8, 2014, Respondent, simultaneously to commencing the legal action, filed a Note For Motion Docket, stating the nature of the motion is “Final Decree” and setting a hearing for August 22, 2014. CP 13-14. He also filed a Motion and Declaration for Default, CP 20–30, and a legal memo in support of his default motion and entry of final pleadings. CP 17-19.

In his motion for default he states that Appellant failed to appear and failed to respond to this petition but did reference her response as follows:

### **2.5 Appearance of Other Party**

The other party has failed to appear to this summons and failed to respond to this petition.

However, May [sic] 16, 2014 the other party did respond to another prior summons stricken and NOT filed which cannot be considered an answer to the filed summons served at hand, . . .

CP 23 (top of page).

Respondent further argues in his memo supporting his motion that notice of his motion<sup>1</sup> is not necessary. Respondent

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<sup>1</sup> Respondent’s motion filed on July 8, 2014, is titled Motion and Declaration for Default. However, both this motion and the supporting legal memo talk about entering final pleadings as well. His legal memo doesn’t state which motion he was referring to when he argued no notice was required of the hearing however he only obtained the default order on July 8, 2014, and didn’t provide notice of that hearing to Appellant. His legal memo starts out: “Frank J. B. D’Orr submits this Legal Memorandum in support of his Motion for Default *without notice* and in support of his request for judgment on the default, namely a temporary parenting plan.” (emphasis added). On August 6 he obtained the default judgments – Order on Modification (CP 31-36); Order For Support (CP 38-53) and Parenting Plan (Final Order) (CP 54-69). He didn’t provide Appellant with notice of that hearing either.

goes on to discuss CR 55(a)(3) stating no notice of the default motion is necessary when a party has not appeared. CP 18.

Respondent, after obtaining his default order on July 8, 2014, (CP 15-16) thereafter obtained his Order Re Modification/Adjustment of Custody Decree/Parenting Plan/Residential Schedule on August 6, 2014, CP 31-36, along with the Order of Child Support CP 38-53, and Parenting Plan (Final Order) CP 54-69<sup>2</sup>.

Respondent also filed several other documents on August 6, 2014, including the Summons and Petition for Modification/Adjustment of Custody Decree/Parenting Plan/Residential Schedule (CP 70-78) which he claims Appellant was responding to when she filed her response. He also filed another Motion for Default (CP 79-89) which was substantially similar to his previous default motion (CP 20-30) except he added the phrase "And not served properly" in the left margin when discussing the response filed by Appellant (CP 82). He also filed the same legal memo (CP 90-92), a Return of Service signed by Respondent stating he mailed, via return receipt mail, Appellant a Summons and Parenting Plan with several exhibits attached thereto. CP 93-94. As stated, Respondent was successful in obtaining default judgments at this August 6, 2014 hearing.

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<sup>2</sup> Respondent initially set the hearing to enter final pleadings on August 22, 2014, but then filed a note for hearing changing the date to August 6, 2014.

Appellant subsequently filed a motion to vacate the default order and judgments but this was denied at hearing on October 9, 2014, due to lack of proper service.

Appellant refiled her motion to vacate the default judgments (CP 99-237), and set a hearing for December 5, 2014. She was *pro se* at the time and while she didn't set forth the legal grounds forming the basis of her motion she did set forth the factual grounds, stating that she asked the court to set aside the default order and parenting plan entered on August 6, 2014, because she was not given notice of the hearing. As part of her motion she filed several documents, one of which was another declaration where she states she was not present at the last court hearing (presumably referring to the default hearing) because she wasn't given notice of the hearing. CP 102.

Appellant filed a separate declaration (CP 238-241) which explained why her first hearing to set aside the default was denied and the trouble she had in trying to get Respondent served with her motion to vacate the default orders.

Respondent filed his response to the motion to vacate, titled Objection/Declaration of Father in Response to Motion to Vacate Agreed Final Parenting Plan. CP 242-358. In his response he stated his version of the history of the case but does not state that he gave Appellant notice of his motion for default. He claimed that

Appellant responded to a petition he *didn't file* and thus didn't answer the petition she was served with in June, 2014.

In his response Respondent declares that the default parenting plan he obtained was actually agreed to by Appellant and references a declaration he says is that of Appellant attesting to her agreement with the parenting plan. CP 246 (last paragraph).

However, the declaration referred to by Respondent is actually a declaration of her attorney in a dependency action, Mr. Craig S. McDonald. Exhibit F to Respondent's declaration. CP 340-342.

This declaration is highlighted here because that declaration states Appellant objected to the default parenting plan because she didn't get notice of the default hearing. Throughout this action Appellant has consistently maintained that she never got notice of the default proceedings.<sup>3</sup>

Respondent also filed a memo in support of his position. CP 359-365. However, that memo doesn't address the issue of notice of a default hearing. Instead it focused on inapplicable grounds to set aside a judgment under various subparagraphs of CR 60(b), such as setting aside a judgment obtained under duress (CP 359); mistake or inadvertence (CP 360); and any other grounds involving extraordinary circumstances. (CP 360).

Interestingly he does state, in passing, that CR 60(b)(1) deals with irregularity in obtaining a judgment or order, and

---

<sup>3</sup> Frankly, Respondent has never denied this point.

references insufficient notice (CP 360, lines 5-8), but does not specifically address that ground in his memo. Also, he does not discuss the notice requirements of a default proceeding when a party has appeared in the case.

The hearing on Appellant's motion to vacate the default order and judgments was held on December 5, 2014. An Order on Civil Motion was entered by the court denying the motion. The basis, as set forth in the order, is as follows:

IT IS HEREBY ORDERED that the Mother/Respondent has not met her burden of proving by clear and convincing evidence that the service was improper.

CP 546.

Appellant filed a reconsideration motion on December 12, 2014. CP 497-543. The basis of that motion was the lack of notice to Appellant of the default proceedings which violated CR 55(a)(3). That motion was denied without hearing. CP 547-548.

Appellant filed a timely appeal.

### **III. ARGUMENT**

#### **A. Summary of Argument**

The fact pattern in this case is somewhat convoluted in that Respondent had Appellant served with his modification petition and supporting documents prior to filing the case. After 22 days elapsed after service of a petition and supporting documents

Respondent then filed the case and at the same time filed a motion for default, arguing for entry of a default order and final pleadings but not presenting final pleadings until a later hearing. Then, at the later hearing he not only files the final pleadings but also another summons and petition he claims, Appellant actually was responding to when she filed her response on June 14, 2014.

Distilling the extraneous facts present in the case at bar to only the salient ones, this case is simply about whether or not Appellant was entitled to notice of the default hearing and if so, the consequence of not giving her notice. The answer to the first part of the question rests on what constitutes an appearance in a legal action and when that appearance is made. The answer to the second part of that question is determined by applying case law.

B. Application of Law

1) *Standard of Review.* A trial court's decision regarding a motion for default is reviewed for abuse of discretion. Discretion is abused if it is exercised on untenable grounds or for untenable reasons. Questions of law are reviewed *de novo*. *Morin v. Burris*, 106 WA 2d 745, 161 P.3d 956 (2007).

A court acts without authority in entering a default judgment without notice against a party who has previously appeared in the action. *Shreve v. Chamberlin*, 66 Wash.App. 728, 832 P.2d 1355 (1992). See also *Tiffin v. Hendricks*, 44 WA 2d. 837, 271 P.2d 683

(1954). CR 60(b)(1) and (5) would allow the court to vacate the default judgments.

In this case the court abused its discretion in entering a default order and judgments (in the form of a support order and parenting plan) and in denying Appellant's motion to vacate the default order and judgments and denying her motion for reconsideration. The court abused its discretion in failing to recognize that Appellant, at the very least, had appeared in the action and was thus entitled to notice of the default motion and once the default order and judgments (in the form of a support order and parenting plan) were entered, Appellant was entitled to have that order and judgments vacated.

**2) Respondent Had to Give Notice of His Motion For Default.**

CR 55 governs the rules for entry of the default order and judgment. CR 55 (a)(1) provides that when a party has failed to appear, plead, or otherwise defend, a motion for default may be made. However, as a matter of public policy courts prefer controversies to be determined on the merits rather than by default. *Smith ex rel Smith v. Arnold* 127 Wash. App 98, 110 P.3d 257 (2005).

CR 55(a)(3) provides that any party who has appeared in the action for any purpose shall be served with a written notice of the motion for default and supporting affidavit at least five days prior to

the hearing on the motion. Additionally, RCW 4.28.210 provides that once appearing in an action, a defendant is entitled to notice of all subsequent proceedings.

**3) Appellant Appeared in the Action**

CR 55 does not define appearance but RCW 4.28.210 does. It states that a defendant appears in an action when he or she answers, demurs, makes any application for an order therein or gives the plaintiff written notice of his/her appearance. A formal appearance is generally evidenced by filing and serving a notice of appearance with the court and on all other parties. The existence of such documentary evidence is conclusive of the party's appearance and entitlement to notice of further proceedings. *Smith v. Arnold*, at 105.

Appellant clearly appeared in this action. She was served with a summons and parenting plan petition for modification as evidenced by the return of service dated June 16, 2014. CP 286-287. One day after being served she filed A Response To Petition For Modification/Adjustment Of Custody Decree Parenting Plan/Residential Schedule. CP 221-224. While this pleading isn't denoted a "Notice of Appearance" it provides the same information the typical "Notice of Appearance" does and the court does not exalt form over substance. See *Morin*, at 755.

Respondent has alleged that this response was a response to an unfiled petition he mailed to appellant previously. However, even assuming Respondent is correct nevertheless the response filed the Appellant constitutes a formal notice of appearance in the action and appellant provided her mailing address and requested further notice of all proceedings be mailed to her. Additionally, she attached her own proposed parenting plan and requested the court enter her own plan. Consequently this response meets the criteria set forth in RCW 4.28.210 which describes how a person appears in an action. Further, under *Arnold*, her response is *conclusive* evidence of her appearance.

**4) *Appellant is Entitled to Have the Default Order, Default Parenting Plan and Default Child Support Order Vacated***

When a court enters a default judgment against a party who has appeared in the action without notice to that party, the court acts without authority and the party defaulted out is entitled as a matter of right to have the judgment set aside. *Batterman v. Redlines Hotel, Inc.* 106 Wash. App. 54, 21 P.3d 1174 (2001), *abrogated on other grounds by Morin v. Burriss*, 160 Wn. 2d 745, 161 P.3d 956 (2007).

Once a party has appeared in an action, that party is entitled to notice of a default judgment hearing, and in the absence of notice that party is generally entitled to have the judgment set aside

without further inquiry. *Morin*, at 754, quoting *Tiffin v. Hendricks*, 44 WA. 2d. 837, 847, 271 P.2d 683 (1954).

The court should vacate the default order and judgments because Appellant appeared in the case but wasn't given notice of the default proceedings. Case law supports her claim that the default pleadings should be vacated.

#### **IV. CONCLUSION**

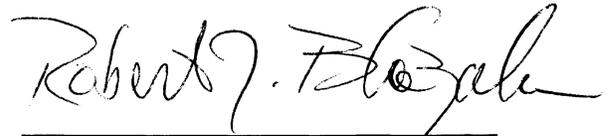
Respondent initiated a modification action and served Appellant with a summons and petition, as well as other documents. Respondent claims the first service on her was ineffective and that she was served a second summons and petition.

Appellant responded to the service of at least one of those summons and petitions and that response constituted an appearance in the case, entitling her to notice of all further pleadings in the action, including the default proceedings. Failure to provide her notice of those default proceedings results in her right to have the default judgments vacated.

Appellant asks this court to overturn the trial court and grant her motion to vacate the default order and pleadings and remand the case back to the trial court for further action on Respondent's modification petition.

Dated this 6<sup>th</sup> day of April, 2015.

Respectfully Submitted

A handwritten signature in black ink, reading "Robert J. Blazak". The signature is written in a cursive style with a long horizontal flourish extending to the right.

---

Robert J Blazak/WSBA# 13796  
Attorney For Appellant  
149 SW. 1 54<sup>th</sup> St.  
Burien, WA 98166  
206-242-6274  
(F) (206) 242-6276

APPENDIX A  
RESPONSE TO PETITION

FILED

14 JUN 17 AM 9:00

KING COUNTY  
SUPERIOR COURT CLERK  
E-FILED  
CASE NUMBER: 02-3-06580-9 KNT

Superior Court of Washington  
County of

In re: No. 02-3-06580-9 KNT

Frank J.B. D'orr

**Response to Petition for  
Modification/Adjustment of  
Custody Decree/Parenting  
Plan/Residential Schedule  
(RSP)**

Petitioner

and

Check box if petition is attached for:  
 Order for protection DV (PTORPRT)  
 Order for protection UH (PTORAH)

a  akalova  
Respondent.

To:

I. Response

1.1 Admissions and Denials

The allegations of the petition in this matter are **admitted** or **denied** as follows (check only one for each paragraph):

Paragraph of the Petition

1.1	<input checked="" type="checkbox"/>	Admitted	<input type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
1.2	<input checked="" type="checkbox"/>	Admitted	<input type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
1.3	<input checked="" type="checkbox"/>	Admitted	<input type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
2.1	<input type="checkbox"/>	Admitted	<input checked="" type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
2.2	<input type="checkbox"/>	Admitted	<input checked="" type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
2.3	<input type="checkbox"/>	Admitted	<input checked="" type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
2.4	<input type="checkbox"/>	Admitted	<input checked="" type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
2.5	<input type="checkbox"/>	Admitted	<input checked="" type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
2.6	<input checked="" type="checkbox"/>	Admitted	<input type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information

Resp to Pet for Mod/Adj (RSP) - Page 3 of 3  
WPF DRPSCU 07.0200 Mandatory (6/2008) - RCW 26.09.260; .270; 26.10.200

2.7	<input checked="" type="checkbox"/>	Admitted	<input type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
2.8	<input type="checkbox"/>	Admitted	<input checked="" type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
2.9	<input type="checkbox"/>	Admitted	<input checked="" type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
2.10	<input type="checkbox"/>	Admitted	<input checked="" type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
2.11	<input type="checkbox"/>	Admitted	<input checked="" type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
2.11.1	<input type="checkbox"/>	Admitted	<input checked="" type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
2.11.2	<input checked="" type="checkbox"/>	Admitted	<input type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
2.11.3	<input type="checkbox"/>	Admitted	<input type="checkbox"/>	Denied	<input checked="" type="checkbox"/>	Lacks Information
2.12	<input checked="" type="checkbox"/>	Admitted	<input type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
2.13	<input type="checkbox"/>	Admitted	<input checked="" type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
2.14	<input checked="" type="checkbox"/>	Admitted	<input type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
2.15	<input checked="" type="checkbox"/>	Admitted	<input type="checkbox"/>	Denied	<input type="checkbox"/>	Lacks Information
2.16	<input type="checkbox"/>	Admitted	<input type="checkbox"/>	Denied	<input checked="" type="checkbox"/>	Lacks Information

Each allegation of the petition that is denied, is denied for the following reasons (list separately):

1. The proposed PP shall be denied because there has no been adequate investigation done. There was a lot of biased on national and cultural origin, specifically from Debbie Turner of CASA program and social workers, specifically Audrey Allread and attorney general Jasmine Alfonso. None of previous family court and domestic violence of the Petitioner were taken into account even were discounted as to respondent in this case.
2. No adequate cause
3. Respondent is already paying child support that is economically fair and allows minimal standards of living and hosting children. Also, respondent misrepresents his earnings potential and earnings in general. Wording of his petition supports this notion.
4. Children have always resided in Burien, WA. Respondent move kids to Spokane largely due to create impossible circumstances for the respondent's relationship with children and to further alienate them from mother. Petitioner has not filed any proper notice of move with courts nor notified anyone. His move was precipitous.
5. Children are also of Russian origin.
6. Those are unsubstantiated statements. Children were always well taken care off. Findings and thorough investigations have been made during previous trial in this court.
7. Frank D'orr does have 191 limitations and one of those has been even found just recently in the dependency case hearing when he precipitously moved kids to Spokane. He not only was found to show complete disregard to stability and relationship of these children with their mother, but also to have made this move in bad faith. Mother is still stack with his substantial debt of the house (findings have been made by Judge Darvas) on her credit making it not possible for her to acquire more prestigious and better paying work i.e. in financial institutions or insurance agencies as example.
8. Mother strongly disagrees and opposed with change of circumstance due to unfair practices and ruling of the Juvenile court towards an immigrant woman victim of abuse of American citizen.

**1.2 Notice of Further Proceedings**

P.O.Box 66281, Burien, WA 98166

**1.3 Other**

**II. Requests**

**2.1 Request for Dismissal**

- Does not apply.
- The nonrequesting party requests that the petition be dismissed.

**2.2 Request for Modification or Adjustment**

- Does not apply.
- The nonrequesting party requests that the court enter an order modifying or adjusting the custody decree/parenting plan/residential schedule in this matter and approving the proposed parenting plan/residential schedule, which is filed with or attached to this response. The nonrequesting party also requests that the court:
  - Find there is adequate cause for hearing this matter.
  - Enter an order establishing child support in accordance with the proposed parenting plan/residential schedule. The child support worksheet and financial declaration are filed with this response.
  - Other:

I am attaching my proposed Parenting Plan to this response and ask the court to approve it as a new parenting plan. The attached parenting plan takes best interests of children and their upbringing into consideration. It is practical to follow and gives all children their constitutional right to be raise equally by both parents.

Notice to party: you may list an address that is not your residential address where you agree to accept legal documents. Any time this address changes while this action is pending, you must notify the opposing parties in writing and file an updated Confidential Information Form (WPF

**2.3 Protection Order**

There is a protection order between the parties filed in case number \_\_\_\_\_, court \_\_\_\_\_, which expires on (date) \_\_\_\_\_.

The court should grant the  domestic violence  antiharassment petition for order for protection:  attached to this response.

filed separately under  this case number  case number \_\_\_\_\_.

**If you need immediate protection, contact the clerk/court for RCW 26.50 Domestic Violence forms or RCW 10.14 Antiharassment forms.**



Dated: June 16, 2014 \_\_\_\_\_

\_\_\_\_\_  
Signature of Nonrequesting Party or Lawyer/WSBA No.

\_\_\_\_\_  
Print or Type Name

Olga Makalova

(Address)

P.O.Box 66281, Burien, WA 98166

APPENDIX B  
NOTICE OF APPEAL

FILED

15 JAN 20 AM 9:00

KING COUNTY  
SUPERIOR COURT CLERK  
E-FILED  
CASE NUMBER: 02-3-06580-9 KNT

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

In re the Marriage of,

FRANK J.B. D'ORR

Petitioner,

and

OLGA V. MAKALOVA,

Respondent

No. 02-3-06580-9 KNT

NOTICE OF APPEAL TO DIVISION I COURT  
OF APPEALS – RAP 5.1(a)

COMES NOW the respondent, Olga V. Makalova, respondent herein, by and through her attorney, Robert J. Blazak, and hereby seeks review by the designated appellate court of the Order on Civil Motion entered on December 5, 2014, denying respondent's motion to vacate default orders entered on August 6, 2014, and the Order on Motion For Reconsideration Re: Motion to Vacate Default Order and Default Parenting Plan and Child Support Order and Order on Modification entered December 29, 2014.

A copy of the decisions are attached to this notice

Dated this 19<sup>th</sup> day of January, 2015.



Robert J. Blazak WSBA #13796  
Attorney for Respondent  
149 SW 154<sup>th</sup> St.  
Burien, WA 98166

*Robert J. Blazak*  
Attorney at Law \* WSBA #13796  
149 SW 154<sup>th</sup> St.  
Burien, WA 98166-2315  
P: 206-242-6274, F: 206-242-6276  
rjb@blazaklaw.com

NOTICE OF APPEAL  
Page 1 of 2  
*Mandatory Notice of Appeal*

206-242-6274

1 Opposing Party:

2 Frank J.B. D'Orr  
3 Petitioner/Pro Se  
4 Plumbing @ handyGC.com  
5 General Delivery  
6 Spokane, WA 99201-2901  
7 (206) 664-1945  
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25 *NOTICE OF APPEAL*  
26 *Page 2 of 2*  
*Notice of Appeal*

*Robert J. Blazak*  
*Attorney at Law \* WSBA #13796*  
*149 SW 154th St*  
*Burien, WA 98166-2315*  
*P: 206-242-6274, F: 206-242-6276*  
*rlb@blazaklaw.com*

**FILED**  
KING COUNTY, WASHINGTON

DEC 05 2014

SUPERIOR COURT CLERK  
BY Pamela Anzal  
DEPUTY

SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY

Frank D'orr

Plaintiff/Petitioner,

vs.

Olga Makalova

Defendant/Respondent

NO. 02-3-06580-9 KWT

ORDER ON CIVIL MOTION

Re: \_\_\_\_\_

( ) Clerk's Action Required

The above entitled Court, having heard a motion to vacate the default orders  
entered on 8/6/2014

IT IS HEREBY ORDERED that the Mover/ Respondent has  
not met her burden by proving by clear and  
convincing evidence that the service was  
improper.

DATED: 12/5/14

[Signature]

[Signature]

JUDGE SUZANNE PARISIEN

Attorney for Plaintiff/Petitioner, WSBA # \_\_\_\_\_

Frank D'orr  
Refused to sign

Attorney for Defendant/Respondent, WSBA # \_\_\_\_\_

Olga Makalova

**ORIGINAL**

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

9 In re the Marriage of, 10 11 FRANK J.B. D'ORR 12 and 13 OLGA V. MAKALOVA. 14 Respondent	No. 02-3-06580-9 KNT  ORDER ON MOTION FOR RECONSIDERATION RE: MOTION TO VACATE DEFAULT ORDER AND DEFAULT PARENTING PLAN AND CHILD SUPPORT ORDER AND ORDER ON MODIFICATION
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15 THIS MATTER having come on for hearing on this date upon the motion of respondent, Olga  
16 Makalova, for reconsideration of the court's order entered on December 5, 2014, denying respondent's  
17 motion to vacate the default order and default order on modification, parenting plan and child support  
18 order; the court having reviewed the files and records in support of the motion for reconsideration and the  
19 files and records submitted in opposition to the motion for reconsideration and being fully advised in the  
20 premises, now, therefore,

21 IT IS HEREBY ORDERED that respondent's motion to vacate the default order and default  
22 parenting plan, child support order and order on modification entered on 08/06/2014 is hereby ~~granted~~ **denied**. (SRP)

23 ~~IT IS HEREBY FURTHER ORDERED that the Order on Modification, Parenting Plan and Child~~  
24 ~~Support Order entered August 6, 2014, be, and the same are hereby vacated.~~

25 **ORDER ON MOTION FOR RECONSIDERATION**  
26 Page 1 of 2  
Washington State Superior Court Case No. 02-3-06580-9 KNT

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~~IT IS HEREBY FURTHER ORDERED~~ that the clerk shall issue a new case schedule setting trial

(SPP)

~~on August 3, 2015.~~

~~TO BE IN OPEN COURT~~ this 26<sup>th</sup> day of December, 2014.

Signed (SPP)



JUDGE SUZANNE PARISIEN

Presented by:



Robert J. Blazak/ WSBA # 13796  
Attorney for Respondent Makalova

ORDER ON MOTION FOR RECONSIDERATION  
Page 2 of 2  
Motion Under the Rules to Vacate Default & Orders

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