

No. 35584-1-II

COURT OF APPEALS,  
DIVISION TWO  
OF THE STATE OF WASHINGTON

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IN RE: THE MARRIAGE OF:

RICHARD ALAN O'CONNOR,

Appellant,

v.

YOM SUN O'CONNOR

Respondent.

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ON APEAL FROM THE SUPERIOR COURT OF THE STATE OF  
WASHINGTON FOR PIERCE COUNTY

The Honorable Ronald E. Culpepper

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BRIEF OF APPELLANT  
RICHARD ALAN O'CONNOR

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STATE OF WASHINGTON  
COUNTY OF PIERCE  
FILED  
07 MAR 22 PM 1:14  
BY DEPUTY CLERK

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**A. Assignments of error**

1. Error is assigned to the Trial Court's failure to issue findings and conclusions in this matter.
2. Error is assigned to the Court's failure issue findings on the threshold issues of substantial change, dependency and necessity.
3. Error is assigned to the implication that the evidence presented justified finding that a substantial change in circumstances has occurred justifying full modification.
4. Error is assigned to the implication that the evidence presented justified findings that the adult daughters in this matter are dependent.
5. Error is assigned to the issuance of an order of modification without evidence supporting findings that modification is appropriate.
6. Error is assigned to the Trial Court's failure to consider the factors enumerated in RCW 26.19.090 and the Court's failure to issue findings relating to those factors.
7. Error is assigned to the Court's failure to consider additional factors, which require due consideration when support beyond majority is requested and the Court's failure to issue findings relating to those factors.
8. Error is assigned to the Court's failure to use the *McCausland* analysis in determining support and the Court's failure issue findings related to the analysis.
9. Error is assigned to the current application of law as used in Washington well as in this case when modifying child support obligations in this context.
10. Error is assigned to the RCW 26.19.09 as currently applied in Washington State and to this case as it violates the Equal Protection Clauses and Privileges and Immunities Clauses of the State and Federal Constitutions.

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

1. On October 6, 2006 the Trial Court issued an order on modification. The Court issued no findings or conclusions. RCW 26.19.035, RCW 26.19.020, RCW 26.19.090 as well as recent developments in Washington case law establish the requirements, considerations and contents for written findings. Does the failure to issue findings regarding these considerations mandate reversal? (Assignments of Error 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10).
  
2. RCW 26.09.170 establishes that a threshold determination regarding a substantial change in circumstances must be made prior to consideration of modification. Does a failure to issue findings regarding substantial change in circumstances mandate reversal? (Assignments of Error 1, 2, 3, 4 and 5).
  
3. RCW 26.19.090 establishes that a threshold determination of dependency must be made prior to consideration of other factors. Does a failure to issue findings regarding dependency mandate reversal? (Assignments of Error 1, 2, 3, 4 and 5).
  
4. RCW 26.19.090 and precedent provide a non-exhaustive list of the considerations the Court must take into account when issuing findings,

conclusions and orders on modification. Does the Court's failure to consider those factors mandate reversal? (Assignments of Error 1, 2, 3, 4, 5, 6, 7 and 8).

5. RCW 26.19.020 and precedent provide the considerations that the Court must take into account in ordering an amount that exceeds the presumptive amount of child support obligation. Does the Court's failure to consider these factors mandate reversal? (Assignments of Error 1, 2, 3, 4, 5, 6, 7 and 8).
6. Precedent in Washington case law requires Trial Courts to enter findings of fact regarding material facts and issues. The absence of a finding of fact on a material issue is interpreted as a finding against the party having the burden of proving that fact. Does the failure of the Court to issue findings regarding substantial change in circumstances, dependency and necessity mandate dismissal of this action? (Assignments of Error 1, 2, 3, 4, 5, 6, 7 and 8).
7. RCW 26.19.090 and precedent provide the standards and current application of the law in Washington in proceedings for modification of support beyond the age of majority. Does the current application of the Court's interpretation of this statute provide the proper safe guards

to non-custodial parents' fundamental and important rights?

(Assignments of Error 9 and 10 ).

8. RCW 26.19.090 applies only to the non-custodial parents and the children of non-intact families that have been involved litigation. RCW 26.19.090 either provides the children of the aforementioned group with benefits not enjoyed by non-members and burdens the parent members or burdens the non-member children and benefits non-member parents. Does RCW 26.19.090 or its current application violate the equal protection clauses, the privileges and immunities clauses as well as the inherent privacy rights of the State and Federal Constitutions? (Assignments of Error 9 and 10).

## **B. Statement of the Case**

### **Factual Background**

On October 27, 1988, the O'Connor marriage was dissolved. (CP 136). Ms. O'Connor was awarded custody of their twin daughters, Alissia and Zorana. (CP 136). The decree ordered Mr. O'Connor to pay child support until the youngest of his daughters turned 18, died, married or became otherwise emancipated. (CP 136-137).

Following the entry of the decree Ms. O'Connor relocated to Washington, and registered her support order with DSHS. (CP 136-137). Ms. O'Connor is employed with an income of approximately \$1,800.00 dollars a month. (CP 99-105). After the dissolution Mr. O'Connor moved to Alabama where he currently resides with his wife and two minor children. (CP 136-137). Mr. O'Connor has been employed as a commercial truck driver since moving to Alabama and his income is approximately \$3,400.00. (CP 330-334).

Neither Mr. O'Connor nor Ms. O'Connor have a college degree or come from families where higher education was a priority. (CP 99-105; CP 127-133; CP 114-126). The parties did not contemplate the educational prospects of their daughters while they were together or when the dissolved their relationship. (CP 136-329). The order was modified in 2000, that order is silent on the issue of postsecondary education. (CP 136-329).

### **Procedural Background**

On December 02, 2005, Ms. O'Connor filed a petition for modification of child support alleging: that decree was entered more than two years ago; that since the entry of the decree there had been a substantial change in circumstances; that the girls were in need of post

secondary educational support and; that the girls were dependent upon their parents. (CP 95-98). Ms. O'Connor requested; that support be extended beyond the girls' 18th birthday until they are no longer dependent upon either or both parents and are capable of self-support; that post secondary educational support be ordered; and that Mr. O'Connor be ordered to pay attorney's fees and costs. (CP 95-98). The petition and supporting documents contained no evidence regarding: the dependency of the daughters'; the daughters' application/ enrollment status at any university; the type of education that they wished to attain; the cost of the education; the available alternatives for payment of the costs of the education; or any information regarding past academic performance. (CP 95-98; CP 99-105; CP 106-110).

### **C. Summary of Argument**

Mr. O'Connor submits to this honorable Court two (2) propositions:

1. In Washington a Trial Court must consider evidence regarding statutory and precedential factors when issuing an award of post majority support. Where the evidence does not demonstrate that post majority support is justified, and/or the Court fails to issue findings based upon that evidence an order of postsecondary support must be reversed. Further, where a burden is on one party to prove material

facts and issues and the Court fails to enter findings the reviewing Court must resolve that the burden was not met.

Mr. O'Connor proffers that this case presents an example of the inequity that results from the current application of RCW 26.19.090. The lawmakers set out a specific set of steps that the Court must follow in issuing orders for post majority support. First the Court is to determine whether the adult is dependent upon their parents. Second the Court must consider twelve factors to determine whether post majority support is appropriate; what kind of support is appropriate; and the duration that the support should last. In addition to the steps enumerated by the lawmakers the Court has established additional considerations, some of which are mandatory and some of which are recommended.

If these steps, factors and considerations were given the deference due to them Mr. O'Connor would not take issue with the result. However, Mr. O'Connor must take issue with the order issued in his case. In his case Ms. O'Connor made a one sentence declaration regarding dependency, provided no information regarding the daughters academic performance, provided no information regarding the aptitudes of the daughters, provided no information regarding the

type of education being sought (this is particularly important as the cost of a private or public school and in State or out of State education results in a cost difference of thousands of dollars), or the parents ability to balance providing for adult "dependents" and minor children at home. Based upon the limited information provided regarding the factors of consideration the Court made no findings and determined that the support amount that Mr. O'Connor had been paying while his daughters were minors would be doubled to provide for their post majority support. Mr. O'Connor offers to this Court that his case is demonstrative of facts that most attorneys practicing in family law take as a truthful answer to this question. What do I have to do to receive post majority support for my son or daughter? The answer, file before the child turns eighteen, fill out the petition, provide a financial declaration and show up at the hearing.

This example is in no way intended to be disrespectful to the Court or the law. It is intended to demonstrate that in the interest of providing for the best interest of the minor the Courts are failing to adhere to the procedures that the lawmakers and our case law have laid down as safeguards for the rights of the non-custodial parent. In the case at hand the Court issued an order without considering the

mandatory factors and without issuing findings regarding the material facts and issues. As the Trial Court issued no findings regarding the required threshold questions and factors of consideration Mr.

O'Connor urges the reviewing Court to reverse the decision and dismiss the action or alternatively, remand to the Trial Court with direction to dismiss the matter with prejudice.

2. The equal protection clauses of both the State and Federal Constitutions require that similarly situated individuals receive similar treatment under the law. Where a law applies disparately to similarly situated persons and affects a fundamental or important right the law must meet the standards established under the three tests recognized by the Supreme Court. The statute must meet one of the three tests. If the right that is interfered with is fundamental then the States interest must be compelling and the means used to further that interest must be absolutely necessary. If the right that is interfered with is important the States interest must be important and the means used to further that interest must be substantially related to that interest. If the law affects similarly situated persons disparately and does not affect the aforementioned rights than it must be rationally related to a State interest.

The State interest furthered in providing post majority support to adults from non-intact families has been rationalized as a cure to a perceived inequity. "In allowing for divorce, the State undertakes to protect its victims" [ . . . ] "The child of divorced parents should be in no worse position than a child from an unbroken home". *Childers v. Childers*, 89 Wn.2d 592 at 602; 575 P.2d 201 (1978). While the impact of divorce upon a child's ability to higher education children is a matter of debate<sup>1</sup> the goal of the State is to provide for the education to it's citizenry. In furtherance of that goal the State is obligating non-custodial parents to pay for the education of their adult children while not placing a similar burden upon their counterparts in intact marriages. Additionally, the sons and daughters from intact families are not afforded the benefit of Court ordered support for their post secondary educational support while their counterparts from non-intact families do.

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<sup>1</sup> While anecdotal evidence has been proffered that children from non intact families do not attend institutions of higher education at the same rate (children from non intact families are 6% less likely to go on to college) questions regarding the methodology of these studies in excluding factors such as wealth, education and ethnicity of the parents have given rise to debate regarding there validity. See *Growing Up with a single parent: What Hurts, What Helps*, McLanahan, S., & Sandefur, G., Cambridge, MA: Harvard University Press (1994).

As will be demonstrated *infra* RCW 26.19.090 as applied in Washington State directly affects a parent's ability to counsel and direct their son's or daughter's educational pursuits. Our Courts have long recognized that a parent's right to direct the education of their child is fundamental.

Mr. O'Connor offers his case as an example of the current trend in post majority support awards. He is a member of a class (non-custodial parents); the statute only affects members of his sub-class as the Court is not authorized to order support for an adult who has married parents. The right that the statute affects is at least important if not fundamental. Mr. O'Connor respectfully submits that under any of the three tests this statute or its current application should fail as it: is not absolutely necessary to further a compelling State interest; is not substantially related to the important State interest, and is not rationally related to the State's interest. Mr. O'Connor urges the Court to adopt this position in interpreting RCW 26.19.090.

**D. Argument**

**1. THE COURT ERRED IN ISSUING AN ORDER TO MODIFY AND EXTEND SUPPORT BEYOND THE AGE OF MAJORITY WITHOUT ISSUING WRITTEN FINDINGS AND CONCLUSIONS OF LAW**

a. The Standard of Review for Modifications of Child Support Obligations is Abuse of Discretion

The appellate Court reviews child support orders for a manifest abuse of discretion. *In re Marriage of Griffin*, 114 Wn.2d 772, 776, 791 P.2d 519 (1990). To succeed on appeal the appellant must show that the Trial Court's decision was manifestly unreasonable, or based on untenable grounds or reasons. *State ex. rel. Carroll v. Junker*, 79 Wn.2d 12, 26, 482 P.2d 775 (1971).

A Court's decision is manifestly unreasonable if it is outside the range of acceptable choices, given the facts and the applicable legal standard; it is based on untenable grounds if the factual findings are unsupported by the record; it is based on untenable reasons if it is based on an incorrect standard or the facts do not meet the requirements of the correct standard. *In re Marriage of Littlefield*, 133 Wn.2d 39, 47, 940 P.2d 1362 (1997). The appellate Court will not substitute its' judgment for the Trial Court's **where the record shows** that the Trial Court considered all relevant factors and the award is not unreasonable under the

circumstances. *Littlefield*, 133 Wn.2d at 717, 789 P.2d 807 (**Emphasis added**). The failure to establish a record and enter findings is an abuse of discretion and subjects the order to reversal. *In re Marriage of Glass*, 67 Wn. App. 378, 384, 835 P.2d 1054 (1992).

Here, the Trial Court failed to enter findings and conclusions based upon evidence presented. The Trial Court's decision can not be allowed to stand under these circumstances.

b. By Statute, a Trial Court must issue written findings in any action for the modification of a child support obligation

RCW 26.19.035 provides in its pertinent part that:

The child support schedule shall be applied[ . . . ] In all proceedings in which child support is determined or modified; [ . . . ] In setting temporary and permanent support; [ . . . ] In addition to proceedings in which child support is determined for minors, to adult children who are dependent on their parents and for whom support is ordered pursuant to RCW 26.09.100. [ . . . ] An order for child support shall be supported by written findings of fact upon which the support determination is based and shall include reasons for any deviation from the standard calculation and reasons for denial of a party's request for deviation from the standard calculation. The Court shall enter written findings of fact in all cases whether or not the Court: (a) Sets the support at the presumptive amount, for combined monthly net incomes below five thousand dollars; (b) sets the support at an advisory amount, for combined monthly net incomes between five thousand and seven thousand dollars; or (c) deviates from the presumptive or advisory amounts.

[ . . . ] Worksheets in the form developed by the administrative office of the Courts shall be completed under penalty of perjury and filed in every proceeding in which child support is determined. The Court shall not accept incomplete worksheets or worksheets that vary from the worksheets developed by the administrative office of the Courts.

[ . . . ] The Court shall review the worksheets and the order setting support for the adequacy of the reasons set forth for any deviation or denial of any request for deviation and for the adequacy of the amount of support ordered. Each order shall State the amount of child support calculated using the standard calculation and the amount of child support actually ordered. Worksheets shall be attached to the decree or order or if filed separately shall be initialed or signed by the judge and filed with the order.

RCW 26.19.035. A Trial Court's failure to issue findings supported by the evidence presented is an abuse of discretion. *Glass*, 67 Wn. App. at 384.

Here, the Trial Court failed to issue findings as required by the aforementioned statutory provisions. The Trial Court's decision can not be allowed to stand under these circumstances

c. By Statute, a Trial Court must consider specific factors in awarding postsecondary support as evidenced by the written findings

RCW 26.19.090 provides that:

When considering whether to order support for postsecondary educational expenses, the Court shall determine whether the child is in fact dependent and is relying upon the parents for the reasonable necessities of life. The Court shall exercise its discretion when determining whether and for how long to award postsecondary educational support based upon

consideration of factors that include but are not limited to the following: **Age of the child; the child's needs; the expectations of the parties for their children when the parents were together; the child's prospects, desires, aptitudes, abilities or disabilities; the nature of the postsecondary education sought; and the parents' level of education, standard of living, and current and future resources.** Also to be considered are the amount and type of support that the child would have been afforded if the parents had stayed together.

RCW 26.19.090. Here, the Trial Court failed to consider the requisite factors and/or failed to issue findings and conclusions based upon the evidence presented. The Court issued an order based upon minimal evidence and no findings. This case presents an example of a judicial trend in issuing postsecondary support without considering the requisite factors. The Trial Court's decision can not be allowed to stand under these circumstances

d. In addition to the statutory considerations Washington precedent has established additional factors which require due consideration when dealing with postsecondary support obligations to adult recipients that affect dependent minors

In addition to the considerations enumerated in RCW 26.19.090 the Trial Court should also make findings regarding the age, physical and emotional health, training, skills, work experience, preexisting debt load, living expenses, child care and child support responsibilities for other children. *In re Shellenberger*, 80 Wn. App. 71, 84, 906 P.2d 968 (1995).

Additionally, in determining whether secondary educational support is appropriate the Court should consider the adult children's ability to contribute to their own education's through grants, scholarships, student loans and summer and/or part-time employment during the school term, as well as the ability of the other parent's ability to reasonably contribute, consistent with the parent's own preexisting debts reasonably incurred and his reasonable living expenses. *Shellenberger*, 80 Wn. App. 71, at 85.

This is especially true where the parent also supports a minor child, and the postsecondary support obligation prevents the parent from meeting that obligation to the minor child. *Shellenberger*, 80 Wn. App. 71, at 84. Where the Trial Court must choose between the higher education needs of an adult child and the support needs of a minor child, the needs of the minor child should weigh more heavily. *Shellenberger*, 80 Wn. App. 71, at 84. Where a family is of modest means, parental desire to provide adult children with a free college education simply may not be realistic. *Shellenberger*, 80 Wn. App. 71, at 84.

Here, Mr. O'Connor's adult daughters have the ability to supplement their educational pursuits through part time employment, grants as well as student financial aid. As adults they are able to contract for the financing of the education's which will benefit them throughout

their lifetimes. Mr. O'Connor asserts that while he is willing to assist in these endeavors the Court in issuing this order has impaired both his ability to counsel his daughters regarding education as well as his ability to provide for his two minor children in Kentucky.

e. The Supreme Court of Washington recently adopted additional factors, which must be considered when issuing an order beyond the basic support obligation as evidenced by the written findings

The Supreme Court of this State recently interpreted RCW 26.19.020 establishing that the statute:

[G]ives the Trial Court discretion to exceed the economic table but limits the exercise of that discretion by requiring the Court to support its decision to exceed the economic table with written findings of fact. Although cursory findings of fact and the Trial record might appear to justify awarding a child support amount that exceeds the economic table, only the entry of written findings of fact demonstrate that the Trial Court properly exercised its discretion in making the award. Therefore, [a Trial Court] erred in concluding that cursory findings of fact, even when supported by the record, are sufficient to provide a basis for awarding a child support amount that exceeds the economic table. [Additionally a Trial Court must] consider the Daubert/Rusch factors, which include (1) the parents' standard of living, and (2) the children's special medical, educational, or financial needs, when entering its written findings of fact.

*In Re Marriage of McCausland*, 2007 Wn.2d (77890-6); (2007). This Court failed to consider these factors and failed to issue findings that demonstrate that they considered the requisite factors.

f. The Court issued no findings in this case

A review of the record in this matter can result in only one conclusion, the Trial Court issued no findings in this matter. Additionally, the record demonstrates that the evidence submitted was devoid of documentation addressing the adult daughters: needs; the expectations of the parties for their children when the parents were together; the child's prospects, desires, aptitudes, abilities or disabilities; the nature of the postsecondary education sought; and the parents' level of education, standard of living, and current and future resources. Further the record indicates no consideration of the parents' standard of living, and the children's special educational, or financial needs.

g. As the Court is required by statute as well as precedent to issue written findings and the Court issued no findings in this case, the order should be reversed

In Washington a modification of child support must be predicated upon sufficient evidence to substantiate findings of fact and conclusions of law. The issuance of these findings of fact demonstrate that the Trial Court has acted within its discretion and considered the statutory and precedential analysis mandated by our lawmakers and highest Court. The findings must demonstrate that the evidence presented is sufficient for the Court to assess the: age of the child; the child's needs; the expectations of

the parties for their children when the parents were together; the child's prospects, desires, aptitudes, abilities or disabilities; the nature of the postsecondary education sought; and the parents' level of education, standard of living, and current and future resources. Also to be considered are the amount and type of support that the child would have been afforded if the parents had stayed together. Further, the findings in excess of the basic support obligation require the Court to issue findings regarding the parents' standard of living, and the children's special educational, or financial needs.

The Court should also give due consideration to the physical and emotional health, training, skills, work experience, preexisting debt load, living expenses, child care and child support responsibilities for other children as well as the adult children's ability to contribute to their own education's through grants, scholarships, student loans and summer and/or part-time employment during the school term, as well as the ability of the other parent's ability to reasonably contribute, consistent with the parent's own preexisting debts reasonably incurred and his reasonable living expenses.

The Court in issuing findings based upon this analysis demonstrates that they have given the consideration due to the evidence

and acted within the discretion of the Court. On appeal the Courts decision will be upheld. However, as in this case when the Court fails to issue findings based upon the evidence it abuses its discretion and the appellate Court should not let the order stand.

## **2. THE COURT ERRED IN ISSUING AN ORDER FOR POSTSECONDARY SUPPORT WHERE THE RECORD DOES NOT SUPPORT THAT CONCLUSION**

a. An order awarding postsecondary support must be predicated upon evidence that the circumstances have substantially changed and that an adult son or daughter is in fact dependent

RCW 26.09.170 States in relevant part:

(1) [T]he provisions of any decree respecting maintenance or support may be modified: [. . .] except as otherwise provided in subsections [. . .](8) [. . .] of this section, only upon a showing of a substantial change of circumstances. [. . .](8) (a) All child support decrees may be adjusted once every twenty-four months based upon changes in the income of the parents without a showing of substantially changed circumstances. Either party may initiate the adjustment by filing a motion and child support worksheets.

(b) A party may petition for modification in cases of substantially changed circumstances under subsection (1) of this section at any time. However, if relief is granted under subsection (1) of this section, twenty-four months must pass before a motion for an adjustment under (a) of this subsection may be filed.

RCW 26.09.170. When interpreting a statute, an appellant Court does not construe a statute that is unambiguous, but rather assume that the

lawmakers intended to draft the law that they drafted with the language that they used. *Davis v. Dep't of Licensing*, 137 Wn.2d 957, 963-64, 977 P.2d 554 (1999). Plain words do not require construction. *Davis*, 137 Wn.2d at 964. The terms in RCW 26.09.170 reflect no ambiguity. *Davis*, 137 Wn.2d at 964.

A substantial change in circumstances is one not contemplated at the time the original order of support was entered. See *In re Marriage of Arvey*, 77 Wn. App. 817, 894 P.2d 1346 (1995) (reduction in father's income and mother's re-employment not substantial change of circumstances because the reduced income was not permanent and mother's employment was contemplated at the time decree was entered). A full modification action is significant in nature and anticipates making substantial changes and/or additions to the original order of support. *Scanlon*, 109 Wn. App. 167, 174-176.

Where the findings of the Trial Court, do not address the issue of changed circumstances supporting a modification the failure requires reversal. CR 52(a)(2)(B); *In re Marriage of Stern*, 68 Wn. App. 922, 926-27, 846 P.2d 1387 (1993). Additionally, where the record does not support the order of child support in any respect the appellate Court has the discretion, to provide guidance in it's opinion in order to minimize the

parties' expense on remand. *In re Marriage of Gimlett*, 95 Wn.2d 699, 704, 629 P.2d 450 (1981); *Scanlon*, 109 Wn. App. 167, 174-176.

RCW 26.09.100 and RCW 26.19.090 require an additional finding. *Childers v. Childers*,; 89 Wn.2d 592, 598; 575 P.2d 201 (1978). The Court must also find that the adult son or daughter is dependent upon their parents for the necessities of life. *Childers*, 89 Wn.2d 592, 598. In this context, a dependent is "one who looks to another for support and maintenance, one who is in fact dependent, one who relies on another for the reasonable necessities of life". *Childers*,; 89 Wn.2d 592, 598. Dependency is a question of fact to be determined from all surrounding circumstances. *Childers*, 89 Wn.2d 592, 598; RCW 26.09.100; RCW 26.19.090. The factors would include the child's age needs, prospects, desires, aptitudes, abilities, and disabilities, and the parents' level of education, standard of living, and current and future resources. *Childers*; 89 Wn.2d 592, 598; RCW 26.09.100; RCW 26.19.090. Also to be considered is the amount and type of support (I.E., the advantages, educational and otherwise) that the child would have been afforded if his parents had stayed together. *Childers*, 89 Wn.2d 592 at 598.

In the case at hand the moving party, Ms. O'Connor bears the burden of demonstrating that a substantial change in circumstances has occurred; that the adult daughter are in fact dependent upon their parents.

b. The absence of a finding of fact on a material issue must be interpreted as a finding against the party having the burden of proving that fact

Our Courts have held that the "[a]bsence of findings undermines the conclusions of law. *Sandler v. United States Dev. CO.*, 44 Wn. App. 98, 721 P.2d 532 (1986); *State v. Poirier*, 34 Wn. App. 839, 664 P.2d 7 (1983). Where the Trial Court fails make a finding as to an issue in a case, the reviewing Court must treat the case as though a finding of fact against the party with the burden of proof was made. *Xieng v. Peoples National Bank*, 120 Wn.2d 512, 526, 532; 844 P.2d 389 (1993); *State v. Armenta*, 134 Wn.2d 1, 14, 948 P.2d 1280 (1997); *Smith v. King*; 106 Wn.2d 443, 451, 722 P.2d 796 (1986); *Golberg v. Sanglier*, 96 Wn.2d 874, 880, 639 P.2d 1347, 647 P.2d 489 (1982).

Here, the Court issued no findings as required statute and case law. A modification proceeding must be predicated on: 1) a finding that there has been a substantial change in circumstances; and 2) a finding that the adult son or daughter is in fact dependent upon his or her parents for the necessities of life. The moving party bore both the burden to establish the

material facts and the burden to assure that the Court entered findings in this matter. The Court issued no findings regarding these dispositive matters as such the reviewing Court must presume that: 1) There has not been a substantial change in circumstance; and 2) The adult daughters in this case are not in fact dependent. As these issues must be resolved in the negative, post secondary educational support is foreclosed in this case as a matter of law. Mr. O'Connor respectfully requests that the Court dismiss the modification action with prejudice or remand it to the Trial Court for dismissal as the burden of the moving party has not been met.

c. The evidence provided by Ms. O'Connor fails to provide a foundation to support findings of a substantial change in circumstances or dependency

Orders of modification must be predicated upon evidence demonstrating that a substantial change in circumstance has occurred and that the adult son or daughter is dependent upon their parents. *Childers*, 89 Wn.2d 592 at 598-600; RCW 26.09.100; RCW 26.19.090. The Court in *Scanlon* addressed the grounds that justify full modification. *Scanlon*, 109 Wn. App. 167, 174-176. In that case the record indicated that the evidence considered by the Trial Court indicated that the parents' incomes had increased to \$270,000.00 and \$800,000.00. *Scanlon*, 109 Wn. App. 167, 174-176. Additionally, the increase had not been contemplated at time of the original decree. *Scanlon*, 109 Wn. App. 167 at 174.

In the case at hand Ms. O'Connor cited an increase in income as the only ground to prove a substantial change in circumstances. As the Court entered no finding regarding the issue Mr. O'Connor submits that he earns approximately \$3,400.00 a month or \$40,000.00 a year. (CP 330-334). This amount is consistent with his earnings since the entry of the order in 2000. (CP 330-334). The nominal change in income does not justify a finding of a substantial change in circumstances.

In addition to a change in circumstance the Court must also find that the adult son or daughter is dependent upon their parents for the necessities of life. The Court in *Childers* explained both dependency and necessity:

Dependency is a question of fact to be determined from all surrounding circumstances, or as the legislature put it: "all relevant factors". [ . . . ]. Age is but one factor. Other factors would include the child's needs, prospects, desires, aptitudes, abilities, and disabilities, and the parents' level of education, standard of living, and current and future resources. Also to be considered is the amount and type of support (I.E., the advantages, educational and otherwise) that the child would have been afforded if his parents had stayed together. [ . . . ].

That assisting a child with a college education, though at times referred to as a necessary, will not be a duty of support of all parents, but is circumstantial, is learned from *Golay v. Golay*, 35 Wn.2d 122, 123-24, 210 P.2d 1022 (1949):

"[The rule is] that the expense of educating a child is included among the necessities for which a parent can be held liable. The quality and the quantity of necessities for which a parent is liable has been gauged in American and English Jurisprudence from time immemorial by the parents' station in life. Upon the question of education as a necessity, we would undoubtedly be constrained to hold that as far as the compulsory school attendance law applies, a parent would be liable in any case. A rich man, well able to pay, might very well be held for a college education of an extended and expensive sort. However, the father in this instance is not a rich man, and from the evidence in the record, can scarcely spare any money from his own needs.

*Childers*, 89 Wn.2d 592, 598-601. As the issues of dependency and necessity are determinations are determined by the circumstances of the parties the moving party bears the burden to establish that the adult son or daughter is in need of support from the parents and that the needs are commensurate with the parties circumstances.

Here, Mr. O'Connor is a man with a limited income, two dependent minors at home and a high school education. Further, Ms. O'Connor's proffered evidence of dependency consisted of one sentence in her petition. A verbatim recitation of the Statement follows: "Zorana V. O'Connor and Alissia P. O'Connor are in need of post secondary educational support because the children are in fact dependent and relying upon the parents for the reasonable necessities of life". (CP 95-98). Based upon the limited

evidence presented Mr. O'Connor asserts that even if the Court had issued findings in this matter the evidence before the Court could not have justified those findings.

d. As the record fails to provide a foundation that the moving party has met their burden of proof the order on the motion to modify should be dismissed with prejudice as moving party failed to meet their burden

The Court in engaging in an analysis to determine whether modification of support and extension of support beyond the age of majority is appropriate must, view the evidence proffered by the moving party to determine if that evidence provides grounds for findings that: there has been a substantial change in circumstances justifying modification; that the adult son or daughter is in fact dependent upon their parents for the necessities of life; that the type of education is consistent with the education the son or daughter would have had had the parties remained married; and that the educational needs of the child can be commensurate with the parents station in life.

Mr. O'Connor proffers that the evidence offered regarding the dependency and necessity in this matter fail to provide grounds for findings justifying modification. Additionally, he offers that no findings regarding these determinative issues were made and as such the Court must presume that the moving party failed to meet their burden of proof.

As these issues foreclose the Court's ability to issue an order on modification Mr. O'Connor requests the Court to vacate judgment or remand with direction to the lower Court to vacate.

**3. RCW 26.19.090 OR THE CURRENT APPLICATION OF RCW 26.19.090 VIOLATES THE EQUAL PROTECTION CLAUSES, THE PRIVILEGES AND IMMUNITIES CLAUSES AS WELL AS THE INHERENT PRIVACY RIGHTS OF THE STATE AND FEDERAL CONSTITUTIONS**

a. Challenges based upon Equal Protection and Privileges and Immunities violations require a determination of what level of scrutiny is appropriate

Washington's constitution provides: "No law shall be passed granting to any citizen, class of citizens, or corporation other than municipal, privileges or immunities which upon the same terms shall not equally belong to all citizens, or corporations." CONST. art. I, § 12. The federal constitution States: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." U.S. CONST. amend. XIV.

The equal protection clauses of both the State and Federal Constitutions require that similarly situated individuals receive similar treatment under the law. *State v. Smith*, 117 Wn.2d 263, 276-77; 814 P.2d 652 (1991). Identical impact on persons similarly situated is not required.

*Campos v. Department of Labor & Indus*, 75 Wn. App. 379, 385; 880 P.2d 543 (1994), review denied, 126 Wn.2d 1004 (1995). Since the privileges and immunities clause of the Washington State Constitution is substantially identical to the equal protection clause of the Fourteenth Amendment to the United States Constitution, challenges under both clauses may be dealt with simultaneously. *American Network, Inc. v. Utilities & Transp. Comm'n*, 113 Wn.2d 59, 77; 776 P.2d 950 (1989).

The Legislature has broad discretion in defining classes in social and economic statutes. *Conklin v. Shinpoch*, 107 Wn.2d 410, 417, 730 P.2d 643 (1986). Classes defined by the Legislature are presumed constitutional. *In re Marriage of Gillespie*, 77 Wn. App. 342, 349, 890 P.2d 1083 (1995). To successfully attack a class it must be shown that the class is manifestly arbitrary, unreasonable, inequitable and unjust. *Sparkman & McLean Co. v. Govan Inv. Trust*, 78 Wn.2d 584, 588, 478 P.2d 232 (1970).

There are three ways to analyze an equal protection claim: (1) strict scrutiny, (2) intermediate scrutiny, and (3) rational basis. *Smith*, 117 Wn.2d at 277. Under a strict scrutiny analysis, a law will be upheld only if it is found to be absolutely necessary to promote a compelling State interest. *State v. Phelan*, 100 Wn.2d 508, 512, 671 P.2d 1212 (1983).

Under intermediate scrutiny, a law will be upheld so long as it furthers a substantial State interest. *State v. Schaaf*, 109 Wn.2d 1, 17, 743 P.2d 240 (1987). Rational basis only requires that the law further a legitimate State interest. *Smith*, 117 Wn.2d at 277.

b. Strict Scrutiny is the appropriate analysis in this case as Mr. O'Connor has a fundamental right to direct the education of his daughters

A strict scrutiny analysis is used whenever a fundamental right is affected or a suspect class is involved. *Smith*, 117 Wn.2d at 277. A strict scrutiny analysis is employed when a law directly and substantially interferes with a fundamental right. *Lyng v. Castillo*, 477 U.S. 635, 638, 106 S. Ct. 272 (1986). The United States Supreme Court recently Stated when evaluating a provision of the Revised Code of Washington that:

The Fourteenth Amendment provides that no State shall "deprive any person of life, liberty, or property, without due process of law." We have long recognized that the Amendment's Due Process Clause, like its Fifth Amendment counterpart, "guarantees more than fair process." *Washington v. Glucksberg*, 521 U.S. 702, 719 (1997). The Clause also includes a substantive component that "provides heightened protection against government interference with certain fundamental rights and liberty interests." *Id.* at 720; *see also Reno v. Flores*, 507 U.S. 292, 301-302 (1993).

The liberty interest at issue in this case -- the interest of parents in the care, custody, and control of their children -- is perhaps the oldest of the fundamental liberty interests recognized by this Court. More than [84] years ago, in *Meyer v. Nebraska*, 262 U.S. 390, 399, 401 (1923), we held

that the "liberty" protected by the Due Process Clause includes the right of parents to "establish a home and bring up children" and "**to control the education of their own.**" Two years later, in *Pierce v. Society of Sisters*, 268 U.S. 510, 534-535 (1925), we again held that the "liberty of parents and guardians" includes the right "to direct the upbringing and **education** of children under their control." We explained in *Pierce* that

[t]he child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations. [*Pierce*, 268 U.S. 510 at 535]. We returned to the subject in *Prince v. Massachusetts*, 321 U.S. 158 (1944), and again confirmed that there is a constitutional dimension to the right of parents to direct the upbringing of their children.

In subsequent cases also, we have recognized the fundamental right of parents to make decisions concerning the care, custody, and control of their children. *See, e.g., Stanley v. Illinois*, 405 U.S. 645, 651 (1972) ("It is plain that the interest of a parent in the companionship, care, custody, and management of his or her children `come[s] to this Court with a momentum for respect lacking when appeal is made to liberties which derive merely from shifting economic arrangements'" (citation omitted)); *Wisconsin v. Yoder*, 406 U.S. 205, 232 (1972) ("The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition"); *Quilloin v. Walcott*, 434 U.S. 246, 255 (1978) ("We have recognized on numerous occasions that the relationship between parent and child is constitutionally protected"); *Parham v. J. R.*, 442 U.S. 584, 602 (1979) ("Our jurisprudence historically has reflected Western civilization concepts of the family as a unit with broad parental authority over minor children. Our cases have consistently followed that course"); *Santosky v. Kramer*, 455 U.S. 745, 753 (1982) (discussing "[t]he

fundamental liberty interest of natural parents in the care, custody, and management of their child"); *Glucksberg, supra, at 720* ("In a long line of cases, we have held that, in addition to the specific freedoms protected by the Bill of Rights, the 'liberty' specially protected by the Due Process Clause includes the righ[t] . . . **to direct the education** and upbringing of one's children" (*citing Meyer and Pierce*)). In light of this extensive precedent, it cannot now be doubted that the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children.

*Troxel v. Granville*, 530 U.S. 57 (2000) (**Emphasis added**). It is clear that a parent's interest in directing the education of their son or daughter is a fundamental right guaranteed by both the State and Federal Constitutions.

Mr. O'Connor is a member of a group or class (non-custodial parents of adult sons or daughters) who are being treated differently than similarly situated individuals (custodial parents of adult sons or daughters; parents of sons or daughters who remain married; as well as step-parents). The disparate treatment affects the class's ability to direct the education of their adult son or daughter. The right to direct the education of a son or daughter is a fundamental right, due extreme deference. As such the statute must be analyzed under the strict scrutiny analysis and must be shown to be narrowly tailored and absolutely necessary to further a

compelling State interest. An identification of the governmental interest involved in this case is of critical importance. In *Childers* the Court expressed the reasons for awarding post secondary support to children from non intact homes as:

The child of divorced parents should be in no worse position than a child from an unbroken home whose parents could be expected to supply a college education. [Footnoted to *Jackman v. Short*, 165 Ore. 626, 656, 109 P.2d 860 (1941), where the Court Stated that "a child of divorced parents is in greater need of the help that a college education can give than one living in a home where marital harmony abides."]. . . .

Where the disability is internally or externally caused, the child whose parents are still married will most often continue to receive support after majority.

To terminate support when the parents are divorced creates a special disadvantage not shared by children whose parents remain together. If the father could have been expected to provide advanced education for his child, it is not unfair to expect him to do so after he has been divorced.

*Childers*, 89 Wn.2d at 602. Thus the lawmakers and in turn the Court expressed a belief that interest involved was assisting a certain class of adults in obtaining a college education. Mr. O'Connor argues that is not the governmental interest at all. On the contrary, the true governmental interest is in fostering education of young adults, irrespective of the marital status of their parents.

The argument advanced in support of legislation similar to RCW 26.19.090 is that children from "broken" homes need additional help to get that which is presumably automatically obtained by children of intact families, i.e., financial assistance for post-majority education. If the government did not believe that post-majority education was important for all young adults, there would be no need to provide assistance to just one group which is presumably missing out on post- majority educational opportunity. It is obvious that the true governmental interest is in maximizing educational opportunities of all young adults, be they from intact, or non-intact, families.

Mr. O'Connor suggests that this Court should conclude that the governmental interest involved in this case is the interest in maximizing the educational opportunities of all young adults, regardless of their familial status. Mr. O'Connor would agree that such an interest is "important." Mr. O'Connor cannot agree that a professed governmental interest in providing a mechanism whereby only some young adults can obtain financial assistance

for post-majority education is an "important" governmental interest.

If the Court concludes that the governmental interest involved relates to maximizing the educational opportunities for all young adults, than it is clear that RCW 26.19.090 is not closely drawn to meet the objectives of the legislation, nor is it substantially related to that interest, because it ignores completely all those young adults who come from intact families.

It is obvious that the RCW 26.19.090 confers an important benefit on one segment of the young adult population, i.e., the right to obtain financial assistance from their parents towards a college education. By its term, all children from intact families are excluded from this benefit, and in the absence of such benefit, they have no such right of financial assistance.

c. Should this Court determine that Strict Scrutiny is not the appropriate analysis in this case Intermediate Scrutiny should be applied as Mr. O'Connor has an important interest in directing the education of his daughters

The intermediate scrutiny analysis is used in limited circumstances. *Westerman v. Cary*, 125 Wn.2d 277, 294, 892 P.2d 1067 (1995). The Court applies intermediate scrutiny if the

individual is a member of a "semisuspect" class or if the State action threatens "important" rights. *See, e.g., Mississippi Univ. for Women v. Hogan*, 458 U.S. 718; 102 S. Ct. 3331 (1982) (classification based on gender); *State v. Phelan*; 100 Wn.2d 508, 514, 671 P.2d 1212 (1983) (physical liberty is an important, but not a fundamental, right, and a classification based solely on wealth will be examined under the heightened scrutiny standard). Washington Courts have recognized that a parent has an important interest in the care, custody, and control of his children. *Gourley v. Gourley*, 2006 Wn.2d (76270-8).

Mr. O'Connor asserts that the parents of adult offspring possess an "important" right with respect to the question of how they direct the education of their adult offspring. It is clear that this right derives from both privacy rights and liberty interests which have been constitutionally established. He suggests that the State of Washington cannot order the parent of adult children to pay for a college education as a matter of law. The decision of each family as to whether or not the children should go to college, and who shall pay for those educational endeavors, are matters of right that are purely personal to the parents, and to the child. The State has

no legitimate interest in interfering with those decisions. The decision of whether or not an adult goes to college is ultimately left to the adult. Surely, no one can legitimately argue that parents can force their adult son or daughter to attend college. Upon attaining age 18, a child is deemed an adult in this State, and is thereupon possessed of all of the rights, privileges and obligations of adulthood, including the right to decide for herself whether or not to attend college, and which college to attend. It is certainly true that in many instances these decisions are based upon alternatives suggested by parents, siblings and various other relatives.

Nevertheless, the final decision is the adult son or daughter's, not the parents'. Mr. O'Connor offers to the Court that as the interest of the State is not substantially furthered by the means chosen by the State the statute should fail as it violates the Equal Protection and Privileges and Immunities Clauses of the State and Federal Constitutions.

d. Should this Court decide that it is inappropriate to apply Strict or Intermediate scrutiny RCW 29.19.090, the constitutional legitimacy of the legislation must be determined by an application of the rational basis analysis

Under a rational basis analysis a statute will withstand constitutional scrutiny if: (1) the law affects all individuals within a class

in the same manner; (2) reasonable grounds exist for distinguishing between class members and nonclass members; and (3) the classification is rationally related to the purpose of the legislation. *Smith*, 117 Wn.2d at 279. The classification would have to be deemed arbitrary to lose the strong presumption of constitutionality. *Smith*, 117 Wn.2d at 279.

Discrimination is not supported by conjecture and cannot stand as reasonable if they offered the plan standards of common sense. *Hartford Steam Boiler Inspection and Insurance Co. v. Harrison*, 301 U.S. 459; 57 S.Ct. 838 (1937). It is by practical experience and not by theoretical inconsistencies that the question of equal protection is to be decided. *Railway Express Agency, Inc. v. New York*, 336 U.S. 106, 69 S.Ct. 463, (1949).

A clear example of the invidious and arbitrary nature of this legislation can be shown by considering the plight of a parent of sons or daughters from a first and second marriage. The adult son or daughter from the first marriage can now obtain by legislation direction financial support for their post-majority educational endeavors, assuming that marriage ended in divorce. But, the adult son or daughter from the second marriage cannot, assuming the marriage is intact. How does one justify, on any basis, the discrimination between half-siblings? While the basis for

the discrimination may be speculative, it still must be rational. Mr.

O'Connor submits that there are no conceivably rational circumstances which would protect this legislation from an equal protection challenge.

Under RCW 26.19.090, such a parent could be required to provide post-secondary educational support for the first child but not the second child, even to the extent that the second child would be required to forego a college education. Further, a son or daughter over the age of 18, of a woman whose husband had died would have no action against the mother to recover costs of a post-secondary education, but a child over the age of 18, of a woman who never married, who married and divorced, or even who was only separated from her husband when he died would be able to maintain such an action. These are two examples demonstrating the arbitrariness of the classification adopted in RCW 26.19.090. Mr. O'Connor urges the Court to adopt the position that even if the appropriate standard is rational basis that the statute fails as it is not reasonably related to the furtherance of the State interest.

#### **E. Conclusion**

RCW 26.19.090 and precedent require that when issuing an order for post majority support the Court make threshold findings based upon the evidence presented; consider statutory factors; take additional

circumstances into consideration and provide written findings regarding material issues and facts. The failure to take any of these steps demonstrates an abuse of discretion and subjects the Trial Court's Decision to reversal. In addition where the moving party bears the burden of proof and the Trial Court issues no findings to support its conclusions and order of modification the reviewing Court must presume that the burden was not met and a finding in the negative is appropriate. Here, the reviewing Court must find that the threshold questions of change in circumstance, dependency and necessity were not made and thereby find that no change occurred, the adults are not dependent and the adults are not in need. Mr. O'Connor urges the Court to either dismiss this action for failure to meet the threshold questions and consider the mandatory factors or direct the Trial Court to take those actions.

The Equal Protection and Privileges and Immunities Clauses of the State and Federal Constitutions provide that in applying disparate treatment to similarly situated parties the State must be furthering an interest which at the very least must be legitimate. The more protected the right that the statute or action impinges upon dictates the degree of care that the drafters or administrators of the law must take in furtherance of that State interest. Mr. O'Connor submits to the Court that under any of the

aforementioned analysis's this statute or the application of this statute must fail as it violates the Equal Protection and Privileges and Immunities Clauses of the State and Federal Constitutions.

WHEREFORE, Mr. O'Connor requests that this Court:

1. Reverse the decision of the Trial Court;
2. Find that the threshold issues have been determined in the negative;
3. Find that the Trial Court failed to consider the factors of consideration as required;
4. Find that the current application of RCW 26.19.090 violates the Equal Protection and Privileges and Immunities Clauses of the State and Federal Constitutions;
5. Dismiss the action for modification with prejudice;
6. Award Mr. O'Connor the amounts that he has already paid pursuant to the Trial Courts unsupported order;
7. Terminate any future post majority obligation;
8. Award statutory and reasonable attorney fees and costs;
9. Provide any other relief that this Court deems just and equitable.

Respectfully submitted to this Honorable Court this 21st. day of March, 2007.



Garette N. Moore, WSBA # 36348  
Attorney for Richard Alan O'Connor.

FILED  
COURT OF APPEALS  
DIVISION II

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STATE OF WASHINGTON  
BY \_\_\_\_\_  
DEPUTY

**IN THE COURT OF APPEALS OF THE STATE  
OF WASHINGTON STATE DIVISION II**

In re the Marriage of:

**YOM SUN O'CONNOR**

Petitioner,

v.

**RICHARD ALAN O'CONNOR**

Respondent.

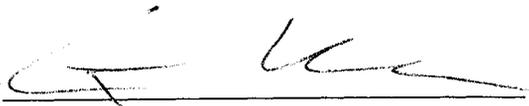
Appellate Cause No. 35584-1-II

**CERTIFICATE OF SERVICE**

I certify that on the 21st..day of March 2007, I caused a true and correct copy of the Appellant Richard O'Connor's Opening Brief to be served on the following in the manner indicated below:

Yom Sun O'Connor  
PRO SE  
9704-18th Avenue Court S.  
APT U-4  
Tacoma, WA 98444

- U.S. Mail
- Hand Delivered
- Legal Messenger

By:   
Garette N. Moore WSBA # 36348

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Page 1 of 1

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STATE OF WASHINGTON

BY \_\_\_\_\_  
DEPUTY

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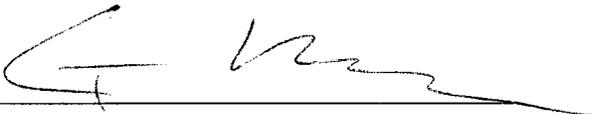
Appellate Cause No. 35584-1-II

**CERTIFICATE OF SERVICE**

I certify that on the 21st..day of March 2007, I caused a true and correct copy of the Appellant Richard O'Connor's Opening Brief to be served on the following in the manner indicated below:

Yom Sun O'Connor  
PRO SE  
9704-18th Avenue Court S.  
APT U-4  
Tacoma, WA 98444

- U.S. Mail
- Hand Delivered
- Legal Messenger

By:   
Garette N. Moore WSBA # 36348

CERTIFICATE OF SERVICE]  
Page 1 of 1

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**MCCARTHY, CAUSSEAU &  
HURDELBRINK, INC., P.S.**  
902 South Tenth Street  
Tacoma, Washington 98405  
Telephone: (253) 272-2206  
Facsimile: (253) 272-6439

ORIGINAL

07 APR 2007 2:10  
STATE OF WASHINGTON  
BY \_\_\_\_\_  
DEPUTY

**COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION II**

**In Re the Marriage of:**

**YOM SUN O'CONNOR,**

**NO. 35584-1-II**

**Petitioner,**

**DECLARATION OF SERVICE**

**and**

**RICHARD ALAN O'CONNOR,**

**Respondent.**

I, LANNIE FLAAEN, declare under penalty of perjury under the laws of the State of Washington that the following is true and correct: That I am now and at all times herein mentioned was a citizen of the United States and a resident of the State of Washington, over the age of eighteen years of age, not a party to or interested in the above-entitled action and competent to be a witness therein.

That on the 23<sup>rd</sup> day of March, 2007, at 5:00 p.m. at 9704 - 18<sup>th</sup> Avenue Court South, Apt. U-4, Tacoma, Pierce County, Washington, I duly served BRIEF OF APPELLANT RICHARD ALAN O'CONNOR and CERTIFICATE OF SERVICE in the above-entitled matter upon YOM SUN O'CONNOR by then and there personally delivering a true and correct copy thereof and leaving with YOM SUN O'CONNOR.

Declarant further states that she is informed and believes, and therefore alleges, that said defendant(s) is not in the military service of the United States.

Signed at Tacoma, Washington on March 28, 2007.



LANNIE FLAAEN

Pierce County Registered Process Server No. 9270

Service Fee \$10.00 Mileage \$30.00(3 Attempts) Return Aff \$6.00 Other \$35.00(Rush) TOTAL \$81.00  
TACOMA-PIERCE COUNTY PROCESS SERVICE, INC., P.O. BOX 167, Tacoma, WA 98401  
Telephone 253-759-6727 Fax 253-759-5515

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