

No. 50059-1

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COURT OF APPEALS, DIVISION II  
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON

CLERK

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In re the Marriage of

**ROXANNE SHORTWAY**

Appellant/Petitioner,

and

**WILLIAM SHORTWAY,**

Respondent/Respondent

APPEAL FROM THE SUPERIOR COURT FOR KITSAP COUNTY  
(The Honorable Sally F. Olsen)

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**APPELLANT'S OPENING BRIEF**

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I.  
**INTRODUCTION**

This appeal relates to one aspect of the underlying child support order, specifically to Daycare Arrearages. However, in deciding this issue and reviewing the errors made by the Superior Court trial judge, a broader analysis is required. The analysis must review broader procedural interface between the Superior Court (which made a ruling on Daycare Arrearages up to a specific period of time, up to February, 2016) and the Office of Child Support Enforcement (Department of Social and Human Services) (which made a ruling on Daycare Arrearages for a later period, March, 2016 and the future). The record below is complex because there are several unresolved issues relating to other aspects of the underlying dissolution decree that explain how this case is a procedural mess. While those other issues are not currently before this Court, understanding some of the chronology of the other motions will provide some context for the narrow issues currently before the Court.

II.  
**ASSIGNMENTS OF ERROR**

Appellant asserts the following assignments of error:

Assignment of Error No. 1:

WHERE A PROPER APPEAL OF AN ADMINISTRATIVE FINAL ORDER WAS TAKEN, THE SUPERIOR COURT ERRED IN GRANTING THE RESPONDENT'S MOTION REGARDING DAYCARE ARREARAGE AND ADMINISTRATIVE RULING WHICH CHANGED THE ADMINISTRATIVE FINAL DECISION.

Assignment of Error No. 2

EVEN IF THE SUPERIOR COURT HAS GENERAL AUTHORITY TO CONSIDER THE MATTER WHERE THERE WAS NO PROPER APPEAL, THE SUPERIOR COURT ERRED IN BY INVALIDATING THE ADMINISTRATIVE LAW JUDGE'S DECISION FOR POST-FEBRUARY, 2016 DAY CARE EXPENSES BY FINDING THAT THE SUPERIOR COURT WAS "NOT SILENT" ON THE TIME-FRAME RULED ON EVEN THOUGH THE PRIOR ORDER OF THE SUPERIOR COURT JUDGE WAS "AS OF FEBRUARY 28, 2016" AND DID NOT SPECIFY ANY OTHER TIME PERIODS.

Assignment of Error No. 3

THE SUPERIOR COURT ERRED BY ENTERING AN ORDER RE DAY CARE ARREARAGE AND ADMINISTRATIVE RULING WHICH INVALIDATED THE ADMINISTRATIVE LAW JUDGE'S FINAL ORDER TO ESTABLISH A "FIXED DOLLAR AMOUNT OF CURRENT AND FUTURE SUPPORT OBLIGATION" PURSUANT TO RCW 26.23.110(10).

Assignment of Error No. 4

THE SUPERIOR COURT ERRED BY IGNORING THE AUTHORITY OF RCW 26.23.110 AS CITED BY THE ADMINISTRATIVE LAW JUDGE AND MISCHARACTERIZING THE ADMINISTRATIVE LAW JUDGE'S ORDER AS AN SUPPORT ORDER UNDER RCW 74.20A.055(1) and (7).

Assignment of Error No. 5

THE SUPERIOR COURT ERRED BY FAILING TO PROPERLY OFFSET AMOUNTS OWED BY MR. SHORTWAY (RESPONDENT) AGAINST AMOUNTS OWED BY MS. SHORTWAY (APPELLANT).

**III.**  
**ISSUES PERTAINING TO ASSIGNMENTS OF ERROR**

WHERE A PROPER APPEAL OF AN ADMINISTRATIVE DECISION WAS NOT FILED, DID THE SUPERIOR COURT HAVE JURISDICTION TO REVIEW OR CHANGE THE ORDER OF THE ADMINISTRATIVE DECISION? (Assignment of Error No. 1)

EVEN IF THE SUPERIOR COURT HAS GENERAL AUTHORITY TO CONSIDER THE MATTER WHERE THERE WAS NO PROPER APPEAL, DID THE SUPERIOR COURT ERRONEOUSLY INVALIDATE THE ADMINISTRATIVE LAW JUDGE'S DECISION FOR POST-FEBRUARY, 2016 DAY CARE EXPENSES BY FINDING THAT THE SUPERIOR COURT WAS "NOT SILENT" ON THE TIME-FRAME RULED ON EVEN THOUGH THE PRIOR ORDER OF THE SUPERIOR COURT JUDGE WAS "AS OF FEBRUARY 28, 2016" AND DID NOT SPECIFY ANY OTHER TIME PERIODS. (Assignment of Error No. 2)

DID THE SUPERIOR COURT ERRONEOUSLY INVALIDATE THE ADMINISTRATIVE LAW JUDGE'S DECISION TO ESTABLISH A "FIXED DOLLAR AMOUNT OF CURRENT AND FUTURE SUPPORT OBLIGATION." PURSUANT TO RCW 26.23.110(10)? (Assignment of Error No. 3)

DID THE SUPERIOR COURT ERRONEOUSLY IGNORE THE AUTHORITY OF RCW 26.23.110 AS CITED BY THE ADMINISTRATIVE LAW JUDGE AND IMPROPERLY MISCHARACTERIZE THE ADMINISTRATIVE LAW JUDGE'S ORDER AS AN SUPPORT ORDER UNDER RCW 74.20A.055(1) and (7)? (Assignment of Error No. 4)

DID THE SUPERIOR COURT PROPERLY OFFSET AMOUNTS OWED BY MR. SHORTWAY AGAINST AMOUNTS OWED BY MS. SHORTWAY? (Assignment of Error No. 5)

#### **IV.** **STATEMENT OF THE CASE**

This case involves the procedural and jurisdictional interface between the Superior Court and the Office of Child Support regarding post-dissolution issues of Child Support Enforcement.

Based on the dissolution action, a child support order and Parenting Plan was entered on July 26, 2012. CP 562. As contemplated in the Parenting Plan, Petitioner-Mother (Appellant-Petitioner) moved to Canada and is currently residing in Victoria, B.C. CP 562 On March 6, 2015,

Respondent filed a Petition to Modify the Parenting Plan, but did not seek to change child support at that time. CP 128-131.

While the Petition to Modify the Parenting Plan was pending, Mother sought enforcement of the child support order through the Division of Child Support by requesting Full Collection in 2015. CP 562. When the Department of Child Support sought Garnishment of Wages from Mr. Shortway by way of "Notice of Support Owed" (CP 562) Mr. Shortway (through counsel), filed a Motion to Restrain the Garnishment by the Division of Child Support. CP 2-4. The Order Restraining Garnishment by Division of Child Support was filed on November 13, 2015. CP 8-9. In the meantime, a settlement conference was set on the Petition to Modify the Parenting Plan to be held on December 18, 2015. CP 63.

Before the settlement conference was held, on December 9, 2015, Mr. Shortway filed a "Motion to Determine Arrearage/Overpayment of Child Support". CP 11-24. This motion included issues regarding day care and child support. This motion was initially set for December 18, 2015. CP 25. The December 18, 2015 motion was continued to December 31, 2015. CP 62. On December 22, 2015, the December 31, 2015 hearing was continued to January 15, 2016 at 9:00 a.m. CP 65. Also on December 22, 2015, the Respondent-Father filed a Notice of Presentation of Orders, set for January 15, 2016 at 1:30 p.m. CP 66.

A supplemental declaration was filed by Roxanne Shortway on January 12, 2016. CP 67-112. A Reply Declaration was filed by William Shortway (Respondent-Father) on January 14, 2016. CP 113-115.

Although the hearing on the Motion for Arrearage/Overpayment was initially set on the Domestic Calendar at 9 am, somehow the Motion was referred to Judge Olsen on her 1:30 p.m. departmental calendar at the same time the Presentation of Orders was schedule for. After noting that Judge Olsen was the settlement judge, the parties allowed Judge Sally Olsen, who was Settlement Judge for the Parenting Plan, to rule on the Motion for Arrearage/Overpayment at the same time as the Presentation for Final Parenting Orders. Therefore, at the January 15, 2016 hearing, the Court (1) entered an "Order re Modification/Adjustment of Custody Decree/Parenting Plan/Residential Schedule" (CP 128-131) and (2) issued a verbal ruling on the issue of the child support arrearages. The verbal ruling specifically ruled on (a) the stipend that Petitioner-Mother received from British Columbia for child care; (b) some offsetting of the stipend against payments made. Two remaining issues (c) daycare expenses (including whether a "camp" is a "daycare" expense), and (d) further offsets resulting from that determination (if any). The Court allowed Petitioner to file additional materials and a further hearing was set for February 12, 2016. CP 277-314. (The Transcript filed re January 15, 2016 hearing was filed with the Superior Court.)

On February 3, 2016, Mark Yelish, attorney for William Shortway, filed a declaration indicating that a hearing was held and continued with the Washington State Division of Child Support and that DCS was requesting that the following be included in the order to be issued by the Superior Court regarding: (1) dates covered by the overage; and (2) language that states that future day care expenses shall be paid based on the unsubsidized amount with the Canada/US exchange rate being utilized. Mr. Yelish declared that it was his understanding that DCS will be able to collect support on behalf of Ms. Shortway in compliance with the Court's Order. CP 132-34.

Shortly before the February 12, 2016 hearing was to occur, the Petitioner-Mother hired new counsel and the February 12, 2016 hearing was continued to February 26, 2016. In preparation for the hearing, Petitioner submitted additional documents. The hearing was further continued on February 25, 2016 to March 11, 2016. CP 232. The next day, on February 26, 2016, the March 11, 2016 hearing was then administratively continued to March 25, 2016. CP 233-234. The March 25, 2016 hearing was then stricken by agreement between the parties so that a special set hearing could be held. The expectation was that a hearing would be held on all of the pending issues. The special setting was scheduled for April 25, 2016 at 9:00 am. CP 235. The various motions would follow.

One set of motions was for the Domestic Calendar, but specially set due to the number of motions. This set included the following documents:

- (1) Motion to Identify and Set Matters/Issues for Hearing, CP 264-265;
- (2) Memorandum re Special Set Hearing, CP 259-263;
- (3) Motion and Declaration for Adjustment of Child Support, CP 253-258;
- (4) Petitioner's Proposed Child Support Worksheets (filed 4/18/2016), CP 240-245;
- (5) Financial Declaration of Petitioner, filed 4/18/2016, CP 246-252;  
and
- (6) Motion for Rule 60(b) Relief re Additional Defined Benefit Retirement Plan, CP 266-273;
- (7) Note for Motion filed 4/18/2017; CP 274.

The second set of motions was set on Judge Olsen's departmental calendar for April 29, 2017, at 1:30 p.m. (CP 351) and specifically pertained to Judge Olsen's prior orders. These motions and supporting documents included the following:

- (1) Motion re Presentation of Orders arising out of Motion re Arrearages, filed 4/21/2016; CP 275-276.
- (2) Petitioner's Objections to Respondent's Proposed Order re Day Care Overage/Arrearage, filed 4/21/2016, CP 315-317;
- (3) Motion re Camps as Daycare and Calculation of Arrears, filed 4/21/2016, CP 318;

- (4) Supplemental Declaration of W. Scott Hanevelt, CPA, CGA, filed 4/21/2016, CP 319-322;
- (5) Motion for Order Clarifying and Correcting Parenting Plan, filed 4/21/2016, CP 323-328;
- (6) Transcript of November 5, 2015 Settlement Conference, filed 4/21/2016, CP 341-35;
- (7) Memorandum on Motions set for Judge Olsen's Departmental Calendar, filed 4/21/2016; CP 341-350;
- (8) Note for Motion Docket, filed 4/21/2016, CP 351.

In opposition to Petitioner's first set of documents set on the Domestic Calendar, Respondent filed the following documents:

- (1) Sealed Financial Source Documents, filed 4/22/2016, CP 378-381, containing Paystubs & Tax Returns of William Shortway;
- (2) Financial Declaration of Petitioner [*sic*], filed 4/22/2016, CP 382-387, which was actually the Financial Declaration of Respondent.

At the special set hearing held before Judge Bassett, Respondent argued that the motions were not procedurally proper and should have been presented by other means. Specifically, Respondent argued that the motion for adjustment of child support should have been presented as a Petition for Modification of Child Support and that the Motion for Retirement Orders should be presented as a separate case altogether since it was to divide assets not identified in the Decree of Dissolution. Thus, there was an Order Denying Motions Without

Prejudice, filed on 4/25/2016. CP 390. Shortly after the Order Denying Motions Without Prejudice was filed and based on the procedural guidance provided, Petitioner filed a Summons and Petition for Modification of Child Support on 4/28/2016. CP 406-415. In support of the Summons and Petition, Petitioner also filed the Petitioner's Proposed Child Support Worksheets. CP 416-421.

In opposition to Petitioner's second set of documents set on Judge Olsen's Departmental Calendar, Respondent filed a "Response of Respondent to Various Motions" on 4/28/2016. Petitioner then filed a "Reply Declaration of Petitioner re Subsidy Reimbursement Order" on 4/28/2016.

At the hearing before Judge Olsen on 4/29/2016, the Court instructed the parties to obtain a special set hearing to allow for more time to argue the matters before Judge Olsen. CP 427. The court scheduler set a new date for a Special Set Hearing for the various motions before Judge Olsen. CP 426. This date was continued to a new date by way of an Amended Note for Motion Docket filed 5/10/2016. CP 428. A hearing was held on June 13, 2016 before Judge Olsen. The issues addressed included the three motions originally set for April 29, 2017. At the hearing, the parenting plan motion was not heard since the Court noted that dispute resolution had not occurred on those issues. The remaining two motions (presentation of orders; and camps as daycare) were argued. The matter was taken under advisement. Additional information was requested by the Court. CP 430-431. The

additional information submitted by the parties included the following series of documents:

- (1) Conversion from Canadian to US Dollars, filed on 6/13/2016 by Respondent, CP 432-433.
- (2) Supplemental Memorandum re Subsidies Received by Petitioner and Child Car Cost Exchange Rate, filed 6/27/2016 by Petitioner, CP 458-465.
- (3) Sealed Financial Source, CP 442-457 (Tax returns for 2015; Paystubs; Financial Declaration).

On August 29, 2016, over 8 months after the initial Motion for Arrearages had been filed by Respondent, Judge Olsen filed a “Judgment and Order Determining Daycare Overage/Arrearage.” CP 485-488. In this Order, Judge Olsen made a very specific order:

The Court, having reviewed the day care costs and reimbursements paid by Mr. Shortway, finds that Mr. Shortway overpaid day care costs in the amount of \$1,482 Can. Or \$1,158.54 US **as of February 28, 2016.**

CP 487. (emphasis added).

As there were math errors in the calculations made by Judge Olsen, Petitioner filed the following:

- (1) a Motion to Reconsider Judgment and Order Determining Daycare Overages/Arrears and Declaration, CP 490-548;
- (2) Notice for Motion Docket; CP 489; and
- (3) Amended Note for Motion Docket. CP 549;

On September 16, 2016, though titled "Briefing Order on Motion for Reconsideration" the Superior Court (Judge Olsen) denied the motion for reconsideration. CP 550-551.

Ms. Shortway did not appeal the denial of the reconsideration, obviously due to the amount of this August 2016 Order (\$1,482.00 in favor of Mr. Shortway). It was not cost effective, even though the amount was incorrect, the math calculations were not detailed, and the amount the judge calculated was arguably not fully supported by the evidence.

However, with this August, 2016 Order in place, it became appropriate for the Office of Child Support to re-set a new hearing on child support to take into account the August 26, 2016 ruling made by Judge Olsen. This is the Administrative Hearing that had been rescheduled a number of times, awaiting the Court's rulings on the various motions which could have had an impact on the child support calculations. See February 3, 2016 Declaration of Mark Yelish. CP 132-134.

On August 30, 2016, the Office of Child Support Enforcement held a hearing regarding (1) Current and Future Support Amount for the Day Care Portion of the Support Obligation, and (2) Past Due Support Amount for the Day Care Portion of the support obligation for the period March 1, 2016 to September 30, 2016. Page 1 of Final Order, CP 561.

On October 17, 2016, a “Final Order” was issued by the Administrative Law Judge. CP 553-579. The Administrative Law Judge Order stated as follows:

**6.1 Current and Future Support Amount for the Day Care Portion of the Obligation:** Beginning October 1, 2016, William Shortway owes \$421.70 USD per month for the day care portion of his child support obligation, with a like payment due on the 1<sup>st</sup> day of each month thereafter.

**6.2 Past-Due Support Amount for the Day Care Portion of Support Obligation:** William Shortway owes \$3,084.46 USD in past-due support for the day care portion of his child support obligation for the period March 1, 2016 through September 30, 2016.

**6.3 Payment:** In accordance with the superior court Order entered August 28, 2016, payments take into account the conversion from US to Canadian dollars. The applied exchange rates have been determined by the day the original payment is due, up to and including the date of this Order. William Shortway shall pay by check (“draft”) to the Washington State Support Registry (WSSR), at the following address.

Washington State Support Registry  
PO Box 45868  
Olympia, WA 98504-5868  
Phone: 1-800-922-4306 or  
1-800-442-5437

He will not receive credit for a payment made to any other party or entity.

Pages 5 to 6 of Final Order, CP 565-566.

In the “Final Order” at page 3, the Administrative Law Judge specifically referenced the Superior Court’s prior orders dated November 12, 2015 and August 28, 2016, making the following finding:

**4.6 Superseding Court Order:** On November 12, 2015, pursuant to a motion by William Shortway, the Superior Court of Washington, Kitsap County, issued an Order Restraining Garnishment by the Division of Child Support pending review of past day care expenses. On August 28, 2016, the Court issued an order addressing day care expenses and any related arrearages or overpayments through February 28, 2016. The Court affirmed William Shortway's share of future daycare expenses at 71% but indicated that Roxanne Shortway must obtain the agreement of William Shortway prior to sending Sophie Shortway to any "camps". In addition, the Court ordered that future day care expense payments will take into account the conversion from US to Canadian dollars, i.e. the exchange rate shall be determined by the day the purchase or original payment was made. Accordingly, the period at issue here is the amount of day care expenses owed from March 1, 2016 forward.

page 3 of the Final Order, CP 563

The Administrative Law Judge then made the following findings:

**Day Care Expenses Incurred by Roxanne Shortway:** Since March 1, 2016 Roxanne Shortway has incurred the following day care expenses for Saylor [*sic*] Shortway:

	Amount Paid CAD	Average Conversion Rate	Amount in USD
March, 2016	\$400	1.2986	\$519.44
April, 2016	\$400	1.2589	\$503.56
May, 2016	\$400	1.302	\$520.80
June, 2016	\$600	1.2082	\$724.92
July, 2016	\$600	1.3038	\$782.28
August, 2016	\$600	1.2844	\$770.64
September, 2016	\$400	1.3067	\$522.68
<b>TOTAL EXPENSES INCURRED</b>	<b>\$3400.00 CAD</b>		<b>\$4344.32 USD</b>

For the period of March 1, 2016 through September 30, 2016, Roxanne Shortway has incurred \$3,400 CAD or \$4,344.32

USD in work-related day expenses for Sophie Shortway. As the noncustodial parent, William Shortway's proportionate share (71%) of \$4,344.32 USD is \$3,084.46 USD.

**Direct Payments:** William Shortway has not made direct payments to Roxanne Shortway for her work-related day care expenses incurred from March 1, 2016 forward

Page 3 of the Final Order, CP 563.

The Administrative Law Judge then made the following Conclusions of Law:

## 5. CONCLUSIONS OF LAW

5.1 **Jurisdiction:** I have jurisdiction over this matter based on RCW 74.20A.055, RCW 74.20A.059 and RCW 34.12

5.2 **Authority for Notice of Support Owed:** RCW 26.23110(1)(a) provides that the Department may serve a Notice of Support Owed on a responsible parent (also known as the noncustodial parent) when a support order does not state the current and future support obligation as a fixed dollar amount. RCW 26.23110(10) further provides, in relevant part:

An adjudicative order entered in accordance with this section shall state the basis, rationale, or formula upon which the fixed dollar amounts established in the adjudicative order were based. The fixed dollar amounts of current and future support obligation or the amount of the support debt, or both, determined under this section shall be subject to collection under this chapter and other applicable state statutes.

5.3 The Department has also adopted regulations governing these proceedings. WAC 388-14A-3320 provides in relevant part:

What happens at a hearing on a Notice of Support Owed?

(1) A hearing on a notice of support owed is only for interpreting the order for support and any modifying orders and not for changing or deferring the support provisions of the order.

(2) A hearing on a Notice of Support Owed served under WAC 388-14A-3310 is only to determine:

(a) The amount of monthly support as a fixed dollar amount;

(b) Any accrued arrears through the date of hearing; and

(c) If a condition precedent in the order to begin or adjust the support obligation was met.

(8) The party who requested the hearing has the burden of proving any defenses to liability that apply under WAC 388-14A-3370 or that the amounts stated in the Notice of Support Owed are incorrect. . . .

5.4 The child support order provides that William Shortway shall pay 71% of daycare expenses. Roxanne Shortway provided credible evidence of the daycare expenses she has incurred for the period of March 1, 2016 through September 30, 2016. The expenses are reasonable and necessary for the time Sophie Shortway has spent in day care while Roxanne Shortway is at work. Therefore, William Shortway should be responsible for his proportionate share of child care from March 1, 2016 forward.

5.5 **Past Due Day Care Expenses:** Roxanne Shortway has incurred total daycare expenses for the period March 1, 2016 through September 30, 2016, in the amount of \$4,344.32 USD. William Shortway's 71% share of this total equals \$3,084.46 USD

5.6 **Current and Future Day Care Expenses:** Roxanne Shortway currently incurs monthly day care expenses in the amount of \$400.00 CAD per month during the school year (September-May) and \$600.00 CAD per

month, during the summer (June-August). Her approximate yearly total of work related day care expenses for Sophie Shortway is \$5,400.00 CAD. Using the rate of exchange for CAD to USD, current of the date of this order (1.3199), the yearly total of work related day care expenses for Sophie Shortway in US Dollars is \$7,127.46 USD. William Shortway's 71% share of this total equals \$5,060.49 USD per year, or \$421.70 USD per month. Therefore, beginning September 1, 2016, William Shortway owes \$421.70 USD per month for ongoing child care expenses.

- 5.7 **Annual Review:** Either party may ask for an annual review of the support order under RCW 26.23.110 and WAC 388-14A-3317 for the purpose of serving a new Notice of Support Owed. An annual review of a support order is the determination of arrears and current support amount with an effective date which is at least twelve months after the date of the last notice of support owed, or the last administrative order or decision based on a Notice of Support Owed, became a final administrative order.

Page 5 of the Final Order, CP 565.

The Administrative Ruling clearly informed the parties that an Administrative Appeal to the Superior Court was due in 30 days. CP 553-579. Page 7 of the Final Administrative Order specifically stated:

#### APPEAL RIGHTS

**Reconsideration:** You have the right to request that the Administrative Law Judge (ALJ) reconsider this Final Order RCW 34 05.470 and WAC 388-02-0605. Your request must be in writing and must be received by the ALJ within ten (10) calendar days of the mailing date of the Final Order. If the reconsideration request is not received within this ten-day period it will not be considered, and the time line to ask for superior court review continues to run.

If the reconsideration request is timely, the ALJ then has twenty (20) days to either decide the request or mail you and the other parties a written notice specifying the date the ALJ will decide the request. The reconsideration request is denied if no action is taken by the ALJ within the twenty-day period. If the request is timely, the time line to ask for superior court review will start on the date the reconsideration order is mailed

**Superior Court Review:** You also have the right to appeal this Final Order to superior court within thirty (30) calendar days of the mailing date of the Final Order. RCW 34.05.542(3) and WAC 388-02-0645. You do not need to file a request for reconsideration before requesting review in superior court. DSHS cannot request superior court review. Please refer to WAC 388-02-0650 for information about how to serve your request for superior court review.

Page 7 of the Final Order, CP 567.

As noted on Page 1 of the Final Order, the mailing date was October 17, 2016. CP 558. Thirty days from the mailing date would have been November 16, 2016.

On October 27, 2016, instead of filing a reconsideration or Appeal of the Administrative Ruling, the Respondent filed a “Motion Regarding Day Care Arrearage and Administrative Ruling”. CP 553-579. In filing this Motion, the Respondent did not notify DSHS or the Administrative Law Judge of the appeal, did not provide a transcript of the Administrative Law hearing, and did not provide a complete record of the Administrative Appeal. Instead, the Motion provided excerpts of the Administrative record and asked the Superior Court to enter ruling for March, 2016 to September, 2016 (the same time periods as the Administrative ruling) that Mr. Shortway owed

\$828.68, instead of the \$3,084.46 as determined by the Administrative Law Judge. CP 553-579.

On January 13, 2017, the Respondent's Motion Regarding Daycare Arrearage and Administrative Rule was heard before Judge Sally F. Olsen. RP Volume 22, Pages 1 to 22, Hearing Date 01/13/2017.

On February 3, 2017, the Superior Court entered an "Order Regarding Daycare Arrearage and Administrative Ruling". CP 621, 622-627. Additional oral argument was made over the form of the order. See RP Volume 0, Pages 1 to 22, Hearing Date 2/3/2017. As part of the Findings of Fact and Conclusions of Law, the Superior Court Order stated:

9. That Department of Social and Health Services v. Handy, 62 Wn. App. 105 (Div. 1 1991) governs the issues in the case at bar, but that the facts of the Handy case are distinguishable from the case at bar. The issue presented to the Handy court was whether the commencement of a superior court order deprived the Office of Child Support Enforcement of jurisdiction to issue a child support order. The Handy court held that Office of Child Support Enforcement may properly establish an administrative support obligation for a parent's minor child when the order of the superior court is "silent" or does not address the same time period as the support obligation determined by the Office of Child Support Enforcement. In Handy the mother requested support enforcement on March 9, 1987 and the mother commenced a Dissolution of Marriage action on October \* 1987. On December 10, 1987, an administrative hearing was held to determine the father's child support obligation; no order was entered pending the results of the Superior Court hearing. On December 11, 1987, the Superior Court established the father's support obligation commencing on the date of this hearing; this order was entered with the Superior Court on January 6, 1988. On December 30, 1987, an administrative judge entered an order establishing the father's support amount at \$434 commencing March of 1987. The Handy court upheld the administrative order in as far as it

was inconsistent with the court's order entered on January 6, 1988. The Handy court reasoned that the order of the Superior Court was silent on the father's support obligation from March of 1987 through December 11, 1987 as the Superior Court's order did not address this time period, therefore, the Superior Court's order was silent as to the father's support obligation from March 1987 to December 11, 1987.

**10.** That a Final Order for Support entered with this Court on July 26, 2016 and the court's subsequent ruling on August 29, 2016 were both prospective orders meant to establish the percentage of day care expenses Mr. Shortway was responsible for future periods of time.

**11.** That RCW 74.20A.055(1) and (7) does not grant the administrative court jurisdiction to enter support orders regarding Mr. Shortway's support obligation as there was a preexisting Order for Support entered in the Superior Court for the County of Kitsap.

**12.** That RCW 74.20A.059 does not grant the administrative court jurisdiction to enter a support order regarding Mr. Shortway's support obligation as there was a preexisting Final Order of Support entered in the Superior Court for the County of Kitsap.

**13.** That the administrative court lacked subject matter jurisdiction to enter an order establishing Mr. Shortway's monthly obligation to pay \$421.70 per month for the day care expenses incurred by Ms. Shortway, and to enter a judgment against Mr. Shortway in the amount of \$3,084.46 for day care expenses paid by Ms. Shortway but not reimbursed by Mr. Shortway as the orders of the Superior Court were not silent on Mr. Shortway's obligation to pay a portion of the day care expense as the orders of the Superior Court were not silent on the period of time contemplated by the administrative court's order.

Page 3-5 of Order, CP 624-626.

Based on the finding and conclusions made, Judge Olsen then made the following Orders:

**ORDERED** that Mr. Shortway's motion is granted, less Mr. Shortway's request for interest on the judgment awarded as the court did not specifically award Mr. Shortway interest in the order entered on August 29, 2016. It is further:

**ORDERED** that a judgment be entered against Ms. Shortway, and in Mr. Shortway's favor in the amount of \$329.86 for the amount of day care paid by Mr. Shortway not incurred by Ms. Shortway (\$1,158.54) less the amount Ms. Shortway incurred but that was not paid by Mr. Shortway (\$828.68).

CP 622-627.

This appeal was timely filed by Notice of Appeal on March 1, 2017. CP 628-634

#### SUMMARY OF ARGUMENT

The Superior Court should have denied the “Motion Regarding Day Care Arrearage” filed by the Respondent because the motion was not a properly filed Appeal of the Administrative Final Order. [*In re Marriage of Aldrich*, 72 Wash.App. 132, 864 P.2d 388 (1993)] Even if the Superior Court could hear the motion to determine the daycare arrearage, it was required to apply the findings made by the Administrative Law Judge to the relevant time periods. The Superior Court erred because it misapplied the case of *Department of Social and Health Services v. Handy*, 62 Wash.App.105 (Div. 1), 813 P.2d 610 (1991) Further, the Superior Court erred by invalidating the Administrative Law Judge’s proper application of RCW 26.23.110 to set a fixed monthly amount. The Court also misapplied RCW 74.22A.055 to this

case and failed to properly calculate the offset amounts owed to Petitioner-Mother.

### ARGUMENT

**A. WHERE A PROPER APPEAL OF AN ADMINISTRATIVE DECISION WAS NOT FILED, DID THE SUPERIOR COURT HAVE JURISDICTION TO REVIEW OR CHANGE THE ORDER OF THE ADMINISTRATIVE DECISION?**

(Assignment of Error No. 1)

As the facts in this case clearly indicate, no actual “appeal” of the Final Administrative Order dated October 27, 2016 was filed. None of the procedural requirements were met. Thus, it is clear that the Motion filed which sought a finding from the Superior Court regarding the same time periods ruled upon by the Administrative Law Judge should have been dismissed outright based on a failure of the Respondent to follow proper appeal procedures. Basic Res Judicata principles apply.

The Court of Appeals for Division 2 in *In re Marriage of Aldrich*, 72 Wash.App. 132, 864 P.2d 388 (1993), made it clear that the principle of Res Judicata prevents a collateral attack on the Final Order entered by the Office of Child Support Enforcement. Significantly, the *Aldrich* Court (Division 2) ruled that by failing to take a timely appeal from the decision of the administrative tribunal, father (Aldrich) had waived the error of the Department of Social and Health Services (DSHS) in failing to compute the amount of child support in accordance with the terms of an existing court order. The *Aldrich* Court stated as follows:

Lastly, we address whether Aldrich can assert DSHS's error by motion to show cause filed in his original dissolution action. **Res judicata applies to the quasi-judicial decision of an administrative tribunal as well as to the judicial decision of a court.** *State v. Dupard*, 93 Wash.2d 268, 274, 609 P.2d 961 (1980); *Miller v. St. Regis Paper Co.*, 60 Wash.2d 484, 485, 374 P.2d 675 (1962); *Lejeune v. Clallam Cy.*, 64 Wash.App. 257,265, 823 P.2d 1144, *review denied*, 119 Wash.2d 1005, 832 P.2d 488 (1992). It operates at such time as the decision in question becomes final. *Columbia Rentals, Inc. v. State*, 89 Wash.2d 819, 821, 576 P.2d 62 (1978); *Lejeune* 64 Wash.App. at 265, 823 P.2d at 1144. When it operates, it precludes relitigation by collateral attack, *Mellor v. Chamberlin*, 100 Wash.2d 643, 645, 673 P.2d 610 (1983), and generally speaking, a motion filed in a different [*page no. omitted*] **action** constitutes a collateral attack. *Philbrick v. Parr*, 47 Wash.2d 505, 509, 288 P.2d 246 (1955) (quoting *Thompson v. Short*, 6 Wash.2d 71, 106 P.2d 720 (1940)).

**In this case, DSHS's administrative order was quasi-judicial.** See RCW 74.20A.055(1) (proceeding brought under statute is “adjudicative”). **It became final when Aldrich failed to properly appeal it within 30 days.** RCW 74.20A.055; \*139 RCW 4.05.542(2). **It has been res judicata ever since, and Aldrich cannot now collaterally attack it by motion filed in a different cause of action.** Thus, the trial court did not err when it denied the relief Aldrich sought.

*(emphasis added).*

Based on proper res judicata principles, the trial court in *Aldrich* reached the proper result by denying the Father’s collateral attack on the Administrative Order by denying his motion filed in Superior Court.

In the present Shortway case, similar to Mr. Aldrich, Mr. Shortway claimed that the findings of Administrative Law Judge were erroneous. Mr.

Shortway similarly failed to properly appeal the Administrative Final Order. The facts in the case at bar are so similar to Aldrich that the Superior Court here should have reached the same obvious conclusion that Res Judicata dictates that Mr. Shortway cannot now attack the Administrative Final Order by way of Motion in the Superior Court. Unfortunately, the Superior Court in Shortway did not properly apply Res Judicata and it was clear error for her to proceed to invalidate the Final Order of the Administrative Law Judge.

Based on the foregoing, the Order dated February 3, 2017 issued by the Superior Court should be reversed and the Superior Court should be clearly instructed as to proper application of Res Judicata. Alternatively, this Court can apply the law to the specific amounts in this case and inform the Superior Court of the proper order it should have entered.

**B. EVEN IF THE SUPERIOR COURT HAS GENERAL AUTHORITY TO CONSIDER THE MATTER WHERE THERE WAS NO PROPER APPEAL, THE SUPERIOR COURT ERRONEOUSLY INVALIDATED THE ADMINISTRATIVE LAW JUDGE'S DECISION FOR POST-FEBRUARY, 2016 DAY CARE EXPENSES BY FINDING THAT THE SUPERIOR COURT WAS "NOT SILENT" ON THE TIMEFRAME RULED ON EVEN THOUGH THE PRIOR ORDER OF THE SUPERIOR COURT JUDGE WAS "AS OF FEBRUARY 28, 2016" AND DID NOT SPECIFY AND OTHER TIME PERIODS.**  
(Assignment of Error No. 1)

The case of Department of Social and Health Services, Appellant v. Handy, 62 Wash.App.105 (Div. 1), 813 P.2d 610 (1991) was brought to the attention of the Superior Court because the guidance provided by the Court of Appeals was clear on both points: (a) the need for a proper appeal; and (b) the

basic interface between child support enforcement and the Superior Court. Basically, the same question before the Court in this appeal.

In *DSSH v. Handy, supra*, the chronology was similar to the instant case:

October 9, 1987	OSE served Handy with a Notice of Financial Responsibility
November 16, 1987	ALJ informed of pending Superior Court hearing and continuance was requested, but denied
December 10, 1987	ALJ held support hearing, but waited for results pending superior court hearing
December 11, 1987	Superior Court OSC on temporary support was held, with oral decision rendered
December 30, 1987	ALJ entered Order for Support payments From March 1987 forward
January 6, 1988	Superior Court entered Order for child support commencing December 1987 forward
September, 1990	Superior Court issued decision invalidating the Office of Support Enforcement Order.

In *Handy, supra*, the Office of Support Enforcement appealed on the basis that it had authority to enter its support order for time periods not addressed by the Superior Court's order and that therefore the Superior Court's order invalidating the administrative order should be reversed. The Court of Appeals agreed, and reversed the Superior Court's judgment.

Mr. Handy's argument was that the *filing* of the dissolution petition in that case automatically deprived the OSE of jurisdiction. This is similar to the argument that Mr. Shortway makes that the *filing* of the Petition for Modification of Child Support somehow deprives the OSE/ALJ in the

Shortway case of jurisdiction. See also Transcript of Oral Argument on 1-13-2017 and 2-3-17. RP Vol. 22, page \*, and RP Vol. 0, page \*. In Handy, the Court of Appeals specifically found that “RCW 74.20A.055(1) specifically provides that is the absence of a superior court order and not the absence of a dissolution filing that authorizes OSE to proceed to establish a child support obligation.” (Handy at p. 109) On this point, the Court of Appeals further stated:

**[6] DSHS asserts that where a superior court order does not deal with the same time period that is addressed in the administrative proceeding, that the superior court order is “silent” resulting in an “absence” of a superior court order and OSE is authorized to proceed. We agree. It is a general rule of statutory construction that statutes be [...] construed to best effect their purpose. The legislature has enjoined the court to interpret the statute liberally to achieve its purposes. We feel that this is best done by construing “in the absence of a superior court order”, RCW 74.20A.055(1), to mean in the absence of a superior court order dealing with the same period of time as in the administrative proceeding.**

*Emphasis added, footnotes omitted.*

The lesson of Handy, *supra* is clear: whether the Administrative Law Judge in Handy was proceeding under RCW 74.20A.055(1) or RCW 26.23.110 (as in this case), a temporary order or a final order, the principle is still the same: silence on the specific time-frame by the Superior Court is “absence” of a superior court order which authorizes the OSE to proceed.

Further, In Handy, even if the superior court judge had entered a temporary order that was arguably “prospective” but it did not specifically cover any specific time period. The lack of specific time period in the

superior court order in Handy was treated as being “silent”. Similarly, in this Shortway case, the Judge Olsen order was for the time frame from August 2012 to February, 2016. It did not cover any specific time periods after that date. Significantly, the scope of the motion being ruled upon was only seeking a ruling on “arrearages”. For the Superior Court to say after the fact that it was suddenly “prospective” and actually did cover a particular time-frame was clearly erroneous.

Moreover, even if the Superior Court could somehow convert its ruling on “arrearages” to be “prospective” the lack of a specific timeframe still makes it “silent” on the time periods addressed by the Administrative Law Judge. Since the Superior Court Order dated August 29, 2016 specifically stated that it was “to February, 2016” it was “silent” on any time periods after that date. Thus, the Administrative Law Judge had properly applied the principles of Handy and ruled on the time frames before it.

Based on the fact that the ALJ did have jurisdiction, the appeal process should have been followed in order to address any alleged errors that Mr. Shortway claimed. Mr. Shortway failed to properly appeal so the Administrative Law Judge’s Final Order must be recognized as a valid order.

**C. THE SUPERIOR COURT ERRONEOUSLY INVALIDATED THE ADMINISTRATIVE LAW JUDGE’S DECISION TO ESTABLISH A “FIXED DOLLAR AMOUNT OF CURRENT AND FUTURE SUPPORT OBLIGATION.” PURSUANT TO RCW 26.23.110. (Assignment of Error No. 3)**

By entering its Order on February 3, 2017, the Superior Court was also ignoring the Statutory Authority provided by RCW 26.23.110 that the Administrative Law Judge was exercising. Specifically, RCW 26.23.110: states:

**(1) The department may serve a notice of support owed on a responsible parent when a support order:**

**(a) Does not state the current and future support obligation as a fixed dollar amount;**

(b) Contains an escalation clause or adjustment provision for which additional information not contained in the support order is needed to determine the fixed dollar amount of the support debt or the fixed dollar amount of the current and future support obligation, or both; or

(c) Provides that the responsible parent is responsible for paying for a portion of uninsured medical costs, copayments, and/or deductibles incurred on behalf of the child, but does not reduce the costs to a fixed dollar amount.

(2) The department may serve a notice of support owed on a parent who has been designated to pay per a support order a portion of uninsured medical costs, copayments, or deductibles incurred on behalf of the child, but only when the support order does not reduce the costs to a fixed dollar amount.

(3) The department may serve a notice of support owed to determine a parent's monthly payment toward the premium as defined in RCW 26.09.105, if the support order does not set a fixed dollar amount for the monthly payment toward the premium.

(4) The notice of support owed shall facilitate enforcement of the support order and implement and effectuate the terms of the support order, rather than modify those terms. When the office of support enforcement issues a notice of support owed, the office shall inform the payee under the support order.

(5) The notice of support owed shall be served on a responsible parent by personal service or any form of mailing requiring a return receipt. The notice shall be served on the applicant or recipient of services by first-class mail to the last known address. The notice of support owed shall contain an initial finding of the fixed dollar amount of current and future support obligation that should be paid or the fixed dollar

amount of the support debt owed under the support order, or both.

(6) A parent who objects to the fixed dollar amounts stated in the notice of support owed has twenty days from the date of the service of the notice of support owed to file an application for an adjudicative proceeding or initiate an action in superior court.

(7) The notice of support owed shall state that the parent may:

(a) File an application for an adjudicative proceeding governed by chapter 34.05 RCW, the administrative procedure act, in which the parent will be required to appear and show cause why the fixed dollar amount of support debt or current and future support obligation, or both, stated in the notice of support owed is incorrect and should not be ordered; or

(b) Initiate an action in superior court.

(8) If either parent does not file an application for an adjudicative proceeding or initiate an action in superior court, the fixed dollar amount of current and future support obligation or support debt, or both, stated in the notice of support owed shall become final and subject to collection action.

(9) If an adjudicative proceeding is requested, the department shall mail a copy of the notice of adjudicative proceeding to the parties.

**(10) If either parent does not initiate an action in superior court, and serve notice of the action on the department and the other party to the support order within the twenty-day period, the parent shall be deemed to have made an election of remedies and shall be required to exhaust administrative remedies under this chapter with judicial review available as provided for in RCW 34.05.510 through 34.05.598.**

(11) An adjudicative order entered in accordance with this section shall state the basis, rationale, or formula upon which the fixed dollar amounts established in the adjudicative order were based. The fixed dollar amount of current and future support obligation or the amount of the support debt, or both,

determined under this section shall be subject to collection under this chapter and other applicable state statutes.

(12) The department shall also provide for:

(a) An annual review of the support order if either the office of support enforcement or the parent requests such a review; and

(b) A late adjudicative proceeding if the parent fails to file an application for an adjudicative proceeding in a timely manner under this section.

(13) If an annual review or late adjudicative proceeding is requested under subsection (12) of this section, the department shall mail a copy of the notice of adjudicative proceeding to the parties' last known address.

(14) The department has rule-making authority to enact rules consistent with 42 U.S.C. Sec. 652(f) and 42 U.S.C. Sec. 666(a)(19) as amended by section 7307 of the deficit reduction act of 2005. Additionally, the department has rule-making authority to implement regulations required under 45 C.F.R. Parts 302, 303, 304, 305, and 308.

[ 2009 c 476 § 5; 2007 c 143 § 4; 1993 c 12 § 1. Prior: 1989 c 360 § 16; 1989 c 175 § 77; 1987 c 435 § 11.]

*Emphasis added.*

In its conclusions of law, the Final Order of the Administrative Law Judge clearly applied RCW 26.23.110, specifically stating:

**5.2 Authority for Notice of Support Owed:** RCW 26.23.110(1)(a) provides that the Department may serve a Notice of Support Owed on a responsible parent (also known as the noncustodial parent) when a support order does not state the current and future support obligation as a fixed dollar amount RCW 26.23.110(10) further provides, in relevant part:

An adjudicative order entered in accordance with this section shall state the basis, rationale, or formula upon which the fixed dollar amounts established in the adjudicative order were based. **The fixed dollar**

**amounts of current and future support obligation or the amount of the support debt**, or both, determined under this section shall be subject to collection under this chapter and other applicable state statutes

- 5.3 The Department has also adopted regulations governing these proceedings. WAC 388-14A-3320 provides in relevant part

What happens at a hearing on a Notice of Support Owed?

(1) A hearing on a notice of support owed is only for interpreting the order for support and any modifying orders and not for changing or deferring the support provisions of the order.

(2) A hearing on a Notice of Support Owed served under WAC 388-14A-3310 is only to determine;

(a) The amount of monthly support as a fixed dollar amount;

(b) Any accrued arrears through the date of hearing; and

(c) If a condition precedent in the order to begin or adjust the support obligation was met.

(8) The party who requested the hearing has the burden of proving any defenses to liability that apply under WAC 388-14A-3370 or that the amounts stated in the Notice of Support Owed are incorrect.

**Emphasis added.** CP 564, page 4 of Final Order.

Appellant's counsel has not located any specific caselaw that discusses the application of RCW 26.23.110 to establish a fixed amount of "future support obligation". However, it is clear that the Administrative Law Judge was exercising its statutory authority to make a ruling as to reduce the amount

of anticipated child care to a fixed dollar amount. In granting the February 3, 2017 Order, Judge Olsen clearly ignored the fact that nowhere in any of the prior rulings made was there any “fixed dollar amount” for the periods covered by the Administrative Law Judge’s Final Order. A “percentage” of the child care (in this case 71%) is simply not the same as a “fixed dollar amount.” Therefore, for Judge Olsen to conclude that the administrative court did not have jurisdiction was clearly erroneous as it was wholly unsupported by the facts.

Based on the foregoing, the Order dated February 3, 2017 should be set aside and the Superior Court should be instructed to apply the Final Order of the Administrative Law Judge until the Petition to Modify Child Support is ruled upon.

**D. THE SUPERIOR COURT ERRONEOUSLY IGNORED THE AUTHORITY OF RCW 26.23.110 AS CITED BY THE ADMINISTRATIVE LAW JUDGE. (Assignment of Error No. 4)**

As noted in Section C above, the Administrative Law Judge was properly exercising its authority under RCW 26.23.110(1)(a) to establish a “fixed dollar amount” where a prior Superior Court child support did not state a “fixed dollar amount”. However, in an effort to bolster a bad ruling, the Superior Court grasped at the straw offered by Respondent who argued that somehow RCW 74.20A.055 should be interpreted to mean that just because a Final Child Support Order had been entered, that the Office of Support

Enforcement had no jurisdiction. This type of ruling, seems to assume that a superior court always supersedes an Administrative Law Judge's ruling. That is simply erroneous thinking and needs to be corrected. Both the Administrative Law Judge and the Superior Court Judge derive their authority from application of the law, including various parts of the Revised Code of Washington. In this case, the application of RCW 74.20A.055 to this case should have been consistent with *Handy*, supra, in simply noting that the absence of a time-frame in the August 26, 2017 Superior Court ruling allowed the Administrative Law Judge to proceed. By failing to apply the law as interpreted by *Handy* simply and consistently to both RCW 74.20A.055 and RCW 26.23.110, the Superior Court was perpetuating error. Therefore, the February 3, 2017 Order should be corrected to reflect consistent application of the principles of *Handy* to both types of administrative orders.

**E. THE SUPERIOR COURT DID NOT PROPERLY OFFSET  
AMOUNTS OWED BY MR. SHORTWAY AGAINST  
AMOUNTS OWED BY MS. SHORTWAY.  
(Assignment of Error No. 4)**

It was conceded that the Superior Court could calculate the arrearages due by offsetting what one party owed with prior overpayments. However, it was Ms. Shortway's position that the underlying amounts used in the offset should have resulted in her favor in the amount of **\$3,191.02** based on the following calculations:

TOTAL OWED BY MR. SHORTWAY FOR DAYCARE EXPENSES As of December, 2016	\$4,349.56	See ALJ Final Order
Offset by Amount "overpaid" as of February, 2016	-1,158.54	Judge Olsen's Ruling against Petitioner Mother
<b>AMOUNT OWED BY MR. SHORTWAY After offset as of December, 2016</b>	<b>\$3,191.02</b>	<b>IN U.S. DOLLARS</b>

Because the Final Order was not properly appealed, the Superior Court Judge was obligated to accept the Order made by the Administrative Law Judge that the total amount owed by Mr. Shortway as of December, 2016 was \$4,349.56. Therefore, the proper offset that should have been ordered should have been in favor of Petitioner-Mother in the amount of \$3,191.02, not \$329.00 in favor of Respondent-Father.

Appellant-Petitioner seeks this equitable remedy because Appellant wishes to avoid further expense of re-litigating the issues again. More than two years have passed since Petitioner sought to collect child care arrearages from Mr. Shortway. Mr. Shortway has been able to avoid paying these amounts. In this case, where this Court has ample undisputed facts that would allow this Court to make the calculation requested, rather than remanding the case back to the Superior Court, Ms. Shortway requests that this court calculate the amount of the offset and correct the Judgment to the proper amount.

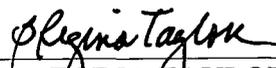
## CONCLUSION

Based on the foregoing facts, authorities, and analysis, the Superior Court erred in its Order Regarding Day Care Arrearage and Administrative Ruling entered on February 3, 2017. The Superior Court misapplied the Handy case, ignored RCW 26.23.110 on "fixed dollar amounts", and misapplied RCW 74.20A.055 where new child support was not being established. Therefore, as indicated above, Appellant-Petitioner respectfully requests that:

- a) the February 3, 2017 Order Regarding Day Care Arrearage and Administrative Ruling be set aside and that this Court find in favor of Appellant;
- b) this Court calculate the proper amounts due to Petitioner and that a Judgment against Respondent in favor of Appellant-Petitioner be ordered in the amount of \$3,191.02, plus statutory interest of 12% as of December 31, 2016;

DATED: July 17, 2017.

Respectfully submitted,

  
B. REGINA TAYLOR

Attorney for Appellant/Petitioner  
Washington State Bar Association  
membership number 32379

**DECLARATION OF SERVICE**

FILED  
COURT OF APPEALS  
DIVISION II

2017 JUL 18 PM 1:09

***I Declare:***

STATE OF WASHINGTON

I am over the age of 18 and competent to testify. I served the following documents on the above-named Respondent through his attorney Mark Yelish

Description	Date	Method
Appellant's Opening Brief	7-17-17	Priority Mail to: Mark Yelish Attorney at Law 623 Dwight Street Port Orchard, WA 98337
		Email to: <b><u>Mark@Yelishlaw.com</u></b>
		Fax to:  (360) 876-3970

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

Signed at Bremerton, Washington on 7-17-17.

*B. Regina Taylor*  
B. REGINA TAYLOR #32379  
Attorney for Roxanne Shortway