

Case No. 283330

COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON

In re Marriage of

Lance Linderman, Respondent

and

Heidy Linderman, aka McWain, Appellant

OPENING BRIEF OF APPELLANT

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WSBA 30613

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DIVISION III
SPokane, WA

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I. INTRODUCTION

Heidy McWain filed a petition to modify a parenting plan. It includes a minor modification request under 26.04.260(5). She appeals the trial court's denial of adequate cause. An objection to relocation was also pending. The court made no comprehensible findings on why adequate cause was denied.

II. ASSIGNMENTS OF ERROR

1) Under a request to find adequate cause, the trial court abused its discretion when it did not make specific findings on whether the four criteria of RCW 26.09.260(5) had been met.¹ The court only "believed" that adequate cause had not been met, without more.

2) The trial court erred in dismissing the petition to modify for lack of adequate cause by either 1) categorizing the evidence as "not more than *allegations* of substantial changes in circumstances", as if the court required more than a showing of facts within the summary proceeding, or 2) by ignoring the evidence in support of the other criteria, including a) that the change was in the child's best interest, b) that the current plan did not give the mother enough time with the child, and c) that the new plan was less than 90 days/yr.

3) Contrary to the commissioner's conclusion, it is appropriate to petition for a minor modification even while relocation is being pursued, as it hedges against the resulting waste of attorney fees and time, if the relocation action expired due to an abandoned pursuit of relocation.

¹ The statutory factors for minor modification here were 1) the request amounts to less than 90 overnights to the non-custodial parent, 2) the current plan "does not provide reasonable time with the parent with whom the child does not reside a majority of the time", 3) the change would be in the child's best interest, and 4) a substantial change of circumstances has occurred in either party or the child since the 2003 Parenting Plan had been entered.

III. STATEMENT OF THE CASE

Pursuant to a dissolution, in April 2003, a final order parenting plan was entered by agreement, that the father, Lance Linderman, who had remained in the family home, would have custody of their 5 year old, and the mother, Heidi McWain, who had relocated to Southern California would have limited time with the child. CP 1-6. The father was represented by counsel, the mother was not. CP 6. The mother was not subject to restrictions. CP 1. Although the plan at 3.1 (CP 2) referenced giving the mother extended residential time in the summer and winter vacations, impliedly in lieu of weekend residential time, that time was not more than a non-residential parent minimally receives, who also receives weekend residential time. The frequency of visits was only twice per year.

The mother was allowed only five (5) weeks of time each summer (35 overnights), every other year she would receive two weeks at winter break, (CP 2 at para. 3.3) and the alternating years she would receive one week at Thanksgiving (CP 3 at Para 3.7). This results in the mother receiving either 49 overnights or 42 overnights per year, alternating yearly. At the least, the mother wanted more residential time with the child.

In 2003, the father's attorney had placed the allocation of long distance transportation costs within the parenting plan, rather than the child support order. It required that "The mother shall provide all transportation, including payment of all costs, for the child to and from her residential time, however, any transportation arrangements must be approved by the father, including the mode of transportation and any third parties who may accompany the child." Cp 4 lns 5-7. Thus, for the past 7 years, the mother had

either paid the costs of air travel to and from Southern California, or had driven from Southern Ca., to Eastern Washington and back again, for all of her residential time visits. Per her parenting plan, that's four trips per year. CP 2-4. This provision violates RCW 26.19.080 (3), requiring long distance transportation costs to be shared proportionately to income. But, per RCW 26.09.260 (10) the provision, as a non-residential aspect of the parenting plan (rather than the child support order), can't be corrected until a substantial change of circumstances of either parent or the child, can be found. RCW 26.09.260 (10).²

Procedural History

In Sept. 2006, the mother requested a change of custody, but did not seek any minor modifications or adjustments in the alternative. CP 12-13. No adequate cause for a major modification was found. CP 18-19. In December 2008, the mother, who still lived in Visalia, CA, objected to temporary relocation of the daughter from Othello, Washington to Cottonwood, Idaho. CP 20-33. The motion for temporary restraint of relocation was denied January 23, 2009 (*CP 67-70*) and the decision was upheld on revision April 10, 2009. CP 110-111. As noted in the January 14, 2009 letter decision, the commissioner determined no modification to the parenting plan was *necessary* pursuant to the temporary relocation, i.e. it was still functional. CP 66 at para 3. The objection to relocation matter is still being pursued and is set for trial February 22, 2010. With the Objection to Relocation, the mother concurrently filed a petition to modify the parenting plan, including minor modification requests and adjustments.

² RCW 26.09.260(10) states: The court may order adjustments to any of the nonresidential aspects of a parenting plan upon a showing of a substantial change of circumstances of either parent or of a child, and the adjustment is in the best interest of the child. Adjustments ordered under this section may be made without consideration of the factors set forth in subsection (2) of this section.

On February 26th, the mother filed a 2nd proposed parenting plan which expressed and detailed a minor modification request within the December 11th Petition, together with a motion for temporary orders. CP 70-81. The hearing for temporary orders modification of that petition was attempted on April 24th, whereby the commissioner determined that a modification to the parenting plan under the second petition was not properly before the court, (CP 133 lns. 17-19) likening it to “boot strapping,” CP 133 lns. 5-9, and concluding that she could only proceed under one petition. *Id.* at 133 ln. 21.

On May 27th, Respondent noted a motion to find adequate cause to modify the Parenting Plan solely under the alternative pleading of the Petition to Modify the Parenting Plan as a minor modification. In the declaration in support of finding adequate cause Respondent states: “As previously discussed in earlier declarations, I do not get to spend sufficient time with KML for her own well being and desires – which Lance has also admitted.” CP 115 lns. 21-23. Respondent then requested that her February 26th parenting plan be adopted on a temporary basis. *Id.* lns. 23-24. The proposal within the February 26th parenting plan is a minor modification – only adjusting the time to Respondent upward, but under 90 days, while the petitioner remains as the custodial parent. CP 73-81.

At the hearing June 5, 2009, the Commissioner determined that having two simultaneous petitions was improper and confusing, as was checking all of the categories in the Petition for Modification, and then, without differentiating between a major and minor modification, found that no adequate cause existed and denied the petition. CP 118-119 & 123-125.

On revision, Judge Knodell, denied a finding of adequate cause for a minor modification, stating: “My finding is that you have not presented anything beyond allegations of substantial change in circumstance.” See CP 154-155; RP 29 Ins. 5-9; CP 148-49.

IV. STANDARD OF REVIEW

A trial court’s adequate cause determination under RCW 26.09.270 will be overturned only for abuse of discretion. *In re Parker*, 135 Wn.App. 465, 471, 145 P.3d 383 (2006)(citing *In re Marriage of Tomsovic*, 118 Wn.App. 96, 104, 74 P.3d 692 (2003)); *In re Parentage of Jannot*, 149 Wn.2d 123, 126, 65 P.3d 664 (2003). An abuse of discretion occurs when a Superior Court’s ruling is manifestly unreasonable or based on untenable grounds or untenable reasons. *In re Marriage of Hoseth*, 115 Wn.App. 563, 569, 63 P.3d 164 (2003). Because the criteria of RCW 26.09.260 limits the superior court’s range of discretion, a superior court will abuse its discretion if it fails to base its modification ruling on the statutory criteria. *Id.*

For example, with an adequate case determination, weighing evidence in the manner of an ultimate fact finder on whether a change has occurred, is not permissible. Only a “showing” or “presentation” of facts is required. *In re Parker*, 135 Wn.App. 265, 145 P.3d 383, 386 (Div. 1, 2006) (“the petitioner must by affidavit *present* facts that establish adequate cause for the proposed modification. RCW 26.09.270”) *emphasis added*. The *Tomsovic* court describes the burden as *prima facie*. *Tomsovic*, 118 Wn.App. 96, 104, 74 P.3d 692 (2003). The court retains broad discretion in determining if the facts alleging

a change of circumstances, rises to the level of a *substantial* change of circumstances. *In re Marriage of Tomsovic*, 118 Wn.App. 96, 104, 106, 74 P.3d 692 (2003).

Case precedent suggests that, even if it is debatable whether a request is supported by all the statutory criteria, in analyzing for a “showing” only, the debate should be resolved in the Petitioner’s favor. *See in re Parker*, 135 Wn.App. at 473. (accepting the plausibility of the Petitioner’s request not being more than the statutory increase limit of 24 days under RCW 26.09.260(5)).

V. ARGUMENT

On Feb. 26, 2009, when the mother requested a temporary order modifying the parenting plan, her request only encompassed the minor modification requests of the petition and objection to relocation, as reflected in the parenting plan that had been filed concurrently. CP 73³. The parenting plan filed with the temporary motion requested that the time between the mother and child be increased during spring vacation and summer vacation, corrected the 2003 transportation provision that was contrary to law, and added alternative dispute resolution provisions consistent with the law. CP 75-77.

A. There can be no debate that substantial change of circumstance existed here sufficient for a minor modification.

The first inquiry for any modification action is whether “substantial changes of circumstances” in either the parent or the child has occurred. *See Tomsovic*, 118

³ At CP 74 at para 3.2 of the proposed parenting plan, “respondent” was checked, but that is a Scribner’s error. As consistent with the remainder of that section, instead, “Petitioner” should have been checked.

Wn.App. at 107. A finding of harm is not required in a minor modification, while it is required in a major modification. *Id. See Tomsovic*, 118 Wn.App. at 107.

For a minor modification or an adjustment, in *Hoseth*, a Division III case, the court describes substantial changes of circumstance in support of adequate cause, *Id.* at 570, and was the first Washington published case to analyze RCW 26.09.260(5). *In re Marriage of Tomsovic*, 118 Wn.App. 96, 105, 74 P.3d 692 (2003) The *Hoseth* court summarizes as follows:

Under the plain wording of RCW 26.09.260(5), the superior court may order an adjustment to the parenting plan if the petitioning parent shows (1) a substantial change in circumstances [of either parent or of the child], and (2) the proposed adjustment meets at least one of the three criteria set forth in subsections (1) (not an increase of more than 24 full days), (b)(change of residence or work schedule resulting in impracticality), or (c) not more than 90 overnights, with a current lack of reasonable time, and best interest of child).

Hoseth, 115 Wn.App. at 570.

Comparing another case's substantial change of circumstances for a minor modification, highlights the unreasonableness of this minor modification dismissal.

The *Hoseth* court identifies three substantial changes of circumstances that affected either one of the parties and the child, explaining that substantial changes of circumstance were simply circumstances not explicitly contemplated and provided for by the parties or the court at the time the former parenting plan was entered. *See Hoseth*, 115 Wn.App. at 572-3. The three substantial changes of circumstances found over the course of four years (since the former parenting plan was entered) were: 1) a new domestic partner for the father 2) the father's relocation; 3) the child had begun to be involved in extra curricular activities. The court even commented that the dispute and

conflict was “on its face, not healthy for a seven-year-old child” and pointed towards the need for a resolution in the best interests of the child as part of the adequate cause. *Id. at 572-73.*

In the case at bar, the number of changes of circumstances in either party or the child since the original parenting plan was entered 6 years ago are not merely allegations, but are substantial.

The Mother’s Changes

The mother had changed residences and had a good home environment, in contrast to her money deprived, 2003 divorcing lifestyle, where she had given up custody of the child because she did not know how she could financially support her daughter and herself; (see CP 13; CP 26 Ins. 3-6; CP 105 Ins 1-5; CP 84 Ins. 18-20) the mother had become a stay-at-home wife and mother, allowing her to constantly supervise the child while in her care. CP 26 Ins. 13-15. Unlike the father, the mother even quit smoking for the sake of the child.. CP 104 Ins. 4-7. Neither the parties, nor the original parenting plan contemplated any of these changes of circumstances for the mother, or its potential beneficial affects on the child at the time the first plan was entered. CP 1-6. Those changes alone should have supported finding a substantial change of circumstances in the mother and the child to allow a minor modification.

But that was not the end of the inquiry. Substantial changes of circumstances existed in the non-moving party as well, and were the same circumstances found as major in *Hoseth* for the moving party.

The Father’s Changes

The record reflects that Lance Linderman has a new domestic partner, quit his job and moved in with her. CP 104 lns. 4-8. That new domestic partner has substantially added to the conflict between the parties and with the child. CP 113-116; CP 84 lns 7-9. The child reported not liking the new domestic partner and wanting to live with her mother. CP 43-44. The father and child used to be surrounded by extended family in Othello and now have no extended family to turn to on a day to day basis for child care. See CP 26 lns. 5-9. This had been so important to the parties that one of the very reasons the mother did not pursue custody in 2003 was because she did not want to take the child away from extended family in Othello, where with the father's move to Cottonwood, the convenient extended family relationships and child care support was non-existent. CP 26 lns 5-6 and CP 28 ln. 8. The child used to have a cell phone funded by the father where she could talk to her mother when ever she wanted to. See e.g. CP 36, the father now has no income and no longer pays for the child's cell phone and then began monitoring, with his girlfriend, all of the child's phone conversations with the mother, effectively chilling that speech. See e.g. CP 5-11; 83 lns. 5-10; 113 lns. 13-25.

The Child's Changes

And substantial changes exist for the daughter as well. See e.g. CP 20-24; 25 lns 12-19; 27 lns 9-10; 28 lns 24-26; 26 lns 5-6; 105 lns. 10-12.

In summary, the trial court could and should have found any number of changes in circumstance as substantial and not contemplated by the court or the parties in 2003 when the last parenting plan was entered. There simply is no tenable basis to deny that substantial changes had occurred.

B. Facts sufficient to meet all statutory factors for a minor modification under RCW 26.09.260(5) were present.

Analyzing for a showing of adequate cause is not a matter of belief; it is a matter of comparing the requesting parties' statements with the statutory criteria and making specific findings. In order to review the changes of circumstance since 2003, the mother asked the court to consider all evidence she had put in the file. See CP 82, incorporating all of the mother's evidence filed previously throughout the file; supplementing with a 2nd declaration at CP 91, a 3rd declaration at CP 102, and a 4th declaration at CP 113.

Statutory Factors:

1. Best Interest of Child

Evidence throughout the file showed a strong desire that the daughter wanted to spend more time with her mother. The child had spent a school year with her mother in Visalia in 2006 and, according to a child psychologist seen at the time, she did not want to return to live with her father. CP 17. While the daughter lived in Othello, Washington, she would call her mother in Visalia many times each week and consistently reported that she wanted to live with her Mom in Visalia rather than moving with her Dad to Cottonwood, Idaho, to live with his new girlfriend. See CP 23-25, 30-31, 35-36. Obviously, the strong communication bond that existed between the mother and daughter supported a finding that increased residential time between them would be nothing but beneficial for the child. The declaration in support of finding adequate cause referenced all previous filed evidence offered by the mother. See CP 50.

2. Insufficient Time with Mother

Courts have found that a standard, traditional parenting plan would allow somewhere around 90 overnights for the non-custodial parent, and a parenting plan with

fewer overnights could be considered unreasonably limited time if a parent was not under restrictions. *Hoseth*, 115 Wn.App at 574. Here, the plan restricted the mother to some 40 days, depending on the year. The lack of time is prima facie insufficient time for the mother.

3. Less than 90 Days to Non-Custodial Parent

In support of the motion to adjust the parenting plan, the mother proposed increasing the summer residential time by three weeks, or an additional 21 overnights and additionally provided all of spring vacation to the mother each year, for an additional 7 days. CP 75. These proposed changes would increase the residential time of the mother, alternating yearly, to between, 77 overnights/yr. or 70 overnights/yr. Obviously then, even with the increase of several weeks, the request remained below the 90 days per year requirement of RCW 26.09.260 (5)(c).

4. Substantial Changes of Circumstances

Many circumstances had changed for these parties since entry of the 2003 plan. In 2003, the mother was financially struggling in Southern California. See CP 13. She did not know how she could financially support her daughter if she had custody of her, and thus thought it better for the daughter to remain in Othello where she was surrounded with the father's extended family. See CP 13 & 26 lns. 3-6. Later, the mother married and had the luxury of becoming a stay at home wife and mother. See CP 13 and CP 24 lns. 20-22. She was thus able to provide the child with full attention during the summer vacation months without child care, and could easily accommodate the proposed 8 weeks of summer, as opposed to 5, as well as enjoy spring vacation without child care. The daughter had spent a school year with her mother in 2005-06 and ate it up, only wanting

more. See CP 17. In Dec. 2008, the father announced by notice of relocation that he was quitting his job and relocating to Cottonwood, Idaho to live with his girlfriend, and sought to take the daughter with him in the move – they were leaving the family residence and extended family to live in a home that was not their own, with people who were not family. See CP 20-33.

In summary, all factors of RCW 26.09.260(5) were overwhelmingly met here. The mother's request did not exceed over 90 overnights per year (see CP 75); the current plan did not provide sufficient residential time to the mother (see e.g. CP 17), the modification was in the best interest of the child, (see CP 23-25, 30-33, 35-36, 83-84) and substantial changes of circumstances had occurred in all the parties affected since the 2003 plan had been entered (see CP 13, 17, 20-33).

C. What the court ultimately concluded and why, regarding the mother meeting the statutory criteria, is unfathomable, untenable, abuse of discretion, and plain error.

With the findings of the court as stated, it is impossible to understand why the court denied a finding of adequate cause for a minor modification. The commissioner seemed to claim it was too confusing and improper to have two petitions running simultaneously using the statutory mandated adequate cause of a relocation under RCW 26.09.260(6) and claimed there was no substantial change outside of the relocation, apparently ignoring the potential for finding adequate cause sufficient for a minor modification. See CP 123-125 and 132-134. The mandatory form adequate cause notice of hearing and mandatory form order on adequate cause do not have sections that differentiate between major and minor modifications and the criteria needed for each, which perhaps causes some confusion, but which should not have caused error. *See*

Appendix, attaching adequate cause notice and order forms. After the mother briefed alternative pleadings, CP 139-147, Judge Knodell offered an ambiguous finding: he either found the mother needed more than mere allegations of substantial changes, or found the other criteria had not been shown. See RP 29 Ins. 1-9. Either finding was untenable. With adequate cause as a summary proceeding requiring only a showing of facts, all criteria of RCW 26.09.260 (5) were present.

All criteria of RCW 26.09.260(5) should have been addressed within the findings with particularity before adequate cause was denied. With none of the criteria addressed directly by the court, and only a summary *belief* of lack found, the decision is based on untenable grounds. A superior court will abuse its discretion if the modification ruling is not based on statutory criteria. *In re Marriage of Hoseth*, 115 Wn.App. 563, 569, 63 P.3d 164 (2003).

Furthermore, pursuing a modification under RCW 26.09.260 (6) waives the requirement for finding adequate cause; it is statutorily granted. With the relocation continuing to be pursued, a party objecting to the relocation of the child “may file a petition to modify the parenting plan. . . . A hearing to determine adequate cause for modification shall not be required so long as the request for relocation is being pursued.” RCW 26.09.260 (6); and see *In re Marriage of Grigsby*, 112 Wn.App 1, 16, 57 P.3d 1166 (2002). This was Ms. McWain’s understanding as well. See CP 72.

Here, the dual petitions were not improper. They merely allowed for the full range of modification options – which full range is not included in the objection to relocation mandatory form, (see e.g. 20-33), but was appropriate here. Should the father here have decided to forgo the relocation, a modification only requested pursuant to

relocation would have expired. *See Grigsby*, 112 Wn.App 16 (following trial where the mother's relocation of the children was not allowed, she announced she would no longer relocate and all modification requests expired, requiring the father to separately petition the court under the modification statute if he were still desiring to seek a modification to the parenting plan.) Filing the companion petition for modification, including a minor modification, was her security from waste of time and attorney fees, should the father decide to not relocate at any point during the pursuit of relocation process.

If a motion to find adequate cause is brought while a relocation is pending, the answer is not that no adequate cause is *believed* to exist (See RP at 29) – as it most certainly and statutorily exists during a pursuit of a major relocation, RCW 26.09.260(6) simply excuses the requirement to find it. Additionally, as explained supra, a prima facie case of adequate cause could not have been avoided here even if all the facts regarding the relocation were ignored – there had been other substantial changes with both the daughter and the mother not contemplated at the time the earlier parenting plan was entered and the other criteria were also met.

VI. ATTORNEY FEES

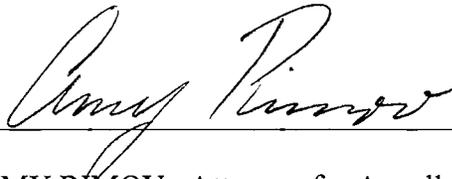
Petitioner requests attorney fees and costs under RAP 18.1.

The mother intends to file an affidavit of financial need, requesting attorney fees and costs under the domestic relations criteria. The father had alleged while pursuing temporary relocation that he would have much greater financial resources upon his relocation to Cottonwood.

VII. CONCLUSION

The Court erred in denying a finding of adequate cause while not addressing or making findings consistent with minor modification criteria and as supported with evidence and circumstances provided by declaration (including the sworn statements within petitions) throughout the file.

Respectfully Submitted this 29th day of January, 2010,

A handwritten signature in cursive script, appearing to read "Amy Rimov", is written over a horizontal line.

AMY RIMOV, Attorney for Appellant
WSBA#30613

**Superior Court of Washington
County of**

In re:

Petitioner,

and

Respondent.

No.

**Respondent's Notice of
Hearing for Adequate Cause
Determination
(Optional Use)
(NTHG)
 Clerk's Action Required**

To the Clerk of Court and to:

1. Please note that the court will be asked to determine whether adequate cause exists to modify/adjust the custody decree/parenting plan/residential schedule as requested in the petition filed in this case.
2. A hearing has been set for the following date, time and place.
Date: _____ Time: _____ a.m./p.m.
Place: _____ Room/Department: _____
3. If the court does not find adequate cause, the petition will be denied.

Dated: _____

Signature of Party or Lawyer/WSBA No.

Notice to party: You may list an address that is not your residential address where you agree to accept legal documents. Any time this address changes while this action is pending, you must notify the opposing parties in writing and file an updated Confidential Information Form (WPF DRPSCU 09.0200) with the court clerk.

Print or Type Name

[Address]

Appendix 1

**Superior Court of Washington
County of**

In re:		No.
	Petitioner,	Order re Adequate Cause (Modification/Adjustment of Custody Decree/Parenting Plan/Residential Schedule)
and		<input type="checkbox"/> Denied (ORRACD)
	Respondent.	<input type="checkbox"/> Granted (ORRACG)
		<input type="checkbox"/> Hearing set (ORH)
		Clerk's Action Required

I. Basis

- 1.1 A petition requesting the modification/adjustment of the custody decree/parenting plan/residential schedule in this matter has been presented to the court.
- 1.2 A hearing was held on _____ [Date].

II. Findings

The Court Finds:

2.1 Jurisdiction

This court has jurisdiction over the proceeding and the parties.

2.2 Service on Nonmoving Party

The nonmoving party was served with a copy of the petition for modification/adjustment of custody decree/parenting plan/residential schedule, summons, a proposed parenting plan, and child support worksheet, if any, on _____ [Date].

2.3 Time Elapsed Since Service on the Nonmoving Party

- The nonmoving party was served within the state of Washington and more than 20 days have elapsed since the date of service.
- The nonmoving party was served outside the state of Washington and more than 60 days have elapsed since the date of service.
- The nonmoving party was served by mail and more than 90 days have elapsed since date of mailing.

2.4 Response

- The nonmoving party has responded.
- The nonmoving party has not responded and is in default.

2.5 Adequate Cause Finding

- Adequate cause for hearing the petition has not been established.
- Adequate cause for hearing the petition has been established.
- The parties stipulate that there is adequate cause for hearing the petition.

2.6 Servicemembers Civil Relief Act Statement

2.6.1 Service member status --- It appears the nonmoving party:

- is not a service member;
- is on active duty in the U.S. armed forces (excluding National Guard and reserves);
- is on active duty and is a National Guard member or a Reservist residing in Washington;
- is not on active duty in the U.S. armed forces (excluding National Guard and reserves);
- is not on active duty and is a National Guard member or a Reservist residing in Washington.

2.6.2 Dependent of a service member status --- It appears the nonmoving party:

- is not a dependent of a resident of Washington who is on active duty and is a National Guard member or a Reservist;
- is a dependent of a resident of Washington who is on active duty and is a National Guard member or a Reservist;
- is presumed not a dependent of a resident of Washington who is on active duty and is a National Guard member or a Reservist.

III. Order

It is Ordered:

- The petition is denied.
- The matter is set for hearing or trial at the date or time established or to be established.

The matter is set for hearing or trial at:

Date: _____ Time: _____ a.m./p.m.
Place: _____ Room/Department: _____

The nonmoving party is in default.

Other:

Dated: _____

Judge/Commissioner

Presented by:

Approved by:

Signature of Party or Lawyer/WSBA No.

Signature of Party or Lawyer/WSBA No.

Print Name Date

Print Name Date

Signature of Party or Lawyer/WSBA No.

Signature of Party or Lawyer/WSBA No.

Print Name Date

Print Name Date

Signature of Party or Lawyer/WSBA No.

Print Name Date

A 4

1
2
3 COURT OF APPEALS, DIVISION III
4 OF THE STATE OF WASHINGTON

5
6 HEIDY LINDERMAN
7 AKA MCWAIN

8 Appellant,

9 vs.

10 LANCE LINDERMAN,

11 Respondent.

) COA No.: 283330

) CERTIFICATE OF SERVICE

12 CERTIFICATE OF SERVICE

13 The undersigned hereby certifies under penalty of perjury under the laws of the State of
14 Washington that on this date the APPELLANT HEIDY LINDERMAN'S OPENING BRIEF
15 in the above-captioned matter was caused to be served on the following persons in the manner
16 indicated:
17

18 Via U.S Priority Mail to: Barbara Black
19 1010 S. Pioneer Way, Ste. D
20 Moses Lake, WA 98837

21 Dated this 29th day of January 2010.

22 
23 Jena Robinson,
24 Assistant to Amy Rimov