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SUPREME COURT NO. 2013520

WASHINGTON STATE BAR ASSOCIATION DISCIPLINARY
PROCEEDING NO. 12#00072

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

In re: KATHRYN B. ABELE, WSBA No. 32763

APPELLANT'S OPENING BRIEF

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I. INTRODUCTION

Attorney Kathryn B. Abele faces a one-year suspension of her license to practice law, an evaluation to determine her fitness to practice, and payment of all litigation costs, pursuant to findings of the Washington State Disciplinary Board. The Board adopted Findings of Fact and Conclusions of Law published by Hearing Officer William S. Bailey. As to Count 1 of the Formal Complaint, the Hearing Officer found that Ms. Abele had engaged in behavior resulting in her being found in contempt of court, in violation of RPCs 3.4(c), 3.5(d), 8.4(d), and/or 8.4(j). Ms. Abele was charged with misconduct in Judge Anita Farris's Snohomish County courtroom occurring on September 28, 2011. Ms. Abele admits that her outburst, although provoked, was negligent and inappropriate, and therefore the Hearing Officer's recommendation of suspension on Count 1 was excessive.

As to Count 2, the Hearing Officer found that Ms. Abele knowingly made a false or misleading report to the Seattle Police Department in violation of RCW 9A.76.175 and RPCs 8.4(b), 8.4(c), and/or 8.4(d). However, Ms. Abele called 911, believing a sheriff's deputy had tripped her at the King County Courthouse on May 16, 2011. Contrary to the Hearing Officer's decision, the Washington State Bar Association (WSBA) did not prove this allegation by a clear

preponderance of the evidence. The only objective evidence, a courthouse security video, was inconclusive. WSBA offered only speculation to support its allegation that Ms. Abele knew she had not been tripped. The Hearing Officer shifted the burden of proof by requiring Ms. Abele to prove that she had not knowingly filed a false report to the police.

Ms. Abele therefore respectfully requests that this Court dismiss Count 2 of the Formal Complaint and impose a reprimand as to Count 1.

II. ASSIGNMENTS OF ERROR

A. As to Court 2 of the Formal Complaint, The Washington State Disciplinary Board erred in finding that Ms. Abele on May 16, 2011, violated RCW 9A.76.175 and RPCs 8.4(b), (c), and (d) by knowingly filing a false police report that a Sherriff Deputy had tried to trip her.

B. The Hearing Officer erred in excluding statements of Ms. Abele, showing her state of mind on the day of the tripping incident.

C. As to Court 1 of the Formal Complaint, the Board erred in adopting the Hearing Officer's findings that Ms. Abele acted knowingly rather than negligently in proceedings before the Snohomish County Superior Court on September 28, 2011 in violation of RPC 3.4(c), 3.5(d), 8.4(d), and/or 8.4(j)..

D. The Board erred in failing to consider mitigating circumstances in addition to Ms. Abele's unblemished disciplinary record.

E. The Board erred in adopting the Hearing Officer's findings that Ms. Abele's conduct before the Snohomish County Superior Court was an aggravating factor.

F. The Board erred in adopting the Hearing Officer's finding that a one-year suspension of Ms. Abele's license to practice law is a proper discipline given the record.

III. STATEMENT OF THE CASE

A. Count 2: The record does not show that Ms. Abele knowingly filed a false police report.

On May 16, 2011, Ms. Abele appeared at a hearing at the King County Courthouse. Findings of Fact and Conclusions of Law (FFCL) ¶ 30. After a disagreement with Sherriff's Deputy Samuel Copeland, Ms. Abele walked to the security station at the courthouse entrance to seek help in communicating with courthouse security. Tr. 467-468. She wanted to discuss her difficulty hearing and to ask for their understanding if they believed she was yelling. *Id.* At that entrance, she encountered King County Sheriff's Marshal Webb, who was seated at a podium. *Id.*, ¶ 32; Transcript (hereinafter Tr.) 30. Marshal Webb would not consider Ms. Abele's request. After taking the deputies' names, Ms. Abele walked between the two men, back into the courthouse. Tr. 28.

The tripping incident occurred after Ms. Abele picked up her binder and headed back into the courthouse. Ex. A-6. The two men were

close together; Ms. Abele brushed Marshal Webb's knee as she passed. Tr. 33. Ms. Abele believed that Marshal Webb had tried to trip her. Tr. 487. She called 911 to report that she had been assaulted. FFCL ¶ 41; CP 38 ¶¶ 28-29 (Answer to Formal Complaint). Marshal Webb denies tripping Ms. Abele. Tr. 44. Deputy Copeland testified that he did not see Marshal Webb trip Ms. Abele, although he did not have a clear view of Marshal Webb as Ms. Abele passed between the two men. Tr. 224-25.

WSBA introduced security video of the scene at the time of the incident that showed witnesses Webb and Copeland and Ms. Abele. Ex. A-6, 2167.avi (the security video). However, the video does not show the incident itself. The video showed only Marshal Webb's hand; the rest of his body was never on camera. His position was such that Ms. Abele, as she walked back into the courthouse, did not encounter Marshal Webb's legs and feet until she too was no longer on camera. *Id.*

Seattle Police Department Officer James Ritter responded and interviewed Ms. Abele. Tr. 257; Ex. A-7 at 4. She informed him that she had walked between the deputies because there was no room to go around them in the hallway and that Marshal Webb tripped her, nearly causing her to fall. Ex. A-7 at 4. Officer Ritter also interviewed Marshal Webb and Deputy Copeland. *Id.* at 258; Ex. A-7 at 4. They asserted that Ms. Abele did not fall and did not appear injured, but that Marshal Webb was forced

to move his foot from the floor to the lower rail of his stool to avoid Ms. Abele as she passed through. *Id.* at 5. At hearing, Marshal Webb at first denied making this statement, saying that his feet were on the stool as Ms. Abele walked by. However, on cross-examination, he retracted this testimony, admitting that the police report recorded on the day of the incident that the deputies, both Copeland and Webb, had stated that Marshal Webb had moved his foot to the stool as Ms. Abele passed. Marshal Webb also admitted that Ms. Abele could have perceived this motion as an attempt to trip her. Tr. 47-48.

Officer Ritter did not interview any independent witnesses to the incident, even though his report includes the name and contact information for Rakesh Pai, who had spoken with Ms. Abele after witnessing the incident. Ex. R-201¹ at 3; Tr. 476-79, 480. Officer Ritter was also aware that the public nature of the courthouse provided a “constant flow of multiple witnesses.” Tr. 273. Nonetheless, Officer Ritter did not follow up with Mr. Pai or any other potential witnesses. *See Id.* at 257-58, 262-63. His investigation included only the interviews with Ms. Abele, Marshal Webb, and Deputy Copeland, and viewing the courthouse

¹ Ex. R-201 is the unredacted copy of Officer Ritter’s report, filed under seal according to the hearing officer’s protection order pursuant to RCW 10.97.010. Tr. Vol. IV at 499. The WSBA does not appear to have conducted an investigation into the identity of the redacted witness, either. Instead, Respondent subpoenaed the unredacted report from the Seattle Police Department. BF 18, 26-28.

security video. *Id.* at 257-59; Ex. A-7 at 4-5.

Officer Ritter testified that the video was the most important factor in his conclusion that Marshal Webb had not tripped Ms. Abele. Tr. 259, 260, 264. He testified that the video clearly confirmed Marshal Webb's movement as Ms. Abele passed between the two men. *Id.* at 266.

However, the video does not show Marshal Webb's seat position, *see* Ex. A-7 at 5. In fact, only Marshal Webb's hand is visible through the entire interaction. *See* Ex. A-6. At the hearing, when Ms. Abele's counsel showed Officer Ritter the video, he could not identify the portions that he claimed showed Marshal Webb's movements. Tr. 276-78. He speculated that there must have been another video, *id.* at 278, but WSBA did not produce any other video that showed the interaction. *See* Ex. 6.

After making her report to Officer Ritter, Ms. Abele drove home. On her way home, she phoned colleague Julie Herber and described her interaction with the deputies, *id.*, and cried as she told Ms. Herber that she could not believe what had just happened, that Marshal Webb had tripped her and that she had made a police report. Tr. 352-54.

B. Count 1: The record shows that Ms. Abele reacted to a provocation but nonetheless regrets her behavior.

In late 2011, Ms. Abele represented Frank Miller in a three-way custody action over his son, tried before Judge Anita Ferris. FFCL ¶¶ 4-5. Ms. Abele's client was the biological father. *Id.* The mother and the de

facto father also vied for parental rights. Tr. 58-59. The mother was represented by Richard Jones. *Id.* Tr. 60. The de facto father was represented by Janal Rich. Bar File 67, ¶ 4. The case was unusual, complex, and contentious. Tr. 58-59; 61.

During trial, Judge Farris admonished counsel for all three parties about interrupting. Tr. 63, 109. However, she testified that she believed Ms. Abele behaved badly throughout the trial, largely because Judge Farris believed that Ms. Abele was displeased with the her rulings. *Id.* at 138-39. Judge Farris described a courtroom out of control. She testified that Ms. Abele repeatedly made loud commentary, not directed at her client, interrupting the proceedings. *Id.* at 137. She testified that Ms. Abele “got slammy” with her notebooks and papers when the judge made an adverse ruling. *Id.* at 133. She also testified that her methods of dealing with Ms. Abele’s conduct were to tell Ms. Abele to stop the behaviors, or to do nothing. *Id.* at 136-40, 167, 179, 182. Nonetheless, Judge Farris had 20 years’ judicial experience as of March 2013 and understood her duty to maintain courtroom decorum. *Id.* 129, 170.

Ms. Rich’s and Mr. Jones’s impressions of the trial differed from the judge’s. Ms. Rich testified that the comments she found distracting were directed at Ms. Abele’s client. Tr. 63, 64-65. She also said that Ms. Abele’s comments did not hinder her ability to hear the judge or

Mr. Jones. *Id.* at 65. Mr. Jones testified that he never saw Ms. Abele go too far during the trial, *id.* at 111, and that Ms. Abele had problems hearing. She asked him at one point during the trial to tell her if she was getting out of hand. *Id.* Mr. Jones, who has served as a judge pro tem, testified that if he felt an attorney in his courtroom did not live up to his standard of courtroom conduct, he would have had a chambers conference to determine the cause of that conduct and what could be done to prevent it. *Id.* at 113-14. Judge Farris held no such conference. *Id.* at 114.

On September 28, 2011, at the final presentation hearing, Judge Farris found Ms. Abele in contempt. FFCL ¶ 19. During the hearing, Ms. Abele and Ms. Rich discovered a discrepancy in the parenting plan, and their discussion became loud. Ex. R-103 at 12. Judge Farris manifested frustration with what she perceived as Ms. Abele's interruptions. *See id.* at 13. *But see* Ex. R-104 (audio recording of the hearing in which Ms. Abele speaks, in part, during the Judge's pauses). The judge called for a recess but paused to put her concerns on the record. Ex. R-104 at 13. Judge Farris referred to an event during the previous hearing, stating that Ms. Abele had made a loud noise that sounded like an animal being killed. *Id.* After taking a short recess, the judge reiterated her impression that Ms. Abele had sounded like an animal being killed, and compared Ms. Abele to a criminally insane defendant. *Id.* at 14.

The judge asserted that Ms. Abele had made the loud noise, or scream, because a ruling by the judge angered her. Tr. 186. Yet Ms. Rich and Mr. Jones, who witnessed the event, both testified that the scream was one of pain. Tr. 85, 115-16. This matches Ms. Abele's explanation of the scream to the judge at the September 28, 2011 hearing. Ex. R-103 at 15. The judge admitted that she did not know what had occurred after the previous hearing. *Id.*; Tr. 186-87. She did not investigate the scream or ask Ms. Rich or Mr. Jones what had happened. Tr. 186-87.

Ms. Abele reacted emotionally to what she viewed as the judge calling her an animal and comparing her to a criminally insane defendant, all on the record. *Id.*; *see also* Tr. 100-101, 421. She felt as if she had been punched in the face. *Id.* at 423. Ms. Rich likewise testified that Ms. Abele was emotional after the judge's reference to an animal being killed. Tr. 80; 100-01. Sheralyn Barton, the court reporter at the hearing, testified that Ms. Abele was "very upset" when the judge referred to her as an animal. Tr. of Video Deposition of Sheralyn Barton (Barton Tr.) at 18.²

Believing that the judge would send her to jail, Ms. Abele stated "I'm going to jail" and made handcuff gestures, which the judge

² The video deposition of Ms. Barton was shown in its entirety at the hearing but was not made an exhibit, nor were the details included in the hearing transcript. *See* Tr. 121. A copy of the transcript was provided to the Board and is provided here as Appendix A.

interpreted as defiant. Ex. R-103 at 16; Ex. R-104. The judge called for security; Ms. Abele left the courtroom before the judge left the bench for recess, and said that she did not intend to return. Ex. R-103 at 14; Ex. R-104; *see also* App. A, Barton Tr. at 19 (playing excerpts from the audio recording of the September 28, 2011 hearing).

Marshal Patrick Miles responded to the call for security. Tr. 283; Ex. A-8. Before the call, he passed Ms. Abele in the hallway. Tr. 285. Ms. Abele told him that she would not return to Judge Farris's courtroom. *Id.* When he arrived at Judge Farris's court, she ordered him to bring Ms. Abele back. *Id.* at 285-86. Marshal Miles was unsure whether he had authority to do so but found Ms. Abele and told her the judge wanted her back in the courtroom. *Id.* Ms. Abele reiterated that she would not return but "was defiant with her mouth but obeying with her feet," and returned to the courtroom before Marshal Miles arrived. *Id.* at 286-87.

Judge Farris found Ms. Abele in contempt for her conduct on September 28, 2011. Ex. R-103 at 17. The judge accused Ms. Abele of "having a personal fit" and failing to represent her client. *Id.* at 19. To purge her contempt, the judge ordered Ms. Abele to contact the Lawyers' Assistance Program (LAP). *Id.* at 25. Ms. Abele told the judge that she would not, *id.*, but did contact LAP that day, thus timely purging her contempt. Ex. R-105, R-106; BF 67, ¶ 19.

C. Ms. Abele expressed regret.

Even if Judge Ferris's comments were unfair, Ms. Abele admits her reaction was not up to the standard for an attorney. She (1) admitted "ma[king] the biggest mistake in [her] life" when she left the courtroom on September 28, 2011 before the recess Judge Farris had announced had begun and that this conduct was wrong, Tr. 426, 427; (2) admitted that her initial refusals to return to the courtroom or to call LAP were wrong and that she regretted telling the court "no," *id.* at 428, 447; (3) admitted that screaming to demonstrate the difference between a true scream and her earlier outbursts was wrong, *id.* at 449; and (4) in fact, admitted that each instance when she challenged the judge was wrong. *Id.* at 453-54.

Ms. Abele's actions on September 28, 2011 demonstrate she knew her conduct in refusing the court was wrong: (1) she returned to the courtroom of her own accord, FFCL ¶ 19; Tr. 286-87; and (2) she called LAP that same day. FFCL ¶ 19; Exs. R-105, R-106. Ms. Abele's conduct after September 28, 2011 also shows she knows her conduct was wrong. Marshal Miles testified to a "total change" in her behavior. Tr. 296. He testified that she had not crossed any boundaries with him since that hearing, *id.*, and that she is trying to address her problem behaviors. *Id.*

D. Procedural history

On March 21, 2013, WSBA filed an Amended Formal Complaint.³ In Count 1, WSBA charged Ms. Abele with violating RPC 3.4(c), 3.5(d), 8.4(d), and/or 8.4(j) on September 28, 2011 by engaging in the conduct that resulted in the court finding her in contempt. *Id.*, ¶ 39. Ms. Abele admitted that the court had found her in contempt but denied violating the RPCs. FFCL ¶ 19, CP 38, ¶ 15.

In Count 2, WSBA charged Ms. Abele with violating RPC 8.4(b) (by violating RCW 9A.76.175), RPC 8.4(c) and/or 8.4(d) by knowingly making a false and/or misleading statement to an officer of the Seattle Police Department. FFCL pp. 1-2. The allegation includes the elements of RCW 9A.76.175 (making a false or misleading statement to a public servant): that Ms. Abele (1) made a false statement; (2) that she knew to be false; (3) to a police officer; (4) that the police officer was likely to rely on that statement in the course of his duties. *See* FFCL ¶ 50; RCW 9A.76.175. It is undisputed that Ms. Abele made a statement to Officer Ritter and that Officer Ritter was likely to use it in the course of his duties. Bar File 38, ¶¶ 28, 29. However, Ms. Abele denied that her statement was false and that she knew it was false. Bar File 38, ¶¶ 26, 27, 30.

³ The Amended Formal Complaint included a Count 3 that the hearing officer properly dismissed. Tr. Vol. IV at 397, 399.

A hearing was held November 12-15, 2013, Tr. Vol. I at 1; Tr. Vol. II at 124; Tr. Vol. III at 250; Tr. Vol. IV at 393. The Hearing Officer concluded: (1) that WSBA had proven Counts 1 and 2 by a clear preponderance of the evidence, FFCL, ¶¶ 49, 50; (2) that suspension was the presumptive sanction for Count 1 under *ABA Standards for Imposing Lawyer Sanctions* (*ABA Standards*), *Standard* 6.22; and (3) that suspension was the presumptive sanction for Count 2 under *ABA Standard* 5.12. The Hearing Officer applied the aggravating factors of dishonest or selfish motive, refusal to acknowledge wrongful nature of conduct, and substantial experience in the practice of law, FFCL ¶ 59; and the mitigating factor or absence of a prior disciplinary record, *id.*, ¶ 60. The Hearing Officer recommended a one-year suspension, *id.*, ¶ 61; that (1) reinstatement be conditioned on Ms. Abele undergoing a fitness to practice evaluation, at her own expense, and being deemed fit to practice law; and that Ms. Abele reimburse WSBA's costs. *Id.*, ¶ 62, 63.

During the hearing, Ms. Abele offered the testimony of Ms. Herber regarding the two telephone calls Ms. Abele had made to Ms. Herber on May 16, 2011 about the events underlying Count 2. Tr. 343. WSBA objected based on hearsay. *Id.* at 344. Ms. Abele argued that she statements in that conversation were not hearsay because they were offered not to prove the truth of the matters asserted, but “for the court to

understand what Ms. Abele believed to be the case.” *Id.* Nonetheless, the Hearing Officer ruled that the testimony would be admissible only if counsel laid the foundation for the excited utterance exception to the hearsay rule. *Id.* at 345. Eventually, Ms. Herber was allowed to testify to the contents of a second phone call from Ms. Abele, made after the tripping incident. *Id.* at 353-540.

IV. SUMMARY OF ARGUMENT

The Board erred in finding that WSBA established by a clear preponderance of the evidence that Ms. Abele knowingly filed a false police report with regard to the May 16, 2011 incident at the King County Courthouse in violation of RCW 9A.76.175. The issue is not whether the deputy in fact tripped her, but whether Ms. Abele subjectively believed that he had done so. The record proves that she believed she had been tripped, or that the deputy had tried to trip her, when she called the Seattle Police Department. The record shows that at a minimum, the deputy moved his feet in a manner that Ms. Abele could have construed as a tripping motion. The Hearing Officer’s reliance on the video of the incident is error, because it does not show the tripping incident and supports no inference as to Ms. Abele’s state of mind at that time.

The Board also erred in considering Ms. Abele’s conduct and contempt-of-court citation on September 28, 2011 as an aggravating factor

that would support suspension. Ms. Abele's isolated conduct on that date followed a stressful, emotional, and hotly contested prolonged child-custody case. It also followed an inaccurate assertion by the trial judge, on the record, that Ms. Abele had screamed like an animal in court out of frustration with the judge's ruling; rather, the scream was due to hip pain, as the other attorneys in the case corroborated. The record does not support the Hearing Officer's findings that Ms. Abele acted knowingly rather than negligently under ABA Standards.

The one-year suspension contravenes several mitigating factors present on the record. Ms. Abele had no prior disciplinary record. She showed remorse for her actions on September 28, 2011. She obeyed the trial court's direction to contact LAP and purge the order of contempt. She regrets her emotional response to the judge's comments. She admits that her actions were not appropriate for an attorney. The evidence shows that a reprimand or admonition, not suspension, is the proper sanction.

The record does not establish that Ms. Abele ever acted out of a desire for personal gain. She acted emotionally and impulsively but not knowingly, and past decisions of this Court show that a one-year suspension in these circumstances is clearly excessive.

V. ARGUMENT

A. **Count 2: WSBA did not prove that Ms. Abele knowingly made a false statement.**

RCW 9A.76.175 makes it a crime to **knowingly** make a false or misleading material statement to a public servant. A statement is material if it is reasonably likely to be relied upon by a public servant in the discharge of his duties. *Id.* Accordingly, WSBA was required to prove that Ms. Abele (1) made a false statement; (2) that she knew to be false; (3) to a police officer; (4) that the police officer was likely to rely on that statement in the course of his duties. *See* Bar File 13, ¶¶ 26-29; ELC 10.14(b); *In re Disciplinary Proceeding Against Huddleston*, 137 Wn.2d 560, 570, 974 P.2d 325 (1999). When the lawyer is alleged to have committed a crime such as perjury, the burden of proof of the underlying crime is also taken into account. *Id.* at 570.

It is undisputed that Ms. Abele made a statement to Officer Ritter that Marshal Webb tried to trip her and that she meant him to rely on the statement in the course of his duties. Bar File 38, ¶¶ 28-29. However, Ms. Abele adamantly denies that the statement was false and that she knew it was false. *Id.*, ¶¶ 26-27, 30. *See also* Tr. 487. Nonetheless, the Hearing Officer concluded that Ms. Abele knowingly made a false and misleading statement to officer Ritter. Board File 67, ¶ 50. This conclusion is speculative, at best, because it rests on factual findings that

the record does not support, either by direct or circumstantial evidence.

WSBA has the burden of proving lawyer misconduct, including Ms. Abele's state of mind, by a "clear preponderance of the evidence." ELC 10.14(b). "**Clear preponderance**" is an intermediate standard of proof requiring greater certainty than simple preponderance but not to the extent required under a beyond reasonable doubt standard. *In re Disciplinary Proceeding Against Guarnero*, 152 Wn.2d 51, 58, 93 P.3d 166 (2004). This record is devoid of proof that would support with any certainty the Hearing Officer's finding that Ms. Abele knowingly violated the law or acted with a selfish motive.

1. The circumstantial evidence does not support the findings necessary to conclude that Ms. Abele knowingly made a false report to Officer Ritter.

The Court reviews conclusions of law de novo and will affirm those conclusions only if the findings of fact support them. *Huddleston*, 137 Wn.2d at 568-69. The Board reviews factual findings for substantial evidence, ELC 11.12, which is "evidence sufficient to persuade a fair-minded, rational person of the truth of a declared premise." *In re Disciplinary Proceeding Against Marshall*, 160 Wn.2d 317, 330, 157 P.3d 859 (2007) (quotation marks omitted). To be substantial, evidence must rise above speculation. *Little v. King*, 160 Wn.2d 696, 705, 161 P.3d 345 (2007); *Fergen v. Sestero*, 174 Wn. App. 393, 397, 298 P.3d 782 (2013)

“evidence supporting a party’s case theory must ‘rise above speculation and conjecture’ to be substantial” (quoting *Bd. of Regents of Univ. of Wash. v. Frederick & Nelson*, 90 Wn.2d 82, 86, 579 P.2d 346 (1978)).

Often, the only available evidence as to state of mind is circumstantial evidence. *See State v. Ellis*, 136 Wn.2d 498, 530, 963 P.2d 843 (1998) (noting that state of mind is rarely susceptible of proof by direct evidence) (citing *State v. Farley*, 48 Wn.2d 11, 20-21, 290 P.2d 987 (1955)). However, where the only competent evidence is circumstantial, WSBA “must produce facts from which only one reasonable conclusion may be inferred.” *Guarnero*, 152 Wn.2d at 61; *see also Discipline of Simmerly*, 174 Wn.2d 963, 982, 285 P.3d 838 (2012). Here, no substantial evidence supports the Hearing Officer’s findings that Ms. Abele knew that Marshal Webb had not tripped her, and that she **knowingly** made a false report, FFCL ¶¶ 37, 39-41, because WSBA produced only circumstantial evidence on that issue, from which more than one reasonable conclusion can be drawn. In fact, much of WSBA’s evidence does not rise above speculation because it was purely negative in character. *Hauswirth v. Pom-Arleau*, 11 Wn.2d 354, 367, 119 P.2d 674 (1941).

WSBA offered three witnesses in support of Count 2: Marshal Webb, Tr. Vol. I at 19-54; Deputy Copeland, Tr. Vol. II at 199-234; and Officer Ritter. Tr. Vol III at 255-280. WSBA offered three exhibits:

Deputy Copeland's and Officer Ritter's official reports, Exs. A-7, A-8, and courthouse security video from May 16, 2011. Ex. A-6. Among this evidence, the only possible objective proof of Ms. Abele's knowledge of whether she had been tripped — the courthouse security video — was entirely inconclusive, as Officer Ritter's testimony showed.

First, Marshal Webb's testimony is insufficient to support the finding that Ms. Abele knew she had not been tripped. He testified (1) that Ms. Abele walked between him and Deputy Copeland, Tr. 28; (2) that she brushed his knee when she walked by, *id.* at 33; (3) that she accused him of trying to trip her, *id.* at 28; and (4) that he did not trip her. *Id.* at 44. He testified that he did not move when Ms. Abele passed between the two men. *Id.* at 33, 39, 45. But Officer Ritter's report of the incident contradicts this testimony:

Both deputies said that as [Ms. Abele] forced her way in between them Webb had to move his foot from the floor up to the lower rail of his chair to avoid being stepped on by [Ms. Abele].

Ex. A-7 at 5. Marshal Webb admitted that the report, taken the day of the incident, was likely more accurate than his memory of the event at the hearing, two years later. Tr. 48. He admitted that Ms. Abele may have interpreted any movement of his foot as a tripping motion. *Id.* Those admissions, and his admission that Ms. Abele had brushed his knee,

support the reasonable inference that Ms. Abele believed that Marshal Webb had tripped her or tried to do so.

Deputy Copeland and Ms. Abele both testified that the encounter was confrontational. Tr. 205-12, 464-67. Deputy Copeland testified (1) that Ms. Abele forced her way through the two men, Tr. at 214; (2) that there was not much room between the two men, *id.* at 223; (3) that Ms. Abele accused Marshal Webb of trying to trip her, *id.* at 214, 222; and (4) that he did not see Marshal Webb make any movements that would lead him to believe he had tried to trip Ms. Abele. *Id.* at 225.

Deputy Copeland admitted that he could not see past Ms. Abele to see what happened with Marshal Webb as she passed between them. *Id.* at 224. This negative evidence does not rise above speculation. *See Hauswirth*, 11 Wn.2d at 367. In *Hauswirth*, a driver whose car was struck by another car testified that he did not see the second car's headlights when he looked both ways before crossing an arterial highway and that trees partly obstructed his view. *Id.* at 358, 364. The Court held that this purely negative testimony "had no more than speculative value" and did not constitute substantial evidence that the second car's headlights were not lit. *Id.* at 367. Here, Deputy Copeland's testimony that he did not see Marshal Webb make any movement to trip Ms. Able likewise supports only speculation whether Ms. Abele was tripped. This testimony has even

less value to the issue of whether Ms. Abele believed she was tripped.

Deputy Copeland admitted that Marshal Webb could have moved one or both of his feet to avoid Ms. Abele as she walked past them. *Id.* at 229. This circumstantial evidence, taken with Marshal Webb's testimony and Officer Ritter's report, supports an inference that Ms. Abele believed that Marshal Webb was trying to trip her. It does not provide substantial evidence that Ms. Abele knew she had not been tripped.

Nor did Officer Ritter's testimony support the finding that Ms. Abele knew she had not been tripped. He testified (1) that he investigated the incident by interviewing Ms. Abele, Marshal Webb, and Deputy Copeland, and by viewing the security video, Tr. 257-59; (2) that he concluded that Ms. Abele had no reason to walk between the two deputies, *id.* at 260; (3) that Ms. Abele was being "slightly confrontational at the time," *id.* at 265; and (4) that he found the deputies' version of events more consistent and concluded that the trip did not happen, *id.* at 266. But Officer Ritter also testified that Ms. Abele was angry about having been tripped and agitated when he arrived, *id.* at 271, 280, but that she calmed down after she was able to tell her side of the story. *Id.* at 270, 280. *See also* Ex. A-7 at 4 (describing Ms. Abele "still visibly angry"). He testified that Ms. Abele told him that she believed that Marshal Webb had tripped her. *Id.* at 259. Officer Ritter may not have shared

Ms. Abele's belief that she was tripped, but his testimony, combined with Marshal Webb's and Deputy Copeland's admissions, supports the inference that Ms. Abele believed she had been tripped. Accordingly, the testimony WSBA offered did not support the Hearing Officer's findings that Ms. Abele knew she had not been tripped and made a false report to Officer Ritter.

2. The security video does not support the findings that Ms. Abele knew she had not been tripped and made a false report.

Officer Ritter's testimony also shows that the security video does not support those conclusions. Officer Ritter admitted that he based his conclusions mainly on the video. Tr. 259, 260, 264. He described the video as "a real-time physical indicator of what actually happened." *Id.* at 260. That video was the only objective evidence of the confrontation, and it is entirely inconclusive. *See* Ex. A-6, 2167-6.avi (video file).

Moreover, Officer Ritter's description of what he saw in the video was inconsistent with the video itself. He testified that Ms. Abele's description of the incident was inconsistent because she had told him that she had no room to go around the deputies but that the video showed that she did have room. Tr. 260, 264-65. However, the video itself, when viewed uninterrupted, shows a hallway with an intermittent stream of people entering the courthouse, going through the security station, and

exiting the courthouse. Ex. A-6, 2167-6.avi. During the time Ms. Abele interacted with the deputies, that stream of people continued to pass between Ms. Abele and the deputies and the security station. *Id.* at timestamp (TS) 10:56:49-10:57:30. At the point when Ms. Abele closes her briefcase, the video shows that a man in a wheelchair has just passed by her. *Id.* at TS 10:57:14-10:57:16. Immediately thereafter, another person comes into the frame, approaching the exit. *Id.* at TS 10:57:17-10:57:20. As Ms. Abele starts to pass between the deputies, that person is still in the frame. *Id.* at TS 10:57:18. At the hearing, WSBA stopped the video at a specific timepoint to show that no one was blocking Ms. Abele's path around the deputies. Tr. 221.⁴ The video, taken as a whole, supports an inference that Ms. Abele believed that that path was blocked.

More importantly, Officer Ritter's description of the video as "a clear view of Ms. Abele [] walking through the deputies," Tr. 259, is inconsistent both with his report and with the video itself. Exs. 6, A-7 at 5. More than Marshal Webb's "seat position" is cut off from the video: the only portion of Marshal Webb visible in the video is his hand. Ex. A-6, 2167-6.avi. And Ms. Abele is visible, at most, from the knees up. *Id.* at

⁴ Tellingly, during the testimony of Deputy Copeland, WSBA did not show him the video. *See* Tr. Vol. III at 255-65, 280.

TS 10:56:53-10:57:19. By the time she passed between the deputies, only the top of her head is visible. *Id.* at TS 10:57:20-10:57:24. Officer Ritter testified that “there was no expression on her face” when she had “clearly gone past the threshold of the deputies.” Tr. 278. But even if the video were of sufficient quality to show facial expressions, Ms. Abele’s face is not visible at that point in the video. Ex. A-6, 2167-6.avi at TS 10:57:23.

Officer Ritter testified that the video supported Marshal Webb’s report that he had “to get up out of the way because she was walking right between them,” Tr. 266, and that the video showed Marshal Webb was

seated on the edge of the stool with his legs down, and that when she came through he had to get back up on the stool, get his legs out of the way and allow her to pass through.

Id. at 266-67. But when shown the video and asked to identify the precise moment when that occurred, Officer Ritter could not do so. *Id.* at 276-78. When pressed, Officer Ritter asked, “Was this the only video given to you by the Sherriff’s Office?” *Id.* at 277. His only explanation for the discrepancy was that there must have been another video. *Id.* at 278.

Officer Ritter asserted that the video does not show any “body movement that [Ms. Abele] was tripped.” *Id.* at 279. But the video does not show the moment when Ms. Abele believes she was tripped because she was outside the camera frame by then. Ex. A-12 at 186. Thus, the video is entirely inconclusive as to Ms. Abele’s belief that she was tripped.

Officer Ritter's testimony does not provide substantial evidence that Ms. Abele knew she had not been tripped and knew her statement to him had been false, because the video does not support that conclusory assertion. Officer Ritter's supposition that some other video would show the incident clearly reveals a witness guessing at facts, not accurately recalling them. WSBA presented only one video of the incident. Exs. A-6, R-202.

3. Ms. Abele presented circumstantial rebuttal evidence that supports the inference that she believed she had been tripped.

Generally, a Hearing Officer's credibility determination is given considerable weight. *Marshall*, 160 Wn.2d at 330. But rejection of Ms. Abele's version of events, without more, is not affirmative proof that Ms. Abele knew that her version of events was false. The Hearing Officer's credibility determination shows only that he did not believe that Ms. Abele had been tripped.

Ms. Abele presented the only evidence of her **belief** that she had been tripped. She presented the testimony of Rakesh Pai, who testified that he witnessed the interaction between Ms. Abele and the two deputies. Tr. 473-85. Mr. Pai was a disinterested witness who happened to be at the courthouse on personal business on May 16, 2011. *Id.* at 475, 479. He testified that he saw Marshal Webb make a small tripping motion with his

leg, and that Ms. Abele stumbled a little. *Id.* at 477-78. Mr. Pai was surprised by what he saw. *Id.* at 478-79. While Mr. Pai mistakenly placed the incident at the metal detectors, BF 67, ¶ 43, his testimony nonetheless provides a disinterested and direct account of the incident. Clearly, all witnesses, including Marshal Webb and Officer Ritter, got facts wrong in their accounts. But the Hearing Officer did not summarily reject those witnesses' testimony.

Ms. Herber's testimony also was circumstantial evidence of Ms. Abele's belief that she had been tripped. Ms. Abele called Ms. Herber twice, the first call shortly after the May 16, 2011 incident before 11:00 a.m. as Ms. Abele was driving home from the courthouse. Tr. 352-54. Ms. Herber testified that Ms. Abele was crying on the phone when she called after the tripping incident. *Id.* at 352. She testified that the first thing Ms. Abele said to her was, "I've been assaulted." *Id.* at 353. Ms. Abele told Ms. Herber that she was in pain; that she felt that she had been tripped; and that she could not believe what had just happened. *Id.* at 353-54. These statements are strong circumstantial evidence that Ms. Abele believed that she had been tripped.

Finally, Ms. Abele has never wavered from her belief that Marshal Webb tripped her. It is undisputed that she called 911 to report that he tripped her. Bar File 13, ¶ 28; Bar File 38, ¶ 28. She told Ms. Herber that

he tripped her. Tr. 353. She testified at her deposition that he tripped her. *E.g.* Ex. A-12 at 160-61. She testified at the hearing that he tripped her. Tr. 487. In more than two years, her story has not changed. The fact that it has not changed over the years is circumstantial evidence that she believes it.

WSBA was required to prove that Ms. Abele knew she had not been tripped and knew her report to Officer Ritter was false. *See* § V.A, *supra*. WSBA's circumstantial evidence at best supports two reasonable inferences: Either she knew she had not been tripped, or she knew that she had been tripped. The reasonable inference is that Ms. Abele believed both that she had been tripped that her statement to Officer Ritter was true. Substantial evidence does not support the Hearing Officer's findings on the subject, FFCL 37 and 39-41. *Guarnero*, 152 Wn.2d at 61 (where the only evidence is circumstantial, WSBA "must produce facts from which only one reasonable conclusion may be inferred"). Accordingly, these findings do not support the conclusion that WSBA proved Count 2 by a clear preponderance.

B. Evidentiary rulings and FF 40 demonstrate that the Hearing Officer impermissibly shifted the burden of proof to Ms. Abele to prove that she had been tripped.

The Hearing Officer's evidentiary ruling, under the hearsay rule, regarding Ms. Herber's testimony about her telephone conversations with

Ms. Abele on May 16, 2011 was incorrect because Ms. Abele's state of mind was directly at issue. ER 801(c). Where the declarant's state of mind is at issue, out-of-court statements offered as circumstantial evidence of the declarant's state of mind, regardless of their truth, are not hearsay. See, e.g., *Betts v. Betts*, 3 Wn. App. 53, 60, 473 P.2d 403 (1970). In *Betts*, a child's statements to a foster parent that her stepfather had killed her brother were not hearsay because they were not offered to prove the stepfather's conduct. *Id.* at 59. Instead, the statements were relevant to show the child's state of mind, and her state of mind was relevant to the propriety of the child's placement with her mother. *Id.* at 59, 61.

The same is true of the testimony Ms. Abele offered. It was not hearsay because she offered it as circumstantial evidence of Ms. Abele's state of mind, within a very short time after the incident, which was directly at issue. See § V.A, *supra*. When Ms. Abele offered Ms. Herber's testimony regarding her phone conversations with Ms. Herber, Tr. 343, WSBA's counsel objected on the basis that the statements were "pure hearsay." *Id.* at 344. Counsel for Ms. Abele countered that the evidence would not be offered for their truth, but that "[i]t is important for the court to understand what Ms. Abele believed to be the case." *Id.* As a matter of law, an out-of-court statement is not hearsay when not offered for the truth of the matter asserted. ER 801(c).

Nonetheless, the Hearing Officer held that the testimony would be admissible only if counsel laid foundation for the excited-utterance exception to the hearsay rule. *Id.* at 345. This ruling was error; the statements were not hearsay. *Betts*, 3 Wn. App. at 60.

This erroneous ruling demonstrates the Hearing Officer's failure to appreciate the relevance of the evidence to Ms. Abele's state of mind. While whether Ms. Abele was tripped was relevant to one element of RCW 9A.76.175 — the falsity of Ms. Abele's statement — WSBA had the burden to prove **all** the elements of RCW 9A.76.175. ELC 10.14(b). And whether Ms. Abele in fact was tripped does not prove the state-of-mind element: that Ms. Abele knew her statement to Officer Ritter was false. RCW 9A.76.175. Ms. Abele was entitled to submit circumstantial evidence of her state of mind to rebut WSBA's circumstantial evidence. ELC 10.13(d). But the burden of proof remained with WSBA. ELC 10.14(b). *Cf. In re Disciplinary Proceeding Against Carpenter*, 160 Wn.2d 16, 30, 155 P.3d 937 (2007) (WSBA has burden of proving aggravating factors; attorney has the burden of proving mitigating factors). By holding that Ms. Abele's conversations with Ms. Herber would be admissible only under an exception to the hearsay rule, the Hearing Officer agreed with WSBA's counsel that the testimony was offered only to show the truth of the matter asserted: that Marshal Webb tripped

Ms. Abele. Tr. 351.

But Ms. Abele was not required to prove that Marshal Webb tripped her. Instead, WSBA was required to prove both that Marshal Webb did not trip Ms. Abele **and** that Ms. Abele knew he did not do so. By requiring Ms. Abele to submit her conversations with Ms. Herber under a hearsay exception, the Hearing Officer focused improperly on the truth of Ms. Abele's statements. The improper focus on the truth of those statements implies a shift of the burden of proof to Ms. Abele to show that she was tripped, rather than simply rebutting WSBA's evidence that she knew she had not.

This shift of the burden of proof is even more evident in the Hearing Officer's FFCL 40. First, the Hearing Officer's finding that the video "does not support Respondent's claim she was tripped," Bar File 67, ¶ 40, overstates the evidentiary value of the video. The video is entirely inconclusive as to whether Ms Abele was tripped, let alone whether she believed she was tripped. *See* §V.A.2, *supra*. By ignoring the fact that the video also did not support Marshal Webb's denial that he tripped Ms. Abele — and focusing entirely on whether the video supported Ms. Abele's version of events — the Hearing Officer shifted the burden onto Ms. Abele to prove that she had been tripped.

The Hearing Officer's finding that Ms. Abele was the aggressor in

moving between the two officers when “there was ample room to take another route in the hallway” is immaterial to the issue at hand. Although the Hearing Officer was entitled to make the credibility determination, *Marshall*, 160 Wn.2d at 330, the video did not demonstrate the “ample room” as clearly as the finding suggests. *See* § V.A.2., *supra*; Ex. A-6, 2167-6.avi at TS 10:56:49-10:57:20. The video also never showed that Ms. Abele slammed her binder down on the podium as claimed by Marshal Webb and Deputy Copeland. *Compare* Ex. A-6 to Tr. 27.

Moreover, that Ms. Abele may have been the aggressor in the encounter was not directly relevant to whether she had been tripped and does not support even an inference that she knew she had not been tripped. The Hearing Officer’s findings of fact lack evidentiary support and fail to support the conclusion that Ms. Abele knowingly filed a false police report. Accordingly WSBA failed to prove Count 2 by a clear preponderance of the evidence, and that count must be dismissed.

C. Count 1: Ms. Abele’s outburst in court warrants admonition or reprimand, not suspension.

Ms. Abele concedes that her conduct disrupted Judge Farris’s court on September 28, 2011 and that she was held in contempt Bar File 13, ¶ 15; Bar File 38, ¶ 15; *see also* Tr. 453. The underlying case, a parenting dispute among a mother, a biological father, and a putative de facto father, was highly contentious. Tr. 61. Counsel for all three parties were

admonished for interrupting during the trial. *Id.* at 63, 109.

Although Ms. Abele continues to dispute that she intended to violate the RPCs, she has admitted that her conduct at the September 28, 2011 hearing was wrong. Tr. 453. The Hearing Officer concluded that Ms. Abele's conduct violated the RPC. Bar File 67, ¶ 49. Having found a violation, a Hearing Officer must determine the presumptive sanction using the ABA Standards. *See In re Disciplinary Proceeding Against Anschell*, 149 Wn.2d 484, 501, 69 P.3d 844 (2003). Under those standards, the presumptive sanction is determined by examining the duties violated, the lawyer's mental state, and the actual or potential injury caused by the lawyer's conduct. *Marshall*, 160 Wn.2d at 342.

1. As to Count 1, Ms. Abele did not act intentionally or knowingly.

The American Bar Association Standards Imposing Lawyer Sanctions (1991 & Supp. 1992) guide bar disciplinary cases. *In Re: Disciplinary Proceedings Against Dynan*, 152 Wn.2d 601, 611; 98 P.3d 444 (2004). The following factors are considered when assessing an appropriate sanction: (1) the duty violated; (2) the lawyer's mental state; (3) the potential of actual injury or caused by the layer's misconduct; and (4) the existence of aggravating and mitigating factors. *In Re Disciplinary Proceeding Against Schafer*, 149 Wn.2d 148, 169; 66 P.3d 1036 (2013).

Here, the Hearing Officer concluded that suspension was the

presumptive sanction under ABA Standard 6.22. Bar File 67, ¶¶ 53, 56. However, this conclusion hinges on finding that Ms. Abele's mental state was at least knowing. ABA Standards, Std. 6.22. The ABA Standards define "knowing" as having the conscious awareness of the nature or attendant circumstances of the conduct, but without the conscious objective or purpose to accomplish a particular result. ABA Standards, Definitions, "Knowledge." In contrast, "Negligence" is

the failure of a lawyer to heed a substantial risk that circumstances exist or that a result will follow, which failure is a deviation from the standard of care that a reasonable lawyer would exercise in the situation.

Id., Definitions, "Negligence." While the Hearing Officer found that Ms. Abele's mental state was intentional, Bar File 67, ¶ 28; this finding is not supported by substantial evidence.

In the likely absence of direct evidence, state of mind may be proved by circumstantial evidence. *Kronenberg*, 155 Wn.2d at 191; *Ellis*, 136 Wn.2d at 530. However, where the only competent evidence is circumstantial, WSBA "must produce facts from which only one reasonable conclusion may be inferred." *Guarnero*, 152 Wn.2d at 61. In this case, WSBA offered only circumstantial evidence that Ms. Abele's conduct was intentional, or even knowing. And, taken as a whole, that circumstantial evidence supports more than one reasonable inference —

including the inferences that Ms. Abele's conduct was a purely emotional reaction and that she failed to heed the risks of that reaction. The Hearing Officer's finding that Ms. Abele's conduct was part of some considered scheme to gain some undefined selfish advantage is unsupported and illogical. Bar File ¶ 47.

Judge Farris's erroneous assumptions that Ms. Abele was expressing displeasure at her rulings throughout the hearing are also immaterial. For example, Judge Farris testified that Ms. Abele's audible comments during the proceedings were not directed at Ms. Abele's clients. Tr. 137. But Ms. Rich, opposing counsel in the underlying case, testified that Ms. Abele was talking to her client when her comments distracted Ms. Rich. Tr. 63, 64-65. Ms. Rich testified that "there was never a time when [Ms. Abele] was talking so loud ... that I could not hear the judge or hear Mr. Jones's questions." *Id.* at 65. And Mr. Jones testified that Ms. Abele was never disrespectful to Ms. Rich. *Id.* at 114.

In fact, Mr. Jones testified that, aside from her loudness, he never saw Ms. Abele go too far during the underlying trial, but that based on his experience as a pro tem judge, he might have handled things differently as a judge. *Id.* at 111-12. In testimony WSBA elicited, Mr. Jones testified:

[I]f I had an attorney in my courtroom who I felt was not living up to the standard of conduct that I would expect in my courtroom, I would have had a chamber conference to

find out what was going on. Why one, what the attorney did not understand about what I expected. Is there some reason why they can't live up to that expectation of conduct in my courtroom? And what can we do to assure that the record is preserved, the parties are respected, and the Court is respected, and opposing counsel is respected. **I don't believe I ever saw Ms. Abele in this context**, and I'm only referring to the *In re M.M.* **She never was disrespectful to Ms. Rich, to the best of my recollection.** But in that sense **we never had a chamber conference** where the judge says, you know, "Ms. Abele, I expect this of you. You don't seem to be able to comport with that behavior. I want to know why. Is there some good reason why you're not able to stand up to what I expect in my courtroom? And if there's some problem, what can we do to resolve it?" Because my responsibility as trial judge is to protect the record, maintain — maintain the propriety of the proceedings, and the responsibility to the parties, witnesses, and opposing counsel. **It just didn't happen.**

Id. at 113-14 (emphasis added).

Yet Judge Farris never held such an in-chambers conference. Tr. 114. According to the judge, the only tactic she used to counter what she interpreted as repeated "belligerent bullying," Tr. 168, was to ask Ms. Abele to stop. *See, e.g., id.* at 136, 138, 140, 179, 182. The only other methods she regularly used were to do nothing, *id.* at 139, 167, and on one occasion at the end of the trial, to ask Ms. Abele to put her comments in writing. Tr. Vol. I at 141. It is improbable that Judge Farris, with nearly 20 years' judicial experience, would so completely lose control of her courtroom throughout a 13-day trial. Nonetheless, Judge Farris admitted that, at times, she felt as if she had done just that. *Id.* at

188.

Ultimately, the judge did not find Ms. Abele in contempt for her earlier conduct, but for her conduct at the September 28, 2011 hearing. Ex. A-4 at 5; Ex. R-103 at 17. The judge's testimony might support an inference that Ms. Abele acted intentionally during the course of the hearing. But the rest of the circumstantial evidence supports the inference that Ms. Abele's conduct at the September 28, 2011 hearing was a rare emotional outburst and that the catalyst for that outburst was being called an animal and compared to a criminally insane defendant on the record.

Judge Farris's on-the-record comments referring to Ms. Abele making a noise like "an animal being killed" and comparing Ms. Abele to a criminally insane defendant referred to an incident following a previous hearing, which occurred after the judge had left the bench in which Ms. Abele made a loud noise. Ex. R-103 at 13. The Hearing Officer found that "[t]here was conflicting testimony on the cause of this and it remains unclear." Bar File 67, ¶ 11. No substantial evidence supports this finding, because the only competent testimony on the subject was not conflicting. Judge Farris interpreted the noise as an expression of rage at one of her rulings. Tr. 186. But Judge Farris also admitted that she was not in the courtroom when the scream occurred, that she did not investigate even though the noise was shocking to her, and that she "did

not know what occurred.” *Id.* at 186-87; Ex. R-103 at 15. These admissions make her testimony on the subject entirely speculative. But both of WSBA’s witnesses who were actually present when Ms. Abele screamed, Ms. Rich and Mr. Jones, testified that Ms. Abele was clearly in pain. Tr. 85, 115-16. Ms. Rich testified that “she was in pain, and it was etched on her face,” comparing the level of pain to that of a woman in labor. *Id.* at 86. In light of this testimony, it was far from “unclear” what the cause of Ms. Abele’s scream was: she was in pain.

Nonetheless, Judge Farris decided to use the scream as an example to put her perceptions of Ms. Abele’s prior conduct on the record. Tr. 194. Ms. Abele perceived the judge’s comments as the judge calling her an animal. Tr. 421. The circumstantial evidence supports Ms. Abele’s testimony that this strong language from the judge shocked her and caused her to feel “like being punched in the face.” *Id.* at 423. For example, most of the conduct for which the judge found Ms. Abele in contempt occurred after the judge called her an animal.⁵ *See id.* at 178-79; Ex. 103 at 13-30; R-104 (audio recording of the hearing).

In addition, Ms. Rich testified that Ms. Abele was emotional after the judge called her an animal. Tr. 80. She also testified that she had

⁵ Although Judge Farris told Ms. Abele to stop interrupting her before the “animal being killed” reference, the audio recording of the hearing clearly shows that Ms. Abele spoke, in part, during long pauses by the judge. R-104.

never heard a judge refer to an attorney as an animal. *Id.* at 100-01. Ms. Rich testified that Ms. Abele's conduct at the hearing was unusual for Ms. Abele. *Id.* at 103. Ms. Rich was surprised by the conduct: "For her to act like that, you know, that's not her." *Id.* at 91. Ms. Rich was further surprised when she found Ms. Abele crying after the hearing. *Id.* at 90.

Additionally, Sheralyn Barton, the court reporter, testified that Ms. Abele was "very upset" when she heard the judge refer to her as an animal. Barton Tr. 18. Even Judge Farris testified that Ms. Abele was clearly losing control. *Id.* at 157.

Indeed, Ms. Abele's actions on September 28, 2011 serve as circumstantial evidence that she acted emotionally, with negligent disregard for the consequences. First, although Ms. Abele left the courtroom abruptly and refused to come back, she did voluntarily return. Bar File 67, ¶ 17. Marshal Miles testified that "she was defiant with her mouth but obeying with her feet" and that he was surprised to find Ms. Abele in the courtroom when he returned to report her refusal to the judge. Tr. 286-87. Second, Ms. Abele told the judge that she would not call the LAP. Bar File 67, ¶ 19. Nonetheless, she contacted LAP the same day, timely purging the contempt. *Id.*; Exs. R-105, R-106.

Finally, the undisputed fact that Ms. Abele returned to the hearing of her own accord undercuts the Hearing Officer's finding that her

conduct caused potential injury to her client. *See* Bar File 67, ¶ 29. Not only did Ms. Abele return, but she did so before the recess was over. She was the first to return. *See* Tr. 286-87, 440. Ms. Abele did not abandon her client, even during her emotional meltdown.

Taken as a whole, this testimony supports the inference that Ms. Abele was in the throes of a severe emotional reaction to what the judge had said. Accordingly, the circumstantial evidence does not support the factual finding that Ms. Abele acted intentionally. Indeed, the only evidence that supports even a finding of knowing conduct by a clear preponderance of the evidence is (1) Judge Farris's speculative impressions of Ms. Abele's motives, and (2) Judge Farris's improbable testimony that she, as a seasoned judge, so lost control of the trial as to allow an attorney to run roughshod over the proceedings. Neither is enough to support a finding that Ms. Abele acted knowingly. Instead, the more reasonable conclusion from the circumstantial and direct evidence is that Ms. Abele acted emotionally, but negligently.

2. The presumptive sanction for Ms. Abele's negligent conduct is admonition or reprimand.

When a lawyer acts negligently in failing to obey a court order, the presumptive sanction is either admonition or reprimand under ABA Standard 6.2:

Admonition is generally appropriate when a lawyer engages in an isolated incident of negligence in complying with a court order or rule, and causes little or no actual or potential injury to a party, or causes little or no actual interference with a legal proceeding.

ABA Standard 6.24.

In *In re Disciplinary Proceeding Against Eugster*, 166 Wn.2d 293, 209 P.3d 435 (2009) the court held that the lawyer's conduct, "involv[ing] only one client in one legal proceeding and last[ing] only two months before he took steps to mitigate his actions" constituted an isolated incident of misconduct. *Id.* at 322-23. Similarly, Ms. Abele's conduct involved only one client and legal proceeding and lasted less than a day before she took steps to mitigate her conduct. Therefore, her conduct is more properly considered an isolated instance of negligence. Accordingly, the presumptive sanction is admonition.

Even if the Board considers Ms. Abele's conduct to be more than an isolated incident, reprimand would be the presumptive sanction:

Reprimand is generally appropriate when a lawyer negligently fails to comply with a court order or rule, and causes injury or potential injury to a client or other party, or causes interference or potential interference with a legal proceeding.

ABA Standard 6.23. Accordingly, this Court should impose only an admonition or reprimand as the presumptive sanction in this matter.

D. WSBA did not prove the aggravating factors of dishonest/selfish motive or failure to acknowledge wrongful nature of conduct.

The Hearing Officer erred in concluding that aggravating factors of dishonest or selfish motive and failure to acknowledge wrongful nature of conduct applied.⁶ BF 67, ¶ 59. First, where a lawyer acts negligently, the aggravator of selfish or dishonest motive does not apply. *In re Disciplinary Proceeding Against Kamb*, 177 Wn.2d 851, 867, 305 P.3d 1091 (2013) (declining to apply selfish or dishonest motive where the lawyer's conduct was the result of negligence). Here, the only testimony that supported a finding that Ms. Abele had a selfish or dishonest motive is Judge Farris's speculation on Ms. Abele's state of mind. As detailed above, this testimony was not enough to establish that Ms. Abele acted with anything other than negligence. *See* § V.C.1, *supra*. Accordingly, it is not enough to establish dishonest or selfish motive, and the Board should disregard this supposed aggravating factor.

Next, the evidence does not support any failure to acknowledge wrongful nature of the conduct as an aggravating factor. A mere factual denial does not justify imposition of this aggravating factor. *In re Disciplinary Proceeding Against Holcomb*, 162 Wn.2d 563, 588, 173 P.3d 898 (2007).

⁶ Because WSBA did not prove Count 2 by a clear preponderance, Ms. Abele addresses these factors only as they apply to Count 1.

In *Holcomb*, the attorney denied that the person who loaned him money was acting as a client rather than arguing that he engaged in transactions with a client but the transactions were not wrongful. *Id.* The refusal to acknowledge wrongful nature of the conduct aggravator applies where a lawyer admits committing the acts but denies that they were wrongful or rationalizes misconduct; *Holcomb* did neither. *Id.* Cf. *In re Disciplinary Proceeding Against Ferguson*, 170 Wn.2d 916, 944-46, 246 P.3d 1236 (2011) (distinguishing *Holcomb* and applying the aggravator where the lawyer remained unrepentant in the face of abundant documentary evidence of her wrongdoing and characterized her violations as “unfortunate labeling” by the bar); *In re Disciplinary Proceeding Against Conteh*, 175 Wn.2d 134, 151, 284 P.3d 724 (2012) (aggravator applied where lawyer rationalized a statement in response to the disciplinary proceeding that was contrary to a statement he made on his bar application and immigration form).

Here, Ms. Abele denied screaming in rage at one of Judge Farris’s rulings in the hearing prior to the September 28, 2011 hearing. Tr. 408. This factual denial was corroborated by WSBA’s witnesses Ms. Rich and Mr. Jones. Tr. 85, 115-16. Accordingly, this factual denial cannot justify

the imposition of failure to acknowledge wrongful nature of conduct.⁷

In addition, Ms. Abele admitted that she “made the biggest mistake in [her] life” when she left the courtroom on September 28, 2011 before the recess announced by Judge Farris had actually begun, and that this conduct was wrong. Tr. 426-27. She admitted that refusing to come back to the courtroom and refusing to call LAP was wrong and that she regretted telling the court “no.” *Id.* at 428, 447. Ms. Abele also acknowledged that screaming to demonstrate the difference between a true scream and her earlier outbursts was wrong. *Id.* at 449. In fact, Ms. Abele acknowledged that all of the instances in which she challenged the judge were wrong. *Id.* at 453-54.

Additionally, Ms. Abele’s actions on September 28, 2011 demonstrate some inner knowledge that her conduct in refusing the court was wrong: (1) she returned to the courtroom of her own accord, FFCL ¶ 19; Tr. 286-87; and (2) she called LAP on the same day as the hearing. FFIC ¶ 19; Exs. R-105, R-106. Finally, Ms. Abele’s conduct after September 28, 2011 also suggests that Ms. Abele understands the wrongful nature of the conduct. Marshal Miles testified that he has noticed a “total change” in Ms. Abele’s behavior. Tr. 296. He testified

⁷ Likewise, Ms. Abele’s factual denial that she made a false police report, §V.A.3. *supra*, could not have justified the imposition of this aggravating factor to Count 2 if WSBA had proved Count 2 by a clear preponderance.

that she had not crossed any boundaries with him since that hearing, *id.*, and that she is trying to address her problem behaviors. *Id.*

Moreover, these actions indicate that Ms. Abele's explanations of why she did some of the things she did were more than mere rationalizations. Although the Hearing Officer did not accept all of Ms. Abele's explanations, her actions and her testimony at the hearing indicate that she did come to understand that her conduct on September 28, 2011 — the conduct that resulted in the contempt finding that underlies Count 1 — fell below the standard expected of attorneys in Washington. Accordingly, the Hearing Officer's failure to credit Ms. Abele's explanations does not, on its own, justify finding this aggravating factor. *Cf. In re Disciplinary Proceeding Against Cramer*, 165 Wn.2d 323, 338, 198 P.3d 485 (2008) (where lawyer acknowledged fault for some of the charged misconduct, his failure to acknowledge his fault for some of the charged misconduct did not justify imposition of the aggravator of failure to acknowledge wrongful nature of conduct).

E. The Board erred in recognizing only Ms. Abele's unblemished disciplinary record as the lone mitigating factor.

The ABA Standards list several mitigating factors that may be considered in determining disciplinary sanctions. *Matter of Disciplinary Proceedings Against Hankin*, 116 Wn.2d 293, 308; 804 P.2d 20 (2003).

Mitigating factors include: (a) absence of prior disciplinary record; (b) personal or emotional problems; (c) timely good faith effort to make restitution or to rectify consequences of misconduct; (d) full and free disclose to Disciplinary Board or cooperative attitude towards proceedings; (e) inexperience in the practice of law; (f) character or reputation; (g) physical or mental disability or impairment; (h) delay in disciplinary proceedings; interim rehabilitation and (j) remorse. *Id.* The Supreme Court may find additional mitigating factors not considered by the Hearing Officer. *See, e.g. In Re Disciplinary Proceeding Against Schafer*, 149 Wn.2d 148, 169; 66 P.3d 1036 (2013).

In addition the absence of a prior disciplinary record, the Court should also consider Ms. Abele's timely, good-faith efforts to rectify the consequences of her misconduct and Ms. Abele's emotional state at the time of the incidents. As discussed above, Ms. Abele clearly expressed remorse for her actions on September 28, 2011. Ms. Abele admitted that she "made the biggest mistake in [her] life" when she left the courtroom before the recess announced by Judge Farris had actually begun and that this conduct was wrong. Tr. 426-27. She also admitted that refusing to come back to the courtroom and refusing to call LAP was wrong, and that she regretted telling the court "no," even though in her actions she complied with both directives. *Id.* at 428, 447. Ms. Abele also

acknowledged that screaming to demonstrate the difference between a true scream and her earlier outbursts was wrong. *Id.* at 449. In fact, Ms. Abele acknowledged that all of the instances in which she challenged the judge were wrong. *Id.* at 453-54.

This Court also should consider the isolated and emotionally charged nature of both the May 16 and September 28, 2011 incidents. Both incidents occurred while Ms. Abele was frustrated and even distraught. She was advocating for a client on September 28, 2011 in a child-custody trial spanning two weeks and admittedly let her emotions get the best of her. The May 16th incident arose out of a disagreement with courthouse deputies that lead to a nearly instantaneous event — the tripping incident — after Ms. Abele sought redress for her complaints.

Ms. Abele clearly attempted to correct her behavior after the September 28, 2011 incident. The record shows that Ms. Abele contacted LAP as ordered and had no further emotional outbursts in court. Marshal Miles's testimony that he has noticed a "total change" in Ms. Abele's behavior also supports this point. Tr. 296. He testified that she had not crossed any boundaries with him since that hearing, *id.*, and that she is trying to address her problem behaviors. *Id.*

These factors should mitigate the sanction, even if a suspension is found to be warranted. A one-year suspension in light of the

circumstances in which the violations occurred is too harsh. These violations arose from limited but emotional confrontations, not from some calculated intent to gain a personal advantage.

F. A one-year suspension is disproportionate given the circumstance of the alleged ethical violations.

When evaluating the proportionality of the recommended sanction, the Court considers other similar cases in which the same sanction was approved or disapproved. *Cohen II*, 150 Wn.2d at 763. The attorney bears the burden of showing that WSBA's recommended sanction is disproportionate. *In re Disciplinary Proceeding Against Kagele*, 149 Wn.2d 793, 821, 72 P.3d 1067 (2003).

This case differs from other cases imposing one-year suspensions because the conduct at issue occurred in emotionally charged circumstances and involved temper and impulsive responses, not calculated unlawful efforts to gain advantage for the attorney. *See, e.g., In Re: Disciplinary Proceedings Against Poole*, 156 Wn.2d 196, 125 P.3d 954 (2006). Research reveals no case in which an alleged false report to police, which did not involve a criminal conviction, resulted in a long term suspension. On the other hand, this Court in *Schafer*, 149 Wn.2d at 177-178, reduced a recommended one-year suspension to six months where the attorney's unethical and repeated disclosures of a client's secrets served a public good, even though the attorney's motives included personal

retribution against a judge. Other examples include *Disciplinary Proceedings Against Egger*, 152 Wn.2d 393, 98 P.3d 477 (2009); the Court imposed a six-month suspension where the attorney billed his client \$15,000 in legal fees that had already been paid by another party, and also violated former RPC 1.7 by failing to get the client's written consent where potential conflicts existed. *See id.* at 420. *In re Disciplinary Proceeding Against Brothers*, 149 Wn.2d 575, 580, 70 P.3d 940 (2003), the Court imposed a one-year suspension where the attorney unreasonably charged over \$36,000 for the simple task of preparing a quitclaim deed. And in *In re Disciplinary Proceeding Against Cohen (Cohen I)*, 149 Wn.2d 323, 330, 67 P.3d 1086 (2003), the Court imposed a six-month suspension where the attorney, among other things, filed an appeal without notice to his clients. *See also In re Disciplinary Proceeding Against DeRuiz*, 152 Wn.2d 558, 562, 99 P.3d 881 (2004) (one-year suspension for multiple violations including failure to communicate and failure to remit unreasonable fees); *In re Disciplinary Proceeding Against Tasker*, 141 Wn.2d 557, 560, 9 P.3d 822 (2000).

This Court's precedent supports a reduction in the unduly harsh sanction of the one-year suspension imposed by the Board.

VI. CONCLUSION

For the reasons stated above, Attorney Kathryn Abele asks that this

Court reverse the Washington Disciplinary Board and find that the WSBA did not prove Count 2 by a clear preponderance of the evidence. The Hearing Officer's findings are based on evidence that does not establish that Ms. Abele knowingly made a false report to the Seattle Police Department. The record, at most, shows that Marshal Webb did not trip Ms. Abele, though the evidence of this point is clearly in dispute. But neither direct nor circumstantial evidence establishes that Ms. Abele knew that she had not been tripped when she called the police. The Hearing Officer's reliance on the security video to establish Ms. Abele's state of mind is wholly misplaced, as the video does not show the incident. In fact, the Hearing Officer erroneously placed the burden of proof on Ms. Abele to show that she did **not** knowingly report a falsehood, rather than the other way around.

Moreover, the conclusion that suspension is the presumptive sanction for Count 1 is not supported by the findings or in the record. Ms. Abele acted negligently on September 28, 2011 in response to Judge Farris's characterization of her acting like an animal. Imposition of a sanction based on intentional conduct is unfounded. This Court should only reprimand or admonish Ms. Abele, not impose the one-year suspension that the Hearing Officer recommended.

Even if the Court finds a suspension is warranted, the Court should

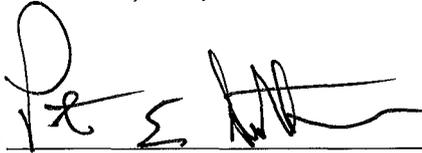
then consider mitigating factors, including Ms. Abele's regret for her response to Judge Farris, the solitary nature of the behavior, and the emotional state in which the conduct occurred.

The Hearing Officer clearly erred in imposing aggravating factors of selfish or dishonest motive and a failure to acknowledge the wrongful nature of the conduct. Neither assertion is supported in the record. Ms. Abele regretted that she acted emotionally in court. But the actions were prompted by just that, emotion, not by a selfish motive.

Therefore, Ms. Abele respectfully requests that the Court reverse the Board and (1) dismiss Count 2; (2) strike the conclusion that suspension is the presumptive sanction for Count 1; (3) strike the aggravating factors of selfish or dishonest motive and failure to acknowledge wrongful nature of conduct; and (4) impose either an admonition or reprimand for Count 1.

Respectfully submitted this 7 day of October, 2014.

LEE SMART, P.S., INC.

By: 

Sam Franklin, WSBA No. 1903
Peter E. Sutherland, WSBA No. 17745
Of Attorneys for Kathryn B. Abele

CERTIFICATE OF SERVICE

I certify under penalty of perjury and the laws of the State of Washington that on October 7, 2014, I caused service of Appellant's Opening Brief via legal messenger to:

Ms. Sachia Stonefeld Powell
Washington State Bar Association
1325 4th Avenue, Suite 600
Seattle, WA 98101-2539



Taniya T. Chai
Legal Assistant

WSBA Disciplinary Matter
re
Kathryn B. Abele

* * * *

Video Deposition of
Sheralyn R. Barton
October 4, 2013

* * * *

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BEFORE THE DISCIPLINARY BOARD
OF THE WASHINGTON STATE BAR ASSOCIATION

IN RE:)	
)	
KATHRYN B. ABELE,)	Proceeding No. 12#00072
)	
Lawyer.)	Bar No. 32763
)	

VIDEO DEPOSITION UPON ORAL EXAMINATION OF
SHERALYN R. BARTON

Friday, October 4, 2013
10:06 a.m. to 11:10 a.m.

Held at the Law Offices of
SCHWABE, WILLIAMSON & WYATT
1420 Fifth Avenue, Suite 3400
Seattle, Washington

VIDEOGRAPHER: ERIC JENSEN, CLVS
Certified Legal Video Specialist
ROYAL VIDEO PRODUCTIONS
(425) 391-6809
RoyVid@Comcast.net

REPORTED BY: JEANNE M. GERSTEN, RMR, CCR
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A P P E A R A N C E S

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I N D E X

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* * * * *

E X H I B I T S

(None offered)

1 October 4, 2013, Seattle, Washington:

2 PROCEEDINGS: 10:06 a.m.

3 THE VIDEOGRAPHER: We are on the record.

4 Today is October 4th, 2013. The time is now 10:06 a.m.

5 This is Volume I, tape one in the testimony of

6 Sheralyn Barton. This is before the Disciplinary Board of
7 the Washington State Bar Association, In Re Kathryn Abele.

8 We are at the offices of Schwabe, Williamson and
9 Wyatt at 1420 Fifth Avenue, Suite 3400, in Seattle,
10 Washington.

11 My name is Eric Jensen. I'm the owner of Royal
12 Video Productions of Issaquah, Washington.

13 At this time I'd like to ask counsel to identify
14 themselves. Please state your name, the firm you're
15 working for, and who you're representing in this matter,
16 starting with Ms. Cain.

17 MS. CAIN: Natalie Cain. I'm working with
18 Lee Smart. We're representing Kathryn Abele.

19 MR. FOLAWN: My name is Colin Folawn. I'm
20 an attorney at the law firm of Schwabe, Williamson and
21 Wyatt, representing the Washington State Bar Association,
22 Special Disciplinary Counsel.

23 THE VIDEOGRAPHER: Thank you, Counsel.

24 Today's court reporter is Jeanne Gersten of TSB,
25 Incorporated. Would she please swear Ms. Barton.

1 SHERALYN R. BARTON,
2 having been first duly sworn or affirmed on oath to tell
3 the truth, the whole truth, and nothing but the truth,
4 testified as follows:

5 THE VIDEOGRAPHER: You may proceed.

6 DIRECT EXAMINATION

7 BY MR. FOLAWN:

8 Q Good morning, Ma'am. Would you please state
9 your full name for the record?

10 A Yes. It's Sheralyn Barton.

11 Q And do you have a middle name?

12 A Rose.

13 Q And what's your current occupation?

14 A I'm an official court reporter at Snohomish
15 County.

16 Q And how long have you had that position?

17 A Since 2009.

18 Q Okay. And what did you do before then?

19 A I was an official court reporter at Skagit
20 County for a year before that, and then I was just a
21 deposition -- deposition reporter here in Seattle.

22 Q So how long have you been a court reporter?

23 A I got my certification in 2005, just the initial
24 certification, and I've been doing it since then.

25 Q Great. Since we're taking your testimony today

1 by perpetuation, you're being videotaped, audio recorded,
2 and it's being transcribed, it's important today as we
3 talk that if even if you think you know what question I'm
4 asking, wait until I get the question out, and then we'll
5 get your answer so we can make sure we're not talking on
6 top of each other. All right?

7 A I can do that.

8 Q Okay. So you've been a court reporter since
9 2005?

10 A Yes.

11 Q Okay. With your court reporter experience are
12 there particular types of matters that you handle more
13 often than others?

14 A Now, as an official?

15 Q Yes.

16 A I would say that we do criminal matters more
17 than anything else, but obviously there's civil mixed in
18 there. But there's rotations, so there will be -- My
19 department and my judge will be on a criminal rotation, so
20 for a couple months we'll only have criminal; and then for
21 a couple months we'll only have civil.

22 Q Okay. And at some point in your court reporting
23 experience were you assigned to Judge Anita Farris?

24 A Yes.

25 Q And what was that period of time?

1 A Since the beginning. I'm still assigned to her
2 now.

3 Q Okay. And could you tell us briefly your
4 educational background?

5 A Yes. I have a high school diploma and then an
6 AA degree from Peninsula College in Port Angeles. And
7 then I went to Bates Technical College in Tacoma, and I
8 received the court reporting certificate. It was the
9 highest they have for court reporting at that time. I
10 think they now have an AA degree, but they didn't back
11 then.

12 And then I went on and I passed the state
13 certification, the Certified Court Reporter, and then I
14 got my Registered Professional Reporter certificate and
15 then my Certified Realtime Reporter certificate.

16 Q Okay. And what's your current business address?

17 A It's 3000 Rockefeller Avenue, MS 502, Everett,
18 Washington, 98201.

19 Q And what's your date of birth?

20 A 1/3/83.

21 Q Okay. Have you met an attorney by the name of
22 Kathryn Abele before?

23 A Yes.

24 Q And do you recall when you first met her?

25 Approximately.

1 A I can't recall a year. I can't -- I can't
2 recall approximately when I met her. It would have been
3 probably the first year I worked at Snohomish.

4 Q Okay. And what were the circumstances in which
5 you met her?

6 A I'm sure it was just a hearing or a trial or
7 just whatever matter she had come before the Court.

8 Q Do you recall how many times Ms. Abele has been
9 in a hearing in which you've served as a court reporter?

10 A I would say five to ten times, actual hearings.
11 I mean, if we do a trial, that lasts for days. So I'm
12 just counting that as one.

13 Q Okay. And have you served as a court reporter
14 in a trial in which Ms. Abele was counsel?

15 A Yes.

16 Q How many times?

17 A Probably two or three.

18 Q Were any of those times before Judge Farris?

19 A Yes.

20 Q How many?

21 A I only know of the one for sure. All three
22 could have been; but we do go to other judges, so I'm not
23 100 percent sure, but I know of one for sure.

24 Q Okay. And why does that stick out in your mind,
25 that one for sure?

1 A Because I think that's what we're here about.

2 Q Okay. Approximately when was that trial before
3 Judge Farris in which Ms. Abele was trial counsel?

4 A That's really hard for me to say because I went
5 on maternity leave, and I think I left -- I think I left
6 on maternity leave when we were doing that trial, and then
7 when I came back three months later we were doing hearings
8 on the same trial.

9 Q And after that trial were you present at one of
10 the hearings in September of 2011?

11 A Yes.

12 Q Okay. And you've provided us with an audio
13 recording of that hearing; correct?

14 A Yes.

15 Q Okay. And were you the court reporter for a
16 hearing on or about September 28th, 2011?

17 A I was.

18 Q Okay. What I'd like to do, Ms. Barton, is take
19 you through portions of your audio recording and then ask
20 you some questions about it. Okay?

21 A Okay.

22 Q All right. And I'm going to start at time code
23 0954 in the audio recording that's been made an exhibit to
24 this matter.

25 ** Excerpt transcript of audio recording **

1 THE BAILIFF: "All rise. Snohomish County
2 Superior Court is now in session, the Honorable Anita L.
3 Farris presiding.

4 THE COURT: Please be seated. We're back
5 on the record In Re the De Facto Parentage and Custody of
6 Mason Miller. We have present Ms. Abele, Ms. Rich, and
7 Mr. Jones is present by telephone.

8 Mr. Jones, are you able to hear me?

9 MR. JONES: I am, Your Honor. Good
10 afternoon.

11 THE COURT: All right. Mr. Jones, I'm just
12 going to let you know I have the speaker device fairly
13 close to me. It may not pick up the lawyers. If you
14 can't hear, you're going to have to let me know. I have
15 no way to deal with this other than sort of move the
16 device around.

17 MR. JONES: No, Your Honor. I can follow
18 along fairly well, I'm sure. I've already spoken with
19 Ms. Rich and Ms. Abele as they were talking before you
20 took the bench.

21 THE COURT: All right. I'm going to
22 indicate I received what I presume to be an amended final
23 parenting plan from Ms. Abele. I haven't received
24 anything from the other side. Are you all in agreement
25 with that?

1 MS. ABELE: That one was --

2 MS. RICH: We are in agreement with that,
3 Your Honor.

4 MS. ABELE: Yes. It was approved, Your
5 Honor.

6 THE COURT: Okay. Well, has anybody shown
7 the guardian ad litem?

8 MS. ABELE: I sent it to her along with
9 Ms. Rich on the same day. She's down in Department D and
10 is aware we are up here. She did not give me any
11 indication that it was not correct."

12 ** End of excerpt transcript of audio recording **

13 Q Whose voice was that that we just heard before
14 we stopped the recording?

15 A Kathryn Abele.

16 Q You recognize that voice?

17 A Yes.

18 Q Okay. And as a court reporter at the hearing
19 that day, where were you physically located in the
20 courtroom?

21 A In front of the judge, right behind the bar.

22 Q Okay. And do you recall where in relation to
23 you Ms. Abele was?

24 A Yes. She was -- So if the judge is directly
25 behind me right now and the bar is right here, she would

1 have been to my right.

2 Q Okay. Approximately where I would be?

3 A Yes. Well, except quite a bit further back, --

4 Q Further back?

5 A -- but yes.

6 Q About how much distance was there between you
7 and Ms. Abele, if you recall?

8 A I would say to probably the second to the last
9 chair there.

10 Q Okay. Can you estimate that in terms of feet?

11 A That would be around 15 feet, maybe?

12 Q Okay.

13 A Ten? I'm not really great at that.

14 Q Okay. And at any time during the hearing did
15 you have any difficulty hearing Ms. Abele speak?

16 A Well, that depends. Some stuff I'm not sure
17 what is supposed to be on the record and what's not
18 because it's a loud whisper.

19 Q Okay. So you were able to hear her, but at
20 times you weren't sure whether it was intended to be on
21 the record or not?

22 A Yes.

23 Q Okay. I'd like to go back to the audio
24 recording, and we'll pick up at time code 2446. And I'm
25 going to stop it from time to time and ask you a few

1 questions as well.

2 A All right.

3 ** Excerpt transcript of audio recording **

4 THE COURT: "All right. I'm going to make
5 that change.

6 MS. ABELE: Thank you, Your Honor.

7 THE COURT: So you're talking, Mr. Jones,
8 about Paragraph 3.7, the very last paragraph in the
9 findings, they got one of the dates wrong. So, we're just
10 amending that.

11 MR. JONES: Right.

12 THE COURT: What I'd like to do, first of
13 all, is deal with this parenting plan. Quite frankly, I
14 went through this thing for 2-1/2 hours line by line
15 comparing it to the transcript of the last hearing; so if
16 you all agree with this, I'm going to sign it.

17 Counsel, I don't know if I have an original or what
18 I have.

19 MS. ABELE: I gave you --

20 THE COURT: I want one with your signatures
21 on it.

22 MS. RICH: None of us have all signed it
23 because we understood that Your Honor had it. So I didn't
24 want to sign three copies.

25 MS. ABELE: Your Honor, I have to let the

1 Court know on the record that my client does not want me
2 to sign the parenting plan. I understand the Court's
3 going to enter it, but that's the objection that he wants
4 me to make. So you can put whatever you want, that I
5 appeared, but that's what he wants me to do.

6 THE COURT: All right."

7 ** End of excerpt transcript of audio recording **

8 Q I'm going to stop it there at 2552 and ask you
9 this, Ms. Barton. Just before we stopped, which attorney
10 did we hear speaking on the audio?

11 A Ms. Abele.

12 Q Okay. And in your experience in serving as a
13 court reporter in matters where Ms. Abele has been one of
14 the attorneys, how would you characterize the volume of
15 her voice as we just heard it?

16 A How would I characterize it?

17 Q Yes.

18 A It's -- She wasn't too loud there.

19 Q Uhm-hm.

20 A That's -- When she's not too worked up and she's
21 just speaking, that's pretty normal for her, I would
22 think.

23 Q So we just heard her normal speaking voice?

24 A I think so, yeah.

25 Q Okay. And we'll pick back up at 2552.

1 ** Excerpt transcript of audio recording **

2 THE COURT: "All right. Ms. Abele, at this
3 time --

4 MS. ABELE: I can't sign it.

5 THE COURT: You created this parenting
6 plan.

7 MS. ABELE: I understand.

8 THE COURT: In terms of form, --

9 MS. ABELE: Yes.

10 THE COURT: -- it not complying and
11 comporting with the Court's order, do you have any oral
12 objections you wish to make? If you want to refuse to
13 sign, fine.

14 MS. ABELE: It is the exact plan that the
15 Court ruled on, yes, Your Honor.

16 THE COURT: All right. Mr. Jones, do you
17 want to make any change to the new plan that you've
18 received from Ms. Abele in terms of -- This would be
19 objections that it does not correctly reflect the Court's
20 ruling. You reserve your objections that you do not agree
21 with the Court's ruling?

22 MR. JONES: Yeah. No, I trust the Court
23 has reviewed its oral ruling and that the amendments that
24 the Court is making the Court believes to be dispositive
25 with its decision.

1 THE COURT: All right. Do you have any
2 objection to my writing on here 'approved by telephone'?

3 MR. JONES: No, that would be fine, Your
4 Honor. Approved as to form.

5 THE COURT: All right. I'm writing
6 'approved as to form by telephone.'

7 (Discussion held in background.)

8 THE COURT: Are you guys on the record or
9 off? You're really loud.

10 MS. ABELE: Oh, sorry, Your Honor. There
11 was an issue with a paragraph that I had incorporated from
12 Ms. Rich's. It's on page 13.

13 MS. RICH: No. 8.

14 MS. ABELE: No. 8. This is only
15 Ms. Cotton's time, so it is not anybody else's time but
16 Ms. Cotton's time. If she chooses to not exercise a
17 residential time, he gets it until she chooses to take it.

18 MS. RICH: My understanding, though,
19 Your Honor, was just that that is correct, but that
20 doesn't apply with regards to spring break. If he has --

21 MS. ABELE: But that's already dealt with.

22 THE REPORTER: I can't hear you both at the
23 same time."

24 ** End of excerpt transcript of audio recording **

25 Q I'm going to stop it there at 2749.

1 Was that you speaking just now?

2 A It was.

3 Q Okay. And what was it that you said at that
4 point?

5 A "I can't hear you both speak at the same time."

6 Q Okay. And we'll pick it up back up at 2749.

7 ** Excerpt of transcript of audio recording **

8 MS. RICH: "If she has a weekend during
9 spring break and she chooses not to exercise it, only
10 during that time does it revert to my client.

11 MS. ABELE: And that is under 3.4, page 5."

12 ** End of excerpt transcript of audio recording **

13 Q We'll stop it there at time code 28.

14 We just heard Ms. Abele speak about the location of
15 something on a document?

16 A Yes.

17 Q Do you recall what was happening at that point
18 in the hearing in terms of Ms. Abele's demeanor?

19 A It sounds like she's starting to get a little
20 frustrated.

21 Q Uhm-hm. We'll pick it up back at 28.

22 ** Excerpt transcript of audio recording **

23 THE COURT: "Okay. Then we need to write
24 'except spring break' because --

25 MS. ABELE: But spring break --

1 THE COURT: Counsel, don't interrupt me.

2 All right. Do not interrupt me again today.

3 MS. ABELE: May I speak, Your Honor?

4 THE COURT: No.

5 MS. ABELE: I'm going to --

6 THE COURT: I'm not done speaking.

7 MS. ABELE: Okay. That's fine. I'll sit
8 down."

9 ** End of Excerpt transcript of audio recording **

10 Q I'm going to stop it at time code 2817.

11 Ms. Barton, as to the portion that we just played,
12 can you describe for us what was happening in the
13 courtroom at that time, what you saw?

14 A I remember her standing, and there was hand
15 gestures and just frustration. That's mainly what I
16 remember.

17 Q And what hand gestures do you recall? Are you
18 able to show us?

19 A I don't recall exactly. It's usually just
20 something like (indicating). Just very frustrated. It's
21 usually something like that.

22 Q Okay. We'll pick back up at 2817.

23 ** Excerpt transcript of audio recording **

24 MS. ABELE: "I'm going to --

25 THE COURT: I do not have -- Okay. I said

1 I am not done speaking, so stop.

2 MS. ABELE: Fine.

3 THE COURT: Okay. I'm going to take a
4 recess. I'm going to put this on the record right now.

5 MS. ABELE: Yes, Your Honor.

6 THE COURT: At the end of the last hearing
7 after I left the courtroom, Ms. Abele had some sort of
8 attack where she made a very loud noise that sounded like
9 an animal --

10 MS. ABELE: I'm going to object, Your
11 Honor."

12 ** End of Excerpt transcript of audio recording **

13 Q I'm stopping at time code 2853.

14 Who did we just hear there?

15 A Ms. Abele.

16 Q And what were you seeing at that point in the
17 hearing?

18 A She was very upset.

19 Q Can you describe what you saw more specifically?

20 A She was standing and yelling.

21 Q We'll pick back up at 2853.

22 ** Excerpt transcript of audio recording **

23 THE COURT: "-- being killed, and we had to
24 have security called in.

25 MS. ABELE: You did not need security, Your

1 Honor. It says right here --

2 THE COURT: I am not done.

3 MS. ABELE: I understand. Get security
4 now. Because it's Mr. Fulton receives the entire school
5 break, including weekends, unless one of the weekends is
6 Ms. Cotton's. That's it.

7 THE COURT: Get security.

8 MS. ABELE: Fine. I'm going to jail. I'm
9 going to jail."

10 ** End of excerpt transcript of audio recording **

11 Q I'm stopping at 2917 in the audio recording.

12 Ms. Barton, who was it that was saying, "I'm going to
13 jail"?

14 A Ms. Abele.

15 Q And what was happening at the time that she said
16 that?

17 A She was putting her hands up like this
18 (indicating), like she was going to have cuffs put on her,
19 up above her head. And walking out of the room.

20 Q I'm sorry?

21 A And walking out of the room.

22 Q Out of the courtroom?

23 A Out of the courtroom.

24 Q Okay. We'll pick back up at 2917.

25 ** Excerpt transcript of audio recording **

1 MS. PALMER: "We need security up in
2 Department A, or wherever Kathryn Abele is. Thank you.
3 This is Judge Farris wants them up here really quick.
4 Right now, yeah."

5 ** End of excerpt transcript of audio recording **

6 Q Okay. We're stopping at time code 2936.

7 Do you recall who was speaking just now?

8 A That's Jennifer Palmer.

9 Q And who was that?

10 A She is Judge Farris's court clerk.

11 Q Okay. And what was the court clerk doing at
12 that point?

13 A She was calling security.

14 Q And was Ms. Abele in or out of the courtroom at
15 that time?

16 A She was out of the courtroom.

17 Q Okay. We'll pick back up at 2936 in the audio
18 recording.

19 ** Excerpt transcript of audio recording **

20 MS. PALMER: "I just noticed that there was
21 (inaudible).

22 MS. ABELE: I'm leaving. I'm out of here.
23 You guys can sign all of the orders. Bring them down to
24 the second floor with me. I'm abstaining completely.
25 I'll see you when I get there. Thank you.

1 Janal, it's setting right there. Good-bye."

2 ** End of excerpt transcript of audio recording **

3 Q All right. We're stopping at time code 3004 in
4 the audio recording.

5 We just heard Ms. Abele's voice again?

6 A Yes.

7 Q And at that point where was she?

8 A She had entered back into the courtroom.

9 Q Okay. And then did she leave thereafter?

10 A Yes.

11 Q Okay. What do you recall, if anything, about
12 Ms. Abele's demeanor as she was leaving the courtroom?

13 A She was upset.

14 Q Can you be more specific?

15 A She wanted to leave. She was upset. That's --
16 That's the only thing that I can think of. She was very
17 upset.

18 Q Okay. And you saw her come back into the
19 courtroom during that brief period?

20 A Yes.

21 Q And do you recall what you saw about her
22 demeanor at that point?

23 A She wanted the paperwork to be brought to her
24 downstairs, and she didn't want to come back into the
25 courtroom because she was angry.

1 Q Was she crying at that point?

2 A No.

3 Q Okay. We'll pick back up at 4554 in the audio.

4 ** Excerpt transcript of audio recording **

5 THE BAILIFF: "Just one moment, and we'll
6 have the judge out.

7 MS. ABELE: Thank you.

8 THE BAILIFF: All rise. Court is again in
9 session.

10 THE COURT: Please be seated. For the
11 record, we've taken about a ten-minute recess.

12 All right. At the time of the last hearing we ended
13 the hearing, and I didn't really have a problem with it
14 because we were about done, but Ms. Abele indicated she
15 essentially had to take a break because she was about to
16 lose it. She didn't use those words, but that was the
17 gist of it. Following my leaving the bench there was
18 behavior of loud noises that to me sounded like an animal
19 being killed. It caused myself, in a different room, to
20 jump, staff from other departments. Security was called
21 by people I don't even know.

22 So as I was saying, I do have some duties as a
23 judicial officer to maintain order in my courtroom. What
24 happened last time was not all right. I am telling you
25 right now, Ms. Abele, that if you engage in that behavior

1 again in my courtroom -- what I was about to say -- you
2 will be held in contempt.

3 MS. ABELE: May I speak now, Your Honor?

4 THE COURT: No. I'm not done yet.

5 MS. ABELE: Okay. I'll wait.

6 THE COURT: Sit down, please.

7 MS. ABELE: Yes, ma'am.

8 THE COURT: I have been in these courts for
9 30 years, 18 as a judge. I have never heard anybody --
10 I've never heard any lawyer make any kind of noise or do
11 anything like that before.

12 MS. ABELE: That's what --

13 THE COURT: The only time I have ever heard
14 anybody make a noise like that in my courtroom has been a
15 criminally insane defendant.

16 MS. ABELE: Your Honor, may I speak?

17 THE COURT: Please sit down.

18 MS. ABELE: It's very urgent that you
19 understand why the noise came out."

20 ** End of excerpt transcript of audio recording **

21 Q I'm stopping at 4840.

22 Ms. Barton, at the point that Ms. Abele just began to
23 speak, what were you seeing in the courtroom?

24 A She was standing against Judge Farris's ruling.

25 Q I'm sorry?

1 A She was standing when Judge Farris was asking
2 her to sit, and she was starting to get emotional and just
3 stand and wanted to speak, clearly wanted to speak.

4 Q How could you tell Ms. Abele wanted to speak?

5 A Because she was. She was interrupting.

6 Q All right. We'll start back up at 4840 in the
7 recording.

8 ** Excerpt transcript of audio recording **

9 MS. ABELE: "You're thinking that I was
10 making some sort of -- I have a legitimate hip jury. I
11 tripped. I screamed because I was in pain.

12 THE COURT: I don't know what happened last
13 time.

14 MS. ABELE: Exactly.

15 THE COURT: I didn't find you in contempt.

16 MS. ABELE: You don't know.

17 THE COURT: But what happened today is more
18 problematic.

19 MS. ABELE: Yes. That would be better.

20 THE COURT: Before the recess, Ms. Abele
21 was jumping up and down, waving her hands in the air, and
22 screaming words to the effect, 'I'm going to go to jail.
23 I'm going to go to jail.' She also left the courtroom and
24 refused -- She's now putting her arms up in the air making
25 large gestations of 'take me away in the handcuffs.'"

1 ** End of excerpt transcript of audio recording **

2 Q I'm going to pause at 4926.

3 Ms. Barton, at the point of that recording what were
4 you seeing Ms. Abele do?

5 A The same thing she did when she left the
6 courtroom before when she said that she was going to jail.
7 She was putting her hands together in a cross above her
8 head.

9 Q Can you show us with your arms precisely what
10 she was doing?

11 A (Indicating), except she was standing up and
12 going like this.

13 Q And were they in front of her face as you
14 showed, or were they --

15 A It was a little higher.

16 Q Above her head?

17 A Yes.

18 Q Okay. We'll pick back up at 4926.

19 ** Excerpt transcript of audio recording **

20 MS. ABELE: "Your Honor, I don't know what
21 else you want from me. All I wanted to do was read a
22 paragraph.

23 THE COURT: I'm just going to make this
24 clear. It wasn't just stating, 'I'm going to jail.' You
25 were screaming at the top of your lungs.

1 MS. ABELE: No, I wasn't, Your Honor. I
2 have a hearing disability. If you want me to tell you the
3 difference between 'I'm going to jail' and I'm screaming,
4 there's the difference. Now I'm screaming. That's the
5 difference. I don't have volume control. I've explained
6 this for years. For years. I am loud because I don't
7 hear me.

8 THE COURT: Well, you just now were able to
9 control it quite well.

10 MS. ABELE: No. That's because I know the
11 difference between one and the other. And if I don't know
12 that I'm being loud at the time I'm being loud, you have
13 to tell me, because I don't know. I do know now because I
14 made it an emphasis. There's a difference. I have a
15 serious hearing problem.

16 THE COURT: At this time, based on your
17 screaming, yelling, jumping up and down in my courtroom,
18 stomping and then -- stomping out and refusing to
19 represent your client, I'm finding you in contempt of
20 court."

21 ** End of excerpt transcript of audio recording **

22 Q I'm going to stop at 5031 in the audio
23 recording.

24 Ms. Barton, how would you describe the tenor of
25 Ms. Abele's voice as we just heard it?

1 A When she was screaming?

2 Q Yes, ma'am.

3 A Screaming.

4 Q Okay. And had you heard that from her before?

5 A No.

6 Q Okay.

7 A Not that loud.

8 Q Okay. How did that make you feel as a court
9 reporter to hear that?

10 A It was scary. I didn't know exactly what was
11 going to happen.

12 Q Had you ever seen any attorney act in that
13 manner before?

14 A No.

15 Q In any of your years as a court reporter have
16 you seen an attorney act like that?

17 A In court?

18 Q Yes, ma'am.

19 A I've seen -- I've seen a deposition that got
20 pretty heated, but not in court, no.

21 Q We'll pick back up at 5031.

22 ** Excerpt transcript of audio recording **

23 MS. ABELE: "Okay. Thank you, Your Honor.
24 I appreciate that.

25 THE COURT: This happened in my courtroom,

1 and I have been very patient now for weeks in this case.

2 What happened last time, my staff needs to feel safe.

3 MS. ABELE: Really?

4 THE COURT: Yes, they do.

5 MS. ABELE: They're not unsafe from me.

6 THE COURT: You may believe that, but your
7 behavior is scary. What you did in this courtroom today
8 was frightening to the people that were here.

9 MS. ABELE: Your Honor, I appreciate your
10 lecture. Could you just tell me how much I have to pay in
11 a fine so I can get rid of it and take care of it and
12 resolve this issue with you? Because I don't think you
13 and I will ever see eye to eye on whether I'm scary or
14 not. You're looking at me as a 6-foot-2 person. You're
15 saying that because I'm big, I'm scary. I have never hit
16 nor harmed anybody in my life, ever.

17 And I'm loud because I'm loud. I'm sorry. I'm
18 deaf. I'm sorry. But I stood up because out of respect
19 to you, I'm supposed to stand up when I talk to you when I
20 have a question.

21 THE COURT: Are you serious? You were
22 jumping up and down, waving --

23 MS. ABELE: I jump --

24 THE COURT: -- your arms and screaming --

25 MS. ABELE: Your Honor, I did not.

1 THE COURT: -- 'I'm going to jail. I'm
2 going to jail.'

3 MS. ABELE: You were already off the bench.
4 You had closed the hearing.

5 THE COURT: That is not true. I did not
6 leave this bench until you turned around and were walking
7 out.

8 MS. ABELE: Okay.

9 THE COURT: I know why you're making that
10 argument. This happened in open court.

11 MS. ABELE: Then that's fine. Can you
12 please tell me how much I'm fined?"

13 ** End of excerpt transcript of audio recording **

14 Q I'm going to stop at 5153.

15 Ms. Barton, at this point in the conversation between
16 Judge Farris and Ms. Abele, how would you characterize
17 Ms. Abele's demeanor?

18 A Frustrated.

19 Q And have you spoken with any of the other court
20 staff about their impressions of the hearing?

21 A Yes.

22 Q And tell me about that.

23 A I spoke with Judge Farris, and I've spoken with
24 the clerk and the law clerk at the time. There were
25 people who witnessed the screaming -- or not the screaming

1 but the loud animal sound incident, which I was not there
2 for, and they told me about that.

3 It was just out of control, and we were -- We always
4 kind of expect something interesting to happen when
5 Ms. Abele comes. It's just her personality I think is
6 just a little quirky, but that went far beyond what anyone
7 expected it to go to.

8 Q You're talking about the hearing of
9 September 28, 2011?

10 A Yes.

11 Q Okay. All right. We'll pick back up at 5157.

12 ** Excerpt transcript of audio recording **

13 THE COURT: "I'm not giving you a fine.

14 MS. ABELE: Okay. I understand that.

15 Thank you, Your Honor.

16 THE COURT: Of more concern is you have a
17 duty to represent your client. You do not have the option
18 to have a personal fit and therefore not represent him.

19 MS. ABELE: Your Honor, are all the
20 signatures on those orders already signed? I have already
21 completed my duty. I have signed every single one of
22 those orders and came here, signed the orders, and
23 expressed to you that there was one issue, which was
24 resolved in another paragraph. All the orders are signed.
25 My client has told me he does not want me to sign the

1 parenting plan. So my duty to my client has been complied
2 with.

3 THE COURT: We have not addressed the
4 findings yet, what is your issue, or whatever your issue
5 is.

6 MS. ABELE: The one issue was you stated in
7 your 15-page findings and conclusions that my client had
8 never sought any counseling or treatment for his son with
9 regards to any of the issues he was having. We had a
10 counselor from the school district come here and testify
11 that that is not true. That paragraph is incorrect as to
12 the evidence that was presented in this case. That's the
13 only thing that I wanted to tell the Court today. That is
14 it.

15 THE COURT: Jenny, do I have all of them?

16 MS. PALMER: I believe there was one order
17 handed back. I don't know if it was handed back up,
18 Your Honor.

19 MS. RICH: Would you be asking about the
20 parenting plan? I only signed it up there. I never took
21 it back to my desk area.

22 THE COURT: Mr. Jones, are you still
23 present?

24 MR. JONES: I am, Your Honor.

25 THE COURT: All right. These findings were

1 received by counsel this morning.

2 MS. ABELE: Correct.

3 THE COURT: If you wish to have additional
4 time to make objections, I will give you that. So that is
5 the first issue.

6 Ms. Abele, stop. Stop making the gestures and all
7 of that.

8 So we'll start with you, Mr. Jones."

9 ** End of excerpt transcript of audio recording **

10 Q Ms. Barton, we're stopping at 5428.

11 Do you recall the gestures that Ms. Abele was making
12 at that time?

13 A Not the exact gestures. I know that she was
14 standing up and sitting down a lot, mumbling under her
15 breath, and I didn't know what she was saying.

16 Q Okay. At some point in the hearing was court
17 security in the courtroom?

18 A Yes.

19 Q Do you recall at which point they entered the
20 courtroom?

21 A Not exactly. It would have been after the
22 outburst, the original outburst. I know that the court
23 clerk called them, and they came up. I remember them
24 specifically being there at the end.

25 Q Okay.

1 A But they sit in the back sometimes, so they just
2 kind of are in the background.

3 Q All right. We'll pick back up at 5428.

4 ** Excerpt transcript of audio recording **

5 THE COURT: "I know you've received these,
6 but it was late. And if you wish to have additional time,
7 this is what I will give the parties an option to do. If
8 you feel confident you want to go forward, we'll sign them
9 today. I will enter everything today. If you do not --
10 I'm not asking you, Ms. Abele, personally. I'm
11 giving everybody a shot to make a decision and a statement
12 on this. But can you let me state it first?

13 MS. ABELE: I haven't done anything,
14 Your Honor. I'm listening. I don't know why you think
15 that I'm not listening.

16 THE COURT: Because --

17 MS. ABELE: Body language is not everything
18 about everything. I'm not doing anything. I'm sitting
19 here listening. I have ADHD. I can't sit still. I have
20 a hearing disability. I usually -- A judge, other judges
21 have been very understanding of this, and you're the only
22 one I've been in front of in ten years who hasn't gotten
23 it, who doesn't get it. I can't sit still.

24 THE COURT: You can make all the movement
25 you want.

1 MS. ABELE: What do you want me to do?

2 THE COURT: Screaming and yelling at --

3 MS. ABELE: I'm making movement you tell me
4 not to do.

5 THE COURT: -- the judge that you want to
6 be thrown in jail is not ADHD.

7 MS. ABELE: Your Honor, you just told me I
8 needed to sit still.

9 THE COURT: No. You were starting to
10 interrupt me and state something.

11 MS. ABELE: I never said anything.

12 THE COURT: Because I interrupted you.

13 MS. ABELE: No, Your Honor. Because I was
14 --

15 THE COURT: Ma'am, I'm not going to argue
16 with you any further.

17 MS. ABELE: Okay.

18 THE COURT: All right. The parties will
19 have this option. You can have a period of time to make
20 written objections. I will consider those, make any
21 changes, and enter it. If you do not want that time, we
22 will go ahead and sign them, and I will enter them today.

23 Mr. Jones, how do you wish to proceed?

24 MR. JONES: Your Honor, in the interest of
25 justice, I think signing them today. You have had an

1 opportunity to review the findings of fact and make sure
2 that they comport with what you believe to be the
3 appropriate findings of fact. They are, in fact, your
4 findings of fact. I have reserved some concerns and
5 reserved on the record my concerns, and I think that's
6 enough. I don't believe that this waiting any more time
7 is going to benefit any of the parties.

8 THE COURT: Ms. Rich, what is your
9 position?

10 MS. RICH: My position is the same as
11 Mr. Jones, that these are your findings, after all,
12 Your Honor, and --

13 THE COURT: All right. Ms. Abele?

14 MS. ABELE: Absolutely no way do I want any
15 more time to have to wait to appeal this. Because the
16 minute you ink this, I'm going into the second floor and
17 appealing it. So no way. I want orders entered today,
18 Your Honor. And if that's disrespectful, I apologize."

19 ** End of excerpt transcript of audio recording **

20 Q I'll stop it at 5710 in the audio.

21 Ms. Barton, you've earlier today described
22 Ms. Abele's demeanor as you witnessed it, but I have one
23 question for you about that. At any time in your
24 observations of her -- Ms. Abele, that is -- on
25 September 28, 2011, did she appear to you to be scared?

1 A Ms. Abele?

2 Q Yes, ma'am.

3 A No.

4 Q Okay. We'll pick back up at 5710.

5 ** Excerpt transcript of audio recording **

6 THE COURT: "All right. It is not my
7 intent to indicate that your client never, ever received
8 any treatment or attempted to receive counseling. In
9 fact, I indicated he was attempting to get speech therapy.
10 So if you feel that that is a problem, I will add in here
11 that Mr. Miller obtained some counseling. I do believe he
12 has a problem with and would continue to have a problem
13 with accepting that there may be difficulties that arise
14 from a.

15 Change in custody, --

16 MS. ABELE: Your Honor, --

17 THE COURT: -- and because of that, he
18 would have difficulties in the future obtaining enough
19 counseling for Mason. However, I will add in that
20 Mr. Miller -- So for counsel's edification, I'm adding on
21 the last page, in my own handwriting, 'Mr. Miller has
22 obtained some counseling for Mason in the past.'

23 MS. ABELE: Thank you, Your Honor.

24 THE COURT: With that, I'm going to be
25 signing the orders at this time. Except for that change,

1 counsel who are present have copies of the paperwork.

2 Mr. Jones, we will send you a copy of all of this.
3 My law clerk's already made one for you. I do know you
4 have Exhibit A.

5 MS. ABELE: I will make sure Mr. Jones --

6 MR. JONES: (Unintelligible.)

7 MS. ABELE: -- gets a copy very much today,
8 because he's getting a notice of appeal copy, also.

9 THE REPORTER: I can't hear him.

10 THE COURT: We could not hear Mr. Jones
11 because you were talking at the same time as Mr. Jones,
12 Ms. Abele.

13 MS. ABELE: Oh, my God.

14 THE COURT: Mr. Jones, could you please
15 repeat that?

16 MR. JONES: Yes, Your Honor.

17 THE COURT: For the record, I want it on
18 the record right now that Ms. Abele is going, 'Oh, my
19 God.'

20 MS. ABELE: Okay.

21 THE COURT: So Ms. Court Reporter, can you
22 just be sure we're writing all these comments down."

23 ** End of excerpt transcript of audio recording **

24 Q I'm stopping at 5920.

25 Ms. Barton, do you recall observing what Judge Farris

1 was referring to about, "Oh, my God"?

2 A Yes.

3 Q Explain that for us, please.

4 A Just that Ms. Abele was muttering, "Oh, my God,"
5 and things of that sort under her breath, but loud.

6 Q Uhm-hm.

7 A And we could hear it, so she wanted me to take
8 that down.

9 Q Okay. And could you also see Ms. Abele doing
10 these things?

11 A Yes.

12 Q Okay. We'll pick back up at 5920.

13 ** End of excerpt transcript of audio recording **

14 THE COURT: "All right. Mr. Jones, if you
15 could repeat whatever it is you said. We could not hear
16 it.

17 MR. JONES: Yes, Your Honor. I do have the
18 Court's Exhibit A, and that need not be copied again. If
19 the Court would be kind enough through your law clerk to
20 send me either by fax or by email the Court's orders as
21 entered, I would appreciate that.

22 THE COURT: All right. We will try. We
23 don't -- As I indicated, these are interlineated. You
24 have to scan them in. They're not emailable.

25 MS. ABELE: Your Honor, I will make --

1 MR. JONES: Well, perhaps -- Perhaps
2 counsel could do that for me.

3 THE COURT: We will be sending you a hard
4 copy version.

5 MR. JONES: All right. All right. Thank
6 you, Your Honor.

7 MS. ABELE: Mr. Jones, I will make sure
8 that you get a copy today, immediately when I get back to
9 the office, with all of the documentation and the proof of
10 filing of the Court of Appeals case.

11 MR. JONES: That should be sufficient,
12 Your Honor.

13 THE COURT: All right. Ms. Abele, to purge
14 your contempt I'm going to require that you make contact
15 with the Lawyers' Assistance Program.

16 MS. ABELE: I'm not going to do that,
17 Your Honor. I don't need any help from anybody. I have a
18 counselor, and I will talk to her tomorrow because I have
19 an appointment. Because every time I've been in front of
20 you, I've made an appointment the next day."

21 ** End of excerpt transcript of audio recording **

22 Q I'll stop at 10126 in the audio.

23 Ms. Barton, at the time that we just heard Ms. Abele
24 speak in response to the Court's reference to contempt, do
25 you recall Ms. Abele's demeanor?

1 A She was -- She was beginning to cry, I think.
2 She was getting more emotional in that way.

3 Q Okay. We'll pick back up at 10126.

4 ** Excerpt transcript of audio recording **

5 MS. ABELE: "Not any other judges, not any
6 other trials. Maybe you should talk with Judge Fair and
7 find out how I was in front of her. Please. I would
8 really like you to do that.

9 THE COURT: Ms. Abele, in my courtroom you
10 just had a complete outburst, yelling, screaming --

11 MS. ABELE: I was --

12 THE COURT: -- throwing your arms up,
13 stomping out and refusing to represent your client because
14 I asked you to not interrupt. That's the only thing that
15 caused it. And then I tried to tell you you cannot behave
16 in the way you acted the last time you were here.

17 MS. ABELE: Your Honor, you can say all of
18 that, and you can say that. You gave me a long pause.
19 You waited a long time. I have some -- if I guess I --
20 You gave a long pause. I figured now I'm able to talk.

21 I'm not going to call the Lawyers' Assistance
22 Program, Your Honor. I am not going to do it. It is not
23 a court order that you require me. I can keep the
24 contempt on. It doesn't matter to me. Do you understand
25 that, Your Honor? That's not important to me. What is

1 important to me is that a decision is properly made in
2 this case, and that's all I care about.

3 And I would like you to sign the orders so we can
4 get out of here.

5 THE COURT: Okay. I am ordering you to do
6 that to purge your contempt.

7 MS. ABELE: I'm not going to do that. I'm
8 not going to --

9 THE COURT: So you would rather go to jail?

10 MS. ABELE: I'll go to jail. I will not
11 call the Lawyers' Assistance Program. I have a counselor.
12 If you want me to make a counselor's appointment with my
13 counselor and have her give you a note that I saw her and
14 talked to her about the issues I have in front of you, I
15 would be glad to do that, but I am not going to go see
16 someone else I have no rapport with.

17 THE COURT: All right. Do you wish to be
18 represented by a lawyer?

19 MS. ABELE: No.

20 THE COURT: All right.

21 MS. ABELE: If all I have to do is make a
22 phone call to the Lawyers' Assistance Program, I can make
23 it right outside. If that's what you're saying, then I'll
24 dial it right now in front of you and comply with your
25 order.

1 THE COURT: I will leave it to them to
2 determine what to do.

3 MS. ABELE: Okay.

4 THE COURT: You are not having control of
5 yourself in the courtroom.

6 MS. ABELE: Your Honor, I am in complete
7 control of my faculties, complete control. And if I wave
8 my arms, I'm an expressive person. I'm sorry. I'm an
9 expressive person. If I stand up to respect you and go
10 like that, I'm sorry again. That's not going to change.

11 THE COURT: Ms. Abele, we had about ten
12 witnesses present during this incident.

13 MS. ABELE: You've had three witnesses.
14 One, two, three, four, five. Five witnesses, your
15 description of the incident.

16 I will call the Lawyers' Assistance Program, but
17 they will not do anything for me because there isn't
18 anything for me to ask of them. You are the -- This is on
19 the record. You are the only judge I have ever been asked
20 by anybody or made a comment to. I've had 15 trials in
21 ten years."

22 ** End of excerpt transcript of audio recording **

23 Q I'm going to stop at 10426 in the audio.

24 Ms. Barton, as we were just hearing Ms. Abele's
25 voice, what was her demeanor at this point? What were you

1 observing?

2 A Upset and frustrated.

3 Q And at this point in the hearing what were you
4 feeling about what you had observed?

5 A I was just still surprised that it all had
6 happened the way it had. Not necessarily surprised, but I
7 didn't think it would go that far. Judge Farris is a
8 very, very patient judge.

9 Q Uhm-hm.

10 A And she would usually just let things, you know,
11 glide as much as possible, but it went so far that she, I
12 mean, just had to do something.

13 Q Uhm-hm.

14 A And it was -- It was interesting seeing her have
15 to react finally to it because she is just very patient.
16 I've been in situations where I'm just amazed at her
17 patience, and -- Yeah, that pushed it.

18 Q Okay. Fair enough. We'll start back at 10426.

19 ** Excerpt transcript of audio recording **

20 MS. ABELE: "You're the only judge, the
21 only one.

22 THE COURT: There's a minute entry in the
23 case here where the court clerk indicated that Arden Bedle
24 again asked you to modify your behavior.

25 MS. ABELE: No, I don't believe so. I've

1 not seen anything.

2 THE COURT: There's a minute entry in this
3 case.

4 MS. ABELE: And I said judge, not
5 commissioner. And there's not in this case. There's no
6 minute entry in this case that I know of.

7 THE COURT: It's either this case or
8 Judge McKeeman's, one of those two.

9 MS. ABELE: There's no -- I'm telling you
10 that, Your Honor. Nobody asked me anything. I have done
11 many, many trials. Many, many trials.

12 THE COURT: There's a minute entry in this
13 case, counsel.

14 MS. ABELE: Then I have not seen it, and
15 nobody's told me that. So, I'm letting the Court know you
16 are the only judge who has ever expressed to me that I
17 have to sit still and --

18 THE COURT: You don't have to sit still.

19 MS. ABELE: But then I can't express myself
20 because you find it offensive.

21 THE COURT: I never indicated you have to
22 sit still.

23 MS. ABELE: But you find my expressions
24 offensive.

25 THE COURT: Counsel, I'm not going to argue

1 with you anymore.

2 MS. ABELE: You know what, Your Honor, --

3 THE COURT: We have witnesses as to what
4 happened today.

5 MS. ABELE: How long do I need to stay in
6 jail?

7 THE COURT: There were witnesses --

8 MS. ABELE: I understand.

9 THE COURT: -- that were present at the
10 last incident.

11 MS. ABELE: The last incident, again, you
12 didn't listen to me. You don't know what happened. My
13 hip popped, and I cried out in pain. Your Honor, I have a
14 severe hip injury. I walk around -- I have a wheelchair
15 cart. I cannot walk or stand up all the time. I have to
16 get special chairs in the courtroom in Department 12. If
17 I'm in pain, I'm sorry, but it wasn't anything to do but
18 other than my pain.

19 THE COURT: Were you in pain today?

20 MS. ABELE: I am in pain every day of the
21 week. And yes. Do you see me standing here like this?
22 Because my leg hurts all the time."

23 ** End of excerpt transcript of audio recording **

24 Q I'm stopping at 10609.

25 Ms. Barton, we just heard Ms. Abele discuss her hip

1 or her leg and her standing position. Did you hear that?

2 A Yes.

3 Q Do you recall how Ms. Abele was standing?

4 A I think I do.

5 Q Okay. What do you recall?

6 A She was leaning to one side. I know she does
7 seem to have an issue with one of her legs.

8 Q Had she been leaning that way the entire time
9 during the hearing, though?

10 A No.

11 Q Okay. When did she start doing that?

12 A Right about then.

13 Q At the time that she was describing having a hip
14 injury?

15 A I remember it specifically then. She could have
16 done it before then and I'm just not remembering, but I
17 remember her specifically leaning to one side with her
18 hands on the table at that moment. I wasn't probably
19 paying attention to it before that.

20 Q Have you seen her stand normally before that
21 day?

22 A Yes.

23 Q And since?

24 A Yes.

25 Q Okay. We'll go back at 10609 in the recording.

1 ** Excerpt transcript of audio recording **

2 MS. ABELE: "Every day of the week. Every
3 day and minute of the hour.

4 THE COURT: All right. This is the Court's
5 order. You can either call the Lawyers' Assistance
6 Program within the next 30 days and provide me an
7 affidavit to that effect or a declaration, or you go to
8 jail. The jail term is indefinite until you comply.

9 MS. ABELE: Okay. I'll go to jail. We'll
10 see you in 30 days.

11 THE COURT: The Court is in recess.

12 THE BAILIFF: All rise."

13 ** End of excerpt transcript of audio recording **

14 Q And we're stopping at 10641.

15 Ms. Barton, were the excerpts of the recording that
16 we just played true and correct excerpts of the recording
17 that you made?

18 A Yes.

19 Q Okay. And were you present during all the
20 portions of the audio that we just played in the courtroom
21 on that day?

22 A Yes.

23 Q Okay. And had you served as court reporter
24 during portions of the preceding trial in that matter?

25 A Yes.

1 Q Okay. And what, if anything, did you observe
2 about Ms. Abele's ability to speak at different volumes?

3 A She can do it. I know that.

4 Q How do you know that?

5 A Because I've seen her do it. She can -- can
6 seem to control her volume.

7 Q And why do you say she seems to be able to
8 control her volume? Have you heard her whisper?

9 A Yes.

10 Q Have you seen her whisper and been unable to
11 hear what she's saying?

12 A Yes.

13 Q Other than the recording that we just listened
14 to, were there any other times in which you heard
15 Ms. Abele state that she has a hearing disability or a
16 hearing limitation?

17 A I've heard her say that.

18 Q Okay. Do you recall how many times you've heard
19 her say that?

20 A No, but a lot. And some of that might just be
21 other people telling me as well that she said that she has
22 said that.

23 Q Okay. Other people telling you that she has
24 told them that?

25 A That that was the reason for -- The outburst in

1 that person's court that day was because she couldn't
2 hear; or that's why she was loud that day in court, and
3 that was her explanation to that judge.

4 Q Okay. You're not referring to this hearing.
5 You're referring to other hearings before other judges?

6 A Yes.

7 Q Okay. And have you served as a court reporter
8 in a proceeding in which somebody had stated that they had
9 a hearing limitation or hearing disability?

10 A Yes.

11 Q Are you able to tell for us the characteristics
12 that you've observed in those folks who have had hearing
13 disabilities or hearing limitations?

14 A I guess it depends on the person and their
15 severity of hearing loss. There was an attorney in
16 Skagit County who had a hearing impairment; and he had a
17 hearing aid, but it didn't seem to fully correct his
18 impairment. So he would have to ask people to repeat a
19 lot, and he was actually very quiet. I actually --

20 The people who I've seen with hearing impairments
21 seem more quiet to me, but I maybe haven't seen a whole
22 bunch of people with hearing impairments.

23 Q Okay. In your observations of Ms. Abele at the
24 trial in the matter that we just heard the hearing from
25 and the hearing, had you observed anything in Ms. Abele's

1 conduct that would lead you to believe that she had any
2 problem hearing people?

3 A No.

4 Q And was there anything that you observed in
5 Ms. Abele's conduct -- notwithstanding that she said she
6 had a hearing disability. I'm talking about her
7 conduct -- that would lead you to believe that she had a
8 hearing problem of any kind?

9 A No.

10 Q Do you recall whether she told Judge Farris at
11 any time in any of the proceedings in the matter in which
12 the hearing of September 28, 2011 occurred, that Ms. Abele
13 had a hearing disability, other than that hearing?

14 A Yes.

15 Q Okay. And when was that?

16 A I actually looked through my transcripts from
17 the trial for some reason. I don't even remember why.
18 And I was just proofreading real quick just one part, and
19 I happened to stumble upon a number -- excuse me --
20 another portion where Ms. Abele was interrupting, and
21 Judge Farris was saying, "Please don't interrupt." And it
22 was pretty quick. It's just how it usually happens, and
23 it's over. I think that she may have mentioned the
24 hearing then. I've heard her say it a few times.

25 Q Have you ever heard Ms. Abele ask for any

1 assistive device or accommodation to help her hearing?

2 A No. I've never heard her ask anyone to repeat
3 themselves, either, I don't believe.

4 Q Okay. Other than the hearing of September 28,
5 2011, have you ever heard Ms. Abele say that she has ADHD?

6 A I don't recall.

7 Q Okay. Having listened to the excerpts that I've
8 played for you today -- I asked you this earlier in some
9 of the excerpts, but having listened to all the excerpts
10 that I've played for you today of the hearing from
11 September 28, 2011, have you ever observed an attorney in
12 court act the way Ms. Abele did that day?

13 A No.

14 Q Have you ever seen an attorney in court interact
15 with a judge that way?

16 A No.

17 Q And how would you characterize the effects of
18 Ms. Abele's conduct, the effects on the hearing?

19 A Well, that's ultimately what I remember about
20 the hearing. I don't remember any of the paperwork or
21 what we were actually there for. That's all I remember is
22 the behavior.

23 Q And how did you feel about that behavior?

24 A Like I said, it was a little scary. There was
25 actually just a moment at the very, very end -- I'm not

1 sure if it was there -- where she came forward to get her
2 paperwork, and it was a very fast movement.

3 And I -- I can't say that I was scared for my
4 physical safety at any point until that moment. And it's
5 not that I thought that she would hurt someone physically,
6 but she just approached very quickly after the judge left
7 the bench to get paperwork. And I remember that the clerk
8 and I both kind of went back in our chairs like whoa. You
9 know, we were just scared. I'm not sure of what. You
10 know, maybe we'd get hit with a cup or something. You
11 never know.

12 But that was actually the scariest moment when she
13 approached really quickly at the end, and we both went,
14 "Whoa, what's going to happen right now?"

15 Q You've observed several attorneys in depositions
16 and in court proceedings?

17 A Yes.

18 Q Are you able to approximate how many?

19 A No.

20 Q All right. Too numerous to count?

21 A Yes.

22 Q From what you observed of Ms. Abele's conduct in
23 the September 28, 2011 hearing, did you feel that that was
24 appropriate conduct for an attorney in court?

25 A No.

1 Q Why not?

2 A I just don't believe that an attorney should act
3 that way. I think they should be respectful, and I just
4 did not like her behavior that day and didn't think that
5 it was appropriate.

6 MR. FOLAWN: Okay. At this time I don't
7 have any other questions for you. Thank you. Ms. Cain
8 might have some.

9 MS. CAIN: Yes, I do.

10 CROSS-EXAMINATION

11 BY MS. CAIN:

12 Q Thank you again for coming here today. I do
13 just have a couple of questions.

14 You say that you weren't scared for your physical
15 safety.

16 A It's hard to describe.

17 Q Uhm-hm.

18 A I'm not -- I didn't think she was going to come
19 and push me or, you know, hit someone.

20 Q Have you ever been afraid for your physical
21 safety in Ms. Abele's presence before?

22 A It's very hard to describe because I've seen her
23 in hallways even, and I've been intimidated. That's the
24 word that I'm thinking. I'm intimidated. And it's not
25 her size. It's not her voice. It's her demeanor. She

1 could be five feet tall and a featherweight, and I would
2 still be scared of her.

3 Q Okay. Well, you said intimidated at first, and
4 now you've said scared. Which is it?

5 A I'm having a hard time with that.

6 Q I understand.

7 A It's a mixture of both. I'm not sure. I -- I
8 just don't know right now how far it would ever go, so --
9 Up to this point I don't think that she would hurt me, but
10 I've obviously seen defendants and things escalate and --
11 not that she's a defendant.

12 Q When you said that you had never seen an
13 attorney go this far, you'd never seen this kind of
14 conduct before, does that include Ms. Abele?

15 A What do you mean?

16 Q Well, you had said that you've never observed an
17 attorney in any court interact with a judge that way.

18 Does that include your observations of Ms. Abele
19 before this hearing?

20 A She's always taken it another step further than
21 any attorney that I've seen, but it's never gone that far
22 before. And like I said, a lot of people have told me
23 stories and things that happened in their courtroom, and
24 so that -- that probably makes me a little intimidated of
25 her as well, just wondering, "Oh, gosh, is that going to

1 happen in my hearing today?"

2 Q Okay. You mentioned the judge's reference to
3 the previous hearing and the outburst that Ms. Abele had,
4 and I believe you testified that you were not present at
5 that time.

6 A I was not.

7 Q Okay. But you had spoken with other people
8 about it. Did you speak with anyone who was actually
9 present during the outburst in that when -- present with
10 Ms. Abele when it happened?

11 A I -- I did. I think I did.

12 Q Okay. Who was that? _____

13 A I'm not sure.

14 Q Okay.

15 A I was trying to think back on that. I'm not
16 sure if it was a clerk or somebody who told me that they
17 talked to the person who was there --

18 Q Okay.

19 A -- during that outburst.

20 Q Okay. So -- Thank you. Let's see.

21 And do you have any medical knowledge about hearing
22 disabilities?

23 A No.

24 Q Okay. Thank you for being patient with me as I
25 go through my notes here.

1 A No problem.

2 Q Is it your perception that when Ms. Abele said,
3 "I'm going to jail" the first time that she was screaming?

4 A I don't think she was screaming.

5 MS. CAIN: Okay. I believe that's all the
6 questions I have. Thank you.

7 REDIRECT EXAMINATION

8 BY MR. FOLAWN:

9 Q I have one followup, Ms. Barton, and that is
10 when Ms. Abele said, "I'm going to jail," was her back
11 turned to you?

12 A It was, and she was yelling. I'm thinking of
13 when she was actually saying that she was screaming, and
14 she was screaming. She was yelling loudly.

15 MR. FOLAWN: Thank you. I don't have any
16 other questions.

17 MS. CAIN: That's all for me. Thank you.

18 THE VIDEOGRAPHER: This concludes today's
19 testimony of Sheralyn Barton. The time is now 11:10 a.m.
20 We're going off the record.

21 (Deposition concluded at 11:10 a.m.)

22 (Signature waived.)

23
24
25

C E R T I F I C A T E

1 STATE OF WASHINGTON)
2) SS
3 County of King)

4 I, the undersigned Washington Certified Court
5 Reporter, pursuant to RCW 5.28.010 authorized to
6 administer oaths and affirmations in and for the State of
7 Washington, do hereby certify:

8 That the annexed and foregoing deposition of the
9 witness named herein was taken stenographically before me
10 and reduced to typewritten form under my direction.

11 I further certify that the witness examined will be
12 given an opportunity to review and sign their deposition
13 after the same is transcribed, unless indicated in the
14 record that the parties and witness waived the signing.

15 I further certify that all objections made at the
16 time of said examination to my qualifications or the
17 manner of taking the deposition or to the conduct of any
18 party have been noted by me upon the deposition.

19 I further certify that I am not a relative or an
20 employee or attorney or counsel of any of the parties to
21 said action, or a relative or employee of any such
22 attorney or counsel, and that I am not financially
23 interested in the said action or the outcome thereof.

24 I further certify that the witness before examination
25 was by me duly sworn to testify the truth, the whole
truth, and nothing but the truth.

I further certify that the deposition, as
transcribed, is a full, true and correct transcript of the
testimony, including questions and answers and all
objections, motions and exceptions of counsel made and
taken at the time of the foregoing examination and was
prepared pursuant to Washington Administrative Code
308-14-135, the transcript preparation format guideline.

IN WITNESS WHEREOF, I have hereunto set my hand and this
15th day of October, 2013.

Jeanne M. Gersten

Jeanne M. Gersten, RMR, CCR
Washington State Certified Court Reporter
WA CCR No. 2711
License effective until April 2, 2014
Residing at Seattle, Washington

