

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
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BY ERIN L. LENNON  
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No. 101086-9

IN THE SUPREME COURT  
OF THE STATE OF WASHINGTON

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JON MORRONE,

Petitioner,

v.

NORTHWEST MOTORSPORT, INC., a Washington  
corporation; NORTHWEST MOTORSPORT, LLC, a  
Washington limited liability company,

Respondents,

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PETITIONER'S STATEMENT OF  
ADDITIONAL AUTHORITY

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Attorneys for Petitioner Jon Morrone

Petitioner submits the attached Division I decision, *Rivas v. Russell*, No. 82948-3-I, 2022 WL 4078523 (Sept. 6, 2022), as additional authority. *Rivas* further demonstrates there is no longer a uniform and predictable standard in default proceedings—something which practitioners and trial court judges so desperately need.

The trial court in *Rivas*, as in this case, denied a defaulted defendant’s motion to vacate. *Rivas*, 2022 WL 4078523 at 4-5. In both cases, the defendant offered no viable/admissible evidence or excuse for its failure to timely appear. *See Id.* At that point, the similarities between these cases end, and the confusion begins. In *Rivas*, Division I properly deferred to the trial court’s weighing of the evidence in affirming the trial court’s decision to deny the motion to vacate. *Id.*, at 12 (citing “broad discretion”), 13-14. Indeed, Division I was very clear about this deferential standard: “The trial court applied the correct legal standard and the record supports the trial court’s findings.” *Id.* at 15. However, Division II set aside this rule and supplanted the trial court’s discretion and reasoned decision to deny the motion to vacate. This is irreconcilable.

In addition, when weighing the defenses offered by the defendant, Division I adhered to the “prima facie” *or* “strong or

virtually conclusive” standards established in *White v. Holm*, 73 Wn.2d 348, 352, 438 P.2d 581 (1968). *Id.*, at 7-10. Division II, however, imported the amalgamated “strong prima facie” standard in contravention of *White*. Put simply, practitioners and trial courts cannot fairly discern which test to use when the Courts of Appeal apply these tests inconsistently, and without explanation as to the use of one test over another.


Default judgments are frequently litigated. But, when clear rules are not followed or are inconsistently applied, and when different courts apply different tests without justification, confusion and dysfunction is created for practitioners and trial courts alike. Petitioner asks this Court to consider this recently issued authority and grant review so that clarity can be brought to default proceedings.

Dated this 18th day of October, 2022.

*Counsel certifies that this Statement of Additional Authority contains 332 words in compliance with RAP 10.8 and RAP 18.7(b).*

Respectfully submitted,

GORDON THOMAS HONEYWELL LLP

By   
Stephanie Bloomfield, WSBA No. 24251  
Attorney for Petitioner

## CERTIFICATE OF SERVICE

I declare that on the dated stated below, I caused the foregoing pleading to be served on Counsel for Respondents as follows:

Aaron Ornheim  
Philip Talmadge

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[phil@tal-fitzlaw.com](mailto:phil@tal-fitzlaw.com)

Dated this 18th day of October, 2022 at Tacoma, Washington.

/s/ Christine L. Scheall  
Christine Scheall, Paralegal  
GORDON THOMAS HONEYWELL LLP

**GORDON THOMAS HONEYWELL LLP**

**October 18, 2022 - 3:48 PM**

**Transmittal Information**

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