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**I. IDENTITY OF RESPONDENT**

Walquiria Gutierrez respectfully requests this Court deny review of the November 12, 2013, unpublished Court of Appeals opinion in Abawi v. Gutierrez, No. 69567-3-1 (2013). This decision upheld the dissolution order and parenting plan entered by the trial court.

**II. COURT OF APPEALS DECISION**

The Court of Appeals correctly decided this matter, affirming the decision of the trial court and holding that the Petitioner failed to make a good faith effort to provide a record in compliance with RAP 9.2(b). The Court of Appeals also denied the Petitioner's motion to supplement the record under RAP 9.10 and RAP 9.11. Petitioner filed a Motion for Reconsideration on December 2, 2013. The Court of Appeals denied the Petitioner's motion on December 11, 2013.

**III. ANSWER TO ISSUES PRESENTED FOR REVIEW**

1. The decision of the Court of Appeals is not in conflict with Washington law.
2. The decision of the Court of Appeals does not involve a significant question of law under the Constitution of the State of Washington or of the United States.

3. The decision of the Court of Appeals does not involve an issue of substantial public interest that should be determined by the Supreme Court.

#### **IV. ARGUMENT**

RAP 13.4(b) states that a petition for review will be accepted by the Supreme Court only if one of four conditions are met: (1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or (2) If the decision of the Court of Appeals is in conflict with a decision of another division of the Court of Appeals; or (3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or (4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court. The Court should deny review because the issues raised by the Petitioner fail to implicate any of the conditions for review outlined in RAP 13.4(b).

##### **A. THE DECISION OF THE COURT OF APPEALS IS NOT IN CONFLICT WITH WASHINGTON LAW.**

In its Unpublished Opinion, the Court of Appeals found that the Petitioner did not make a good faith effort to provide a record in compliance with 9.2(b) and denied the Petitioner's motion to supplement

the record under RAP 9.10 and 9.11. Unpublished Opinion at 6, 10. The Petitioner claims that in denying his motion to supplement the record under RAP 9.10, the Court of Appeals failed to properly consider State v. Wade, 138 Wn.2d 460, 979 P.2d 850 (1999), which Petitioner erroneously argues requires a presumption in favor of the party seeking to supplement the record where there is evidence of limited financial resources. No such presumption exists. In Wade, the Supreme Court held that while the Court does have authority under RAP 9.10 to allow for supplementation of the record, it “plainly does not impose a mandatory obligation to do so.” Id. at 465. Nowhere in its decision does the Court establish a presumption or require a court to contemplate the financial resources of a party when considering whether to allow for supplementation of the record under RAP 9.10.

It is well settled under Washington law that an insufficient record on appeal precludes review of the alleged errors. See RAP 9.2(b); Bulzomi v. Dep’t of Labor & Indus., 72 Wn. App. 522, 525, 864 P.2d 996 (1994); Dash Point Village Assocs. v. Exxon Corp., 86 Wn. App. 596, 612, 937 P.2d 1148 (1999); Rhinevault v. Rhinevault, 91 Wn. App. 688, 692, 790 P.2d 1266 (1990); In re Marriage of Haugh, 58 Wn. App. 1, 6, 790 P.2d 1266 (1990); State v. Wheaton, 121 Wn.2d 347, 365, 850 P.2d 507 (1993). The decision of the Court of Appeals that the record provided by the

Petitioner was insufficient to establish any abuse of discretion by the trial court is consistent with Washington law. The Petitioner's position that the Unpublished Opinion of the Court of Appeals is contrary to established law is without merit and thus, his Petition for Review should be denied.

**B. THE DECISION OF THE COURT OF APPEALS  
DOES NOT INVOLVE A SIGNIFICANT  
CONSTITUTIONAL QUESTION.**

The Petitioner does not argue that the decision of the Court of Appeals involves a constitutional issue and the Respondent agrees that this matter does not address any constitutional issues.

**C. THE DECISION OF THE COURT OF APPEALS  
DOES NOT INVOLVE AN ISSUE OF  
SUBSTANTIAL PUBLIC INTEREST THAT  
SHOULD BE DETERMINED BY THE SUPREME  
COURT.**

The Petitioner does not argue that the decision of the Court of Appeals involves an issue of substantial public interest and the Respondent agrees that this matter does not address any issues of substantial public interest.

## V. CONCLUSION

The Petitioner has not provided this Court with a basis for accepting review of this case. The Petitioner failed to establish that the Unpublished Decision of the Court of Appeals is in conflict with existing legal precedent, that it addresses significant constitutional issues, or that it involves issues of substantial public interest. The Respondent respectfully requests that the Petitioner's Petition for Review be denied.

RESPECTFULLY SUBMITTED this 28th day of March, 2014.

### NORTHWEST JUSTICE PROJECT

By Lindy H. MacMillan  
Lindy H. MacMillan, WSBA #46107  
Attorney for Respondent, Walquiria Gutierrez

CERTIFICATE OF SERVICE

I certify that on the 28th day of March, 2014, I mailed a true and correct copy of Walquiria Gutierrez's Answer to Masood Abawi's Petition for Review to the Supreme Court by U.S. mail, postage prepaid, to:

Masood Abawi  
14548 SE Fairwood Blvd.  
Renton, WA 98058

Dated: March 28th, 2014

  
Lindy MacMillan  
Attorney for Respondent

NORTHWEST JUSTICE PROJECT  
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Seattle, WA 98104  
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## OFFICE RECEPTIONIST, CLERK

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**To:** Lindy MacMillan  
**Subject:** RE: 89825-1 In re Marriage of Abawi and Gutierrez - ANSWER TO PETITION FOR REVIEW

Received 3-28-14

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

**From:** Lindy MacMillan [mailto:[lindym@nwjustice.org](mailto:lindym@nwjustice.org)]  
**Sent:** Friday, March 28, 2014 10:28 AM  
**To:** OFFICE RECEPTIONIST, CLERK  
**Subject:** 89825-1 In re Marriage of Abawi and Gutierrez - ANSWER TO PETITION FOR REVIEW

Please find attached an Answer to Petition for Review and Certificate of Service to be filed in the following case:

No. 98925-1

*In re the Marriage of: Masood Abawi and Walquiria Gutierrez*

Filed by: Lindy MacMillan, WSBA #46107  
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