Supreme Court No. 90640-8
Court of Appeals Case No. 43633-7-II

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

In Re the Marriage of:

PAUL D. SHOEMAKER
Plaintiff - Petitioner

v.

DAWN M. SHOEMAKER (NKA HARRIS)
Respondent - Respondent.

RESPONSE TO PETITION FOR REVIEW

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I. IDENTITY OF RESPONDING PARTY

Dawn Marie Harris (FKA Shoemaker), the respondent below, is the respondent in this petition for review of decision of the Court of Appeals Division II, terminating review after unpublished decision dated July 15, 2014.

II. COURT OF APPEALS DECISION

Court of Appeals, Division II, unpublished decision entered on July 15, 2014 denying the appellant's appeal.

III. ISSUES PRESENTED FOR REVIEW

I. Whether this Court should deny Mr. Shoemaker's Petition for Review under RAP 13.4(b), when he fails to meet his burden of showing this matter meets any of the four bases for this Court to accept review.

II. Whether the Superior Court ruling and the Court of Appeals Decision correctly determined that the protections of the SSCRA were met.

III. Whether the Superior Court correctly restricted Mr. Shoemaker's residential time with the parties' son under RCW 26.09.191.

IV. STATEMENT OF THE CASE

The parties were both residents of Washington State prior to Mr. Shoemaker entering the military. The parties were married in Washington

State, and Mr. Shoemaker entered the United States Air Force. They were subsequently transferred to Georgia for Mr. Shoemaker's military service. (CP 703 - 711). Thereafter, in 2006 both parties filed actions in Washington State regarding the status of their marriage and placement of their young son. Mr. Shoemaker filed his Petition on March 16, 2006 (Amended on March 17, 2006) in Kitsap County. Ms. Harris filed in Pierce County, and the Pierce County matter was dismissed by agreement. The matter proceeded in Kitsap County by agreed Order dated June 12, 2006. Shortly thereafter, an agreed Order regarding an attempted reconciliation was entered in the Kitsap County matter.

Nothing further happened in the Kitsap County Superior Court matter for almost two years. The Clerk's office then dismissed the case administratively for non-action via Order dated January 16, 2008. (CP 349). Subsequently, the family moved together to Utah, where Mr. Shoemaker was next stationed. After that, they moved to Japan together, again due to Mr. Shoemaker's military service. Mr. Shoemaker was deployed after about a year of being stationed in Japan. Ms. Harris and their child remained in Japan during Mr. Shoemaker's deployment.

After the deployment ended, Mr. Shoemaker returned to Japan and the family. Shortly thereafter and unknown to Ms. Harris, Mr. Shoemaker retained counsel in Kitsap County, who presented a Motion to Vacate the

Clerk's administrative Order dismissing the 2006 Dissolution and re-instating the 2006 Kitsap County action. (CP 352 - 355). Mr. Shoemaker's Motion was granted which allowed the previously dismissed Kitsap County Dissolution matter to proceed.

With no notice to Ms. Harris, on September 10, 2010, Mr. Shoemaker, through counsel, obtained an Ex Parte Order which placed their son, Ethan, with Mr. Shoemaker. (CP 356 - 358). Mr. Shoemaker presented the Order to his Command in Japan whereupon it was enforced. Ms. Harris was removed from the residence without their son. This was Ms. Harris' first notice of any of this. She then retained counsel in Washington to address the temporary placement and residence issues in Kitsap County.

Thus, while on active duty and from his station in Kadena Japan, Mr. Shoemaker successfully orchestrated reviving his Kitsap County Petition for Dissolution, vacating an administrative Order of Dismissal, and obtaining an Ex Parte Order removing Ms. Harris from the family residence and placing the parties' young son with him. Ms. Harris thereafter responded and, after several contested hearings, she received temporary placement of the parties' son, and permission to return to the United States with their son, which she did. Ms. Harris, was forced from the residence by the Ex Parte Order obtained by Mr. Shoemaker. With no

other options, she returned to the United States and resided with her father in New York. Mr. Shoemaker then fired his attorney and proceeded pro se. Mr. Shoemaker, pro se, prepared and filed an interlocutory appeal in Division II of the Court of Appeals, of a Temporary Order, and an objection to Washington having jurisdiction. (CP 545). At about this time, the United States Air Force accommodated Mr. Shoemaker so he could address these matters by transferring him back to Joint Base Lewis McChord.

When the interlocutory appeal was denied Mr. Shoemaker, still pro se, apparently took leave and went to Utah. While in Utah, Mr. Shoemaker filed for dissolution and custody in that State while his dissolution in Kitsap County was still pending. In Utah, Mr. Shoemaker attempted to obtain an Ex Parte Order transferring their son to him using the Utah Courts while Ms. Harris was residing in New York with her father. (CP 703 - 711).

All of these additional actions took many months and substantial fees to resolve. Mr. Shoemaker, still pro se, then filed several additional matters, including contempt "style" motions, as well as additional actions in the Federal Court for the Western District of Washington. (CP 703 - 711). Each of these many actions has had to be addressed by Ms. Harris (as well as the numerous other defendant's named by Mr. Shoemaker) and

each was eventually dismissed, but only after much effort, stress and substantial costs were incurred by Ms. Harris and others.

Ultimately, as scheduled, on March 5, 2012, this matter proceeded to trial in the Superior Court of Washington in Kitsap County. Mr. Shoemaker failed to appear for his trial despite the fact he was residing in Kitsap County at that time (and remains there to this day). In its letter ruling after trial, the Judges in both the Superior Court, and the Court of Appeals, found Mr. Shoemaker had substantial and actual notice of the trial date. It was also noted on the day of trial his mother (and several supporters) appeared, yet Mr. Shoemaker did not. His mother informed the Court Mr. Shoemaker was under medical stress and could not appear. Mr. Shoemaker was given an opportunity to show his military service prevented him from appearing, however, all he provided was a doctor's note (obtained the evening *after* trial started), stating he was confined to his quarters for 48 hours. The note was based on "illness", not military service.

Because Ms. Harris had flown out to Kitsap County from New York for trial, had return tickets and obligations for work, and had to care for their son, she was allowed to testify on the scheduled trial date. The trial was then continued for over a week to allow Mr. Shoemaker to appear. When trial resumed, Mr. Shoemaker appeared and conducted

cross examination of Ms. Harris, who was allowed to appear telephonically. He also provided his direct testimony to the Court. All exhibits were available to him, his mother, at the time of trial. Final Orders in the dissolution were entered, after trial, on May 22, 2012, along with a Memorandum Decision. (CP 703 - 711).

Mr. Shoemaker, still pro se, filed the Appeal, (which is the subject of this Petition to Review), on June 20, 2012. (CP 750 - 761). The Appellate Court decision was not filed until July 15, 2014, *over two years after his appeal was filed.* The Court of Appeals discussed some of the dilatory tactics employed by Mr. Shoemaker, which caused the lengthy delay in the decision being filed.

The delay was based inter alia upon Mr. Shoemaker, pro se, filing a series of motions, objections, and demands. For example, Mr. Shoemaker sought discretionary review to this Court regarding an Order of the Court of Appeals denial of his third amended brief. While that issue was pending, on September 16, 2013, Mr. Shoemaker filed a "Notice with Appendix to Judge's Panel Ruling dated September 4, 2013 ..." which was 88 pages. On the same date, he filed a "Fourth Amended Opening Brief and Appendix" and "Fourth Amended Appendix" (separate documents of 54 pages and 88 pages respectively were filed at that time). The Court of Appeals entered an Order Denying his Motion to File Amended Opening

Brief on September 18, 2013. Mr. Shoemaker, still pro se, moved for discretionary review to this Court, which, over objection, set the matter for oral argument. Oral argument was heard on this issue, and this Court denied his motion and remanded to the Court of Appeals for further proceedings.

Mr. Shoemaker, still pro se, prepared and filed a Motion to Stay the appellate court proceedings, which was granted. On November 8, 2013 this Court denied Mr. Shoemaker's Motion for Discretionary Review and remanded the matter for further proceedings in the Court of Appeals.

The Court of Appeals entered its decision on July 15, 2014, and Mr. Shoemaker, represented by counsel again, timely filed his Petition for Review.

V. ARGUMENT

a. This Court should deny Mr. Shoemaker's Petition for Review under RAP 13.4(b) because he fails to meet his burden of showing this matter meets any of the four bases for this Court to accept Review.

RAP 13.4(b) sets forth four conditions under which the Supreme Court may accept review of a decision of the Court of Appeals terminating review of the lower court's decision. Mr. Shoemaker fails to meet his burden of showing that any of these bases have been met and, thus, his Petition for Review should be denied.

First, this court may accept review if the decision of the Court of Appeals is in conflict with a decision of the Supreme Court. RAP 13.4(b)(1). Here, Mr. Shoemaker provides no argument, or support for this proposition, thus subsection (1) is not met.

Second, this court may accept review if the decision is in conflict with another decision of the Court of Appeals. RAP 13.4(b)(2). Here, there is no such conflict cited, as none exists. Thus, subsection (2) is not met.

Third, this court may accept review if a significant question of law under the Constitution of the State of Washington, or of the United States is involved. RAP 13.4(b)(3). Here, while such is alleged, it has been improperly framed as well as improperly applied. Thus, subsection (3) is not met.

Here, the facts clearly do not support an inquiry and discussion regarding the SSCRA and how it is to be interpreted and/or applied in Washington cases. Mr. Shoemaker failed to meet the strict requirement of properly invoking the protections of SSCRA, which is fatal to his claim. In *In re Marriage of Herridge*, the Court states as follows:

> Congress substantially amended the Act in 2003. As discussed above, the SCRA now mandates that an application for a stay by a servicemember contain specific information in support of that request. 50 U.S.C.App. § 522. Although no Washington court has yet considered the

> issue, those courts that have assessed the effect of the 2003 amendments have generally held that a servicemember must now comply with the express requirements of that statute in order to be entitled to a mandatory stay of proceedings. See, e.g., *Teas v. Ferguson*, No. 07–5146, 2007 WL 4106290 (W.D.Ark.2007) (motion for stay denied where application did not meet statutory requirements); *King v. Irvin*, 273 Ga.App. 64, 614 S.E.2d 190 (2005) (mandatory stay not required where no statement **961 from commanding officer); *Bradley*, 282 Kan. 1, 137 P.3d 1030 (same); *In re Walter*, 234 S.W.3d 836 (Tex.App.2007) (same). Thus, a stay of proceedings is mandatory only where "the motion includes the information required by the statute for the court to determine whether a stay is needed." MARK. E. SULLIVAN, A judge's guide to the servicemembers civil relief act, AMERICAN BAR ASSOCIATION FAMILY LAW SECTION, at p. 3, available at: http://apps.americanbar.org/family/military/scrajudgesguidecklist.pdf (last visited June 18, 2012).

In re Marriage of Herridge, 169 Wn. App. 290, 299-300, 279 P.3d 956 (2012).

Clearly, Mr. Shoemaker failed to follow these requirements and, thus, was not entitled to a mandatory stay of proceedings on that basis alone. Mr. Shoemaker also fails to assert anywhere how his military service "materially affected" his ability to defend himself in this matter. Frankly, the ability to "defend" himself should be the end of the inquiry, as it was Mr. Shoemaker who initiated these proceedings while on active duty, which will be discussed further below. It was he who initiated and

pursued the numerous actions, motions, appeals, etc. He "defended" nothing.

Finally, fourth, this court may accept review of a decision of the Court of Appeal if the issue involves an issue "of substantial public interest that should be determined by the Supreme Court." RAP 13.4(b)(4). Again, while such is alleged by Mr. Shoemaker, it has been improperly framed as well as improperly applied by appellant.

If the appellant had properly invoked the SSCRA *and* the military had not accommodated his ability to appear and defend himself *and* his participation in this matter had been adversely materially affected *and* the Court proceeded to hear the matter and enter its ruling by default, then the appellant may have a basis for meeting this subsection. He did not. Therefore, this is simply not the case for this Court to "discuss and instruct lower Courts" regarding the proper application of the SSCRA and its laudable protections. Such is simply not the case here, as the protections were both met as well as inapplicable with Mr. Shoemaker being the party pursuing the various matters, of which this matter is but one.

Based upon the appellant's failure to meet any of the requirements of RAP 13.4(b), this Court should deny Mr. Shoemaker's Petition for Review.

b. This Court should deny review because the Superior Court ruling, and the Court of Appeals Decision, correctly determined that the protections of the SSCRA were met.

The Court in *Herridge* discussed the policy and purpose supporting the SSCRA where it stated as follows:

> The purpose of the SCRA "is to suspend enforcement of civil liabilities of persons in the military service of the United States in order to enable such persons to devote their entire energy to the defense needs of the Nation." *Engstrom v. First Nat'l Bank of Eagle Lake*, 47 F.3d 1459, 1462 (5th Cir.1995); 50 U.S.C. § 502. The provisions of the Act are to be "liberally construed." *Engstrom*, 47 F.3d at 1462. Nevertheless, the Act "is not to be used as a sword against persons with legitimate claims," and a court must give "equitable consideration of the rights of parties to the end that their respective interests may be properly conserved." *Engstrom*, 47 F.3d at 1462; see also *Runge v. Fleming*, 181 F. Supp. 224, 228 (D.C. Iowa 1960) ((noting that the Act is not intended as an "'instrument for the oppression of opposing parties'") (quoting *State ex rel. Swanson v. Heaton*, 237 Iowa 564, 566, 22 N.W.2d 815 (1946))).

Herridge, 169 Wn. App. at 297. Here, the purposes of the Act were met. Mr. Shoemaker not only "received notice of the action" *he is the party who brought it.* It is clear that his now attempting to invoke the protection of the SSCRA is being used exactly as was described as being improper by the Courts above; specifically, using it as a "sword" and as an "instrument of oppression of opposing parties."

As discussed above, Mr. Shoemaker had the duty to meet the specific statutory requirements in his application for a stay of proceedings

and failed to do so. The court in *Herridge* goes on to further describe the servicemember's responsibilities to be afforded the protections of the Act where it states:

> Where a servicemember has received notice of an action or proceeding, a stay may be obtained "[a]t any stage before final judgment in a civil action or proceeding" either "upon application by the servicemember" or by the court "on its own motion." 50 U.S.C. § 522(b)(1). In order to obtain a stay by application, however, the application must include the following:
>
> (A) A letter or other communication setting forth facts stating the manner in which current military duty requirements materially affect the servicemember's ability to appear and stating a date when the servicemember will be available to appear.
>
> (B) A letter or other communication from the servicemember's commanding officer stating that the servicemember's current military duty prevents appearance and that military leave is not authorized for the servicemember at the time of the letter.
>
> 50 U.S.C.App. § 522(b)(2). Where a servicemember has made proper application for a stay of proceedings, a 90–day stay is mandatory. 50 U.S.C.App. § 522(b)(1). It is within a court's discretion to issue a stay where the servicemember has not complied with the provisions of the statute. In re *Marriage of Bradley*, 282 Kan. 1, 7, 137 P.3d 1030 (2006).

Herridge, 169 Wn. App. at 298. In *Herridge*, the court described the servicemembers' attempts to invoke the act as follows:

> Cecil asserts that he complied with the requirements of the Act by (1) explaining in writing that he would be unavailable to appear at the November 2009 hearing because he would "be deployed at that time over seas [sic]" and (2) attaching a copy of a letter from his commanding officer indicating that Cecil would be "deployed November 2009 to June 2010." However, Cecil does not dispute that

> his letter to the court did not state a date upon which he would be available to appear. Nor does he contend that the letter from his commanding officer apprised the trial court of the availability of military leave to Cecil at the time of the letter. Instead, he asserts that, pursuant to a liberal construction of SCRA, his request for a stay was sufficient.

Herridge, 169 Wn. App. at 298. The *Herridge* Court therefore found that:

> Cecil is correct that, pursuant to a former version of the SCRA, a bare assertion of active military service was, in some instances, determined to be sufficient for a mandatory *299 stay.8 See, e.g., Parker v. Parker, 207 Ga. 588, 589, 63 S.E.2d 366 (1951). Such a stay of proceedings was required where (1) the servicemember (or a person on his or her behalf) applied for the stay and (2) the court determined that the servicemember's ability to prosecute or defend the action was, in fact, materially affected by reason of his or her military service. Former 50 U.S.C. App. § 521 (1940). The former statute was silent regarding what proof was necessary to demonstrate an adverse and material effect on the servicemember. Although a mere showing of active military duty was deemed insufficient, *Boone v. Lightner*, 319 U.S. 561, 575, 63 S.Ct. 1223, 87 L.Ed. 1587 (1943), stays were generally granted where the servicemember produced some evidence establishing that the duties of military service would have a significant effect on his or her ability to comply with the legal obligation in question. See, e.g., *Chaffey v. Chaffey*, 59 Cal.2d 792, 796–98, 31 Cal.Rptr. 325, 382 P.2d 365 (1963).

Herridge, 169 Wn. App. at 298.

The *Herridge* Court held that strict compliance with the statute was required and such requirement provided a fair balance between the

competing interests of the servicemember and the other party to an action, where it stated:

> "Moreover, although the primary purpose of the SCRA is the protection of servicemembers, the new requirements (which clearly burden servicemembers) reflect Congress' concerns with the rights of opposing parties and the efficient administration of judicial proceedings. As a result of the 2003 amendments, a servicemember must indicate his or her future availability for further proceedings and must provide actual proof that he or she is truly unavailable to defend or prosecute an action as a result of his or her military duties. 50 U.S.C. App. §522(b).

Herridge, 169 Wn. App. at 301.

Not only did Mr. Shoemaker fail to properly invoke the protections of the SSCRA, he would not have qualified for them had he properly attempted to invoke them. The SSCRA requires the servicemember to show that his service materially affects his ability to defend himself. Presumably it requires proof of a material *adverse* effect, which is not alleged by Mr. Shoemaker, nor could it be found that such existed. In fact, the military transferred Mr. Shoemaker back to JBLM specifically to assist him and to allow him to "defend" this matter, which HE brought.

The vast amount of Petitions, Motions, Objections, etc. brought by Mr. Shoemaker, both with and without counsel as well as from Japan as well as after being transferred to Washington clearly show he was fully able to pursue this matter and that he was not materially affected by his

service. He prepared and filed matters in other states as well as the Federal Court and at several levels of the Courts in Washington. How can he possibly argue he was somehow detrimentally affected by his service? He simply cannot.

Yet another reason Mr. Shoemaker's Petition should be denied is because the SSCRA, as amended, now allows for a servicemember to waive the protections of the Act. See 50 App. U.S.C.A. § 517. Here, while his waiver is contemplated to be effected at the time a servicemember enters into a contract, we argue it should be analogized and apply in this matter, where Mr. Shoemaker was the party who initiated proceedings (when he Vacated the Order Dismissing his prior Petition for Dissolution). He was the party who obtained the initial Ex Parte Order removing Ms. Harris from the residence as well as who filed numerous motions, petitions, etc. in many courts in and outside of the State of Washington. To allow a servicemember to file all these actions and motions, etc. and then to claim they need "protection" because they are on active duty strains credulity.

Throughout Mr. Shoemaker's Petition for Review, he uses cases decided based upon the original SSCRA to support his position. Mr. Shoemaker repeatedly asserts requirements and protections referred to in cases prior to the SSCRA being substantially amended in 2003. *In re*

Marriage of Herridge clearly discusses the application of the current Act and the servicemembers' responsibilities to properly comply with its requirements before being afforded its protections. To allow Mr. Shoemaker to Vacate the Dismissal and renew his Petition for Dissolution, obtain temporary custody, and then only after losing custody and losing appeals in Washington as well as filing and pursuing actions in Utah and the Federal Courts, claim he was materially affected by his active duty service and should be afforded the protections of the SSCRA, makes a mockery of the intention of this laudable Act.

c. The Superior Court correctly restricted Mr. Shoemaker's residential time with the parties' son under RCW 26.09.191.

RCW 26.09.191 requires at:

> (2)(a) The parent's residential time with the child shall be limited if it is found that the parent has engaged in any of the following conduct: (i) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (ii) physical, sexual, or a pattern of emotional abuse of a child; (iii) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm; or (iv) the parent has been convicted as an adult of a sex offense . . .

RCW 26.09.191(2)(a). The trial court found that there was ample evidence to support a restriction of Mr. Shoemaker's residential time with his son. (CP 680 – 687). In its Memorandum dated May 22, 2012, the trial

court relied upon: temporary restraining orders entered earlier in the case; Mr. Shoemaker's failure to return the parties' son to Ms. Harris after scheduled visits (one incident resulted in Mr. Shoemaker's failure to return the parties' son to Ms. Shoemaker for over two weeks); Mr. Shoemaker harassed Ms. Harris; Mr. Shoemaker threatened to move back in with Ms. Harris, and on occasion, would refuse to leave Ms. Harris' residence; Mr. Shoemaker's behavior became increasingly "odd, hostile, and bizarre;" the Air Force issued a No Contact Order due to Mr. Shoemaker's behavior; Mr. Shoemaker was found in contempt for violating the parenting plan and restraint provisions; Mr. Shoemaker failed to cooperate with child support orders; and the Air Force commander issued two reports which found Mr. Shoemaker's behavior fit the criteria for "child emotional maltreatment" as well as "adult emotional maltreatment." (CP 680 - 687).

The Final Parenting Plan entered on May 22, 2012, listed the following as limiting factors in support of residential restriction: willful abandonment; physical, sexual, or a pattern of emotional abuse; and a history of acts of domestic violence. The order lists several other factors including: neglect or substantial nonperformance of parenting functions; a long-term emotional or physical impairment which interferes with the performance of parenting functions as defined by RCW 29.09.004; the

absence or substantial impairment of emotional ties between the parent and child; and the abusive use of conflict by the parent which creates the danger of serious damage to the child's psychological development. (CP 689-694).

The trial court's findings, as reflected in the Memorandum Decision, as well as the Final Parenting Plan fully supports the restrictions on Mr. Shoemaker's time and contact with his son under RCW 26.09.191.

I) CONCLUSION

The burden is on Mr. Shoemaker to prove to this Court that his Petition for Review falls within the provisions of RAP 13.4(b) and he has failed to do so. His petition for Review should be denied.

Further, Mr. Shoemaker failed to properly invoke the protections of the SSCRA, which is fatal to his request for relief. But, more importantly, he fails to show how his military service adversely "materially affected" his ability to address this matter. Both Courts below accurately and correctly found Mr. Shoemaker's allegations that the protections afforded by the SSCRA were somehow violated were without merit.

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Dated this 9th day of September 2014.

RESPECTFULLY SUBMITTED,

CAMERON J. FLEURY
WSBA #23422
Attorneys for Respondent

APPENDIX

Statutes

50 App. U.S.C.A. § 522(b)

(b) Stay of proceedings

(1) Authority for stayAt any stage before final judgment in a civil action or proceeding in which a servicemember described in subsection (a) is a party, the court may on its own motion and shall, upon application by the servicemember, stay the action for a period of not less than 90 days, if the conditions in paragraph

(2) are met.(2) Conditions for stayAn application for a stay under paragraph (1) shall include the following:

(A) A letter or other communication setting forth facts stating the manner in which current military duty requirements materially affect the servicemember's ability to appear and stating a date when the servicemember will be available to appear.

(B) A letter or other communication from the servicemember's commanding officer stating that the servicemember's current military duty prevents appearance and that military leave is not authorized for the servicemember at the time of the letter.

50 App. USCA § 517

(a) In general

A servicemember may waive any of the rights and protections provided by this Act [sections 501 to 515 and 516 to 597b of this Appendix]. Any such waiver that applies to an action listed in subsection (b) of this section is effective only if it is in writing and is executed as an instrument separate from the obligation or liability to which it applies. In the case of a waiver that permits an

action described in subsection (b), the waiver is effective only if made pursuant to a written agreement of the parties that is executed during or after the servicemember's period of military service. The written agreement shall specify the legal instrument to which the waiver applies and, if the servicemember is not a party to that instrument, the servicemember concerned.

(b) Actions requiring waivers in writing

The requirement in subsection (a) for a written waiver applies to the following:

(1) The modification, termination, or cancellation of—

(A) a contract, lease, or bailment; or

(B) an obligation secured by a mortgage, trust, deed, lien, or other security in the nature of a mortgage.

(2) The repossession, retention, foreclosure, sale, forfeiture, or taking possession of property that—

(A) is security for any obligation; or

(B) was purchased or received under a contract, lease, or bailment.

(c) Prominent display of certain contract rights waivers

Any waiver in writing of a right or protection provided by this Act [sections 501 to 515 and 516 to 597b of this Appendix] that applies to a contract, lease, or similar legal instrument must be in at least 12 point type.

(d) Coverage of periods after orders received
For the purposes of this section—

(1) a person to whom section 106 [section 516 of this Appendix] applies shall be considered to be a servicemember; and

(2) the period with respect to such a person specified in subsection (a) or (b), as the case may be, of section 106 [section 516 of this Appendix] shall be considered to be a period of military service.

RCW 26.09.191(2)(a)

(2)(a) The parent's residential time with the child shall be limited if it is found that the parent has engaged in any of the following conduct: (i) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (ii) physical, sexual, or a pattern of emotional abuse of a child; (iii) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm; or (iv) the parent has been convicted as an adult of a sex offense . . .

Rules of Appellate Procedure

RAP 13.4(b)

(b) Considerations Governing Acceptance of Review. A petition for review will be accepted by the Supreme Court only:

(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 another decision 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.

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Subject: RE: Shoemaker, No 90640-8

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Subject: Shoemaker, No 90640-8

In re Paul Shoemaker v. Dawn Shoemaker
Supreme Court Case No. 90640-8
Submitted by Cameron J. Fleury, WSBA 23422
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