

70206-8

70206-8

NO. 70206-8-I

IN THE COURT OF APPEALS  
OF THE STATE OF WASHINGTON  
DIVISION I

---

**BOUCHRA AGOUR,**

**Appellant,**

**vs.**

**IAN M. DALRYMPLE and JANE DOE DALRYMPLE, husband and wife and the  
marital community thereof,**

**Respondents.**

---

**APPEAL FROM KING COUNTY SUPERIOR COURT  
Honorable Joan DuBuque, Judge**

---

**BRIEF OF RESPONDENTS**

---

**REED McCLURE**  
By **Jason E. Vacha**  
**Attorneys for Respondents**

**Address:**

**Financial Center  
1215 Fourth Avenue, Suite 1700  
Seattle, WA 98161-1087  
(206) 292-4900**

**FILED  
COURT OF APPEALS DIV I  
STATE OF WASHINGTON  
2014 FEB 13 PM 1:47**

**TABLE OF CONTENTS**

	<b>Page</b>
<b>I. NATURE OF THE CASE.....</b>	<b>1</b>
<b>II. ISSUES PRESENTED .....</b>	<b>2</b>
<b>III. STATEMENT OF CASE.....</b>	<b>3</b>
<b>A. STATEMENT OF RELEVANT FACTS.....</b>	<b>3</b>
<b>B. STATEMENT OF PROCEDURE .....</b>	<b>4</b>
<b>IV. ARGUMENT .....</b>	<b>6</b>
<b>A. MOTION TO CONSOLIDATE.....</b>	<b>6</b>
<b>1. Standard of Review .....</b>	<b>6</b>
<b>2. The Trial Court Did Not Abuse Its Discretion in Denying Ms. Agour’s Motion to Consolidate .....</b>	<b>7</b>
<b>B. THE TRIAL COURT PROPERLY GRANTED SUMMARY JUDGMENT WHERE THERE WAS NO MATERIAL ISSUE OF FACT THAT IAN DALRYMPLE HAD NOT BEEN SERVED .....</b>	<b>13</b>
<b>1. Standard of Review .....</b>	<b>13</b>
<b>2. Mr. Dalrymple Did Not Receive Service of Process .....</b>	<b>13</b>
<b>a. The Undisputed Facts Show that Mr. Dalrymple Was Never Personally Served .....</b>	<b>15</b>
<b>b. Appellant Fails to Raise an Issue of Fact .....</b>	<b>16</b>
<b>i. M. James’ Vague Description Does Not Create an Issue of Material Fact.....</b>	<b>17</b>

ii.	<b>Evidence that Ian Dalrymple and Henry Winsor Both Have American Accents Does Not Create an Issue of Material Fact.....</b>	<b>19</b>
iii.	<b>The Residence Is Not in Dispute.....</b>	<b>20</b>
c.	<b>There Was No Substitute Service of Process.....</b>	<b>21</b>
3.	<b>Plaintiff’s Lawsuit Must Be Dismissed Where Plaintiff Has Not Obtained Proper Service Within the Applicable Statute of Limitations .....</b>	<b>27</b>
C.	<b>THE TRIAL COURT PROPERLY DENIED MS. AGOUR’S MOTION TO CONTINUE MR. DALRYMPLE’S MOTION FOR SUMMARY JUDGMENT.....</b>	<b>28</b>
1.	<b>Standard of Review .....</b>	<b>28</b>
2.	<b>The Trial Court Did Not Abuse Its Discretion in Denying Ms. Agour’s Motion to Continue Where Ms. Agour Offered No Reason for the Continuance in Her Brief.....</b>	<b>28</b>
3.	<b>The Trial Court Did Not Abuse Its Discretion in Denying the Continuance Because There Is No Factual Dispute that Would Require a Fact Finding Hearing.....</b>	<b>29</b>
4.	<b>The Trial Court Did Not Abuse Its Discretion in Denying the Continuance Where Ms. Agour Had Ample Time to Conduct Depositions or Discovery Before the Summary Judgment Hearing.....</b>	<b>29</b>
I.	<b>CONCLUSION.....</b>	<b>30</b>

## TABLE OF AUTHORITIES

### Washington Cases

	<b>Page</b>
<i>Brice v. Starr</i> , 93 Wash. 501, 161 P. 347 (1916).....	11
<i>Briggs v. Nova Services</i> , 135 Wn. App. 955, 147 P.3d 616 (2006), <i>aff'd</i> , 168 Wn.2d 794, 213 P.3d 910 (2009).....	28
<i>Cofer v. County of Pierce</i> , 8 Wn. App. 258, 505 P.2d 467 (1973).....	28
<i>Gerean v. Martin-Joven</i> , 108 Wn. App. 963, 33 P.3d 427 (2001), <i>rev. denied</i> , 146 Wn.2d 1013 (2002).....	14
<i>Greenhalgh v. Dep't of Corr.</i> , 160 Wn. App. 706, 248 P.3d 150 (2011) .....	16
<i>Harvey v. Obermeit</i> , 163 Wn. App. 311, 261 P.3d 671 (2011) .....	29
<i>Hawley v. Mellem</i> , 66 Wn.2d 765, 405 P.2d 243 (1965).....	8
<i>Hines v. Data Line Sys., Inc.</i> , 114 Wn.2d 127, 787 P.2d 8 (1990).....	13
<i>In re Marriage of Greenlaw v. Smith</i> , 67 Wn. App. 755, 840 P.2d 223 (1992), <i>rev'd</i> , 123 Wn.2d 593, 869 P.2d 1024 (1994) .....	9
<i>In re Welfare of L.N.B. – L</i> , 157 Wn. App. 215, 237 P.3d 944 (2010) .....	21
<i>Jones v. State</i> , 170 Wn.2d 338, 242 P.3d 825 (2010).....	16
<i>Jones v. Stebbins</i> , 122 Wn.2d 471, 860 P.2d 1009 (1993) .....	14
<i>Kesinger v. Logan</i> , 113 Wn.2d 320, 779 P.2d 263 (1989).....	113
<i>Lepeska v. Farley</i> 67 Wn. App. 548, 833 P.2d 437 (1992) .....	14
<i>Morris v. McNicol</i> , 83 Wn.2d 491, 519 P.2d 7 (1974).....	15
<i>Nat'l Bank of Wash. v. Equity Investors</i> , 86 Wn.2d 545, 546 P.2d 440 (1976) .....	7, 8

<i>Rains v. State</i> , 100 Wn.2d 660, 674 P.2d 165 (1983).....	11
<i>Rodriguez v. James-Jackson</i> , 127 Wn. App. 139, 111 P.3d 271 (2005) .....	13, 14
<i>Salts v. Estes</i> , 133 Wn.2d 160, 943 P.2d 275 (1997) .....	21, 22, 23, 24, 25, 26, 27
<i>Sheldon v. Fettig</i> , 129 Wn.2d 601, 919 P.2d 1209 (1996) .....	14
<i>State v. Haydel</i> , 122 Wn. App. 365, 95 P.3d 760 (2004) .....	9
<i>State v. Hegge</i> , 53 Wn. App. 345, 766 P.2d 1127 (1989) .....	9
<i>State ex rel. Evergreen Freedom Found. v. Wash. Educ. Ass'n</i> , 111 Wn. App. 586, 49 P.3d 894 (2002), <i>rev. denied</i> , 148 Wn.2d 1020 (2003).....	11
<i>State e. rel. Sperry v. Superior Court for Walla Walla County</i> , 41 Wn.2d 670, 251 P.2d 164 (1952) .....	6, 7
<i>Thayer v. Edmonds</i> , 8 Wn. App. 36, 503 P.2d 1110 (1972), <i>rev. denied</i> , 82 Wn.2d 1001 (1973).....	14
<i>United Pac. Ins. Co. v. Boyd</i> , 34 Wn. App. 372, 661 P.2d 987 (1983) .....	13
<i>Wichert v. Cardwell</i> , 117 Wn.2d 148, 812 P.2d 858 (1991) .....	24, 25
<i>Wilson v. Steinbach</i> , 98 Wn.2d 434, 656 P.2d 1030 (1982).....	13
<i>Woodruff v. Spence</i> , 88 Wn. App. 565, 945 P.2d 745 (1997), <i>rev. denied</i> , 135 Wn.2d 1010 (1998).....	14

### Statutes

RCW 4.16.080 .....	27
RCW 4.28.080 .....	14
RCW 4.28.080(15) .....	15, 18, 20, 21, 23, 27

## Rules and Regulations

CR 42.....	7
CR 56.....	1, 30
CR 56(c) .....	13
RAP 2.3(b)(2) .....	8, 9
RAP 9.12 .....	20

067825.000081/443800

## I. NATURE OF THE CASE

Appellant / plaintiff Bouchra Agour sued respondent / defendant Ian Dalrymple in King County Superior Court following a motor vehicle collision. Mr. Dalrymple raised failure to serve very early in the case and Ms. Agour filed a second lawsuit, alleging the same facts, also in King County Superior Court. Mr. Dalrymple filed motions for summary judgment in both actions on grounds that he was never properly served with the summons and complaint in either action. Mr. Dalrymple filed declarations from himself and his friend Henry Winsor indicating that Ms. Agour's process server had not served Mr. Dalrymple and that he had in fact only attempted to serve Mr. Winsor (a nonresident of Mr. Dalrymple's home) who refused to take the papers. Mr. Dalrymple also filed a motion for summary judgment based on improper service in the second lawsuit, but that is not at issue on appeal.

Ms. Agour filed a last-minute motion to consolidate the two lawsuits just before the summary judgment hearings, and also filed a last-minute motion to continue the summary judgment hearings. The trial court denied the motion to consolidate and dismissed the first lawsuit on Mr. Dalrymple's summary judgment motion, finding that he was never served and that there was no factual dispute to the contrary sufficient to resist summary judgment under CR 56. Ms. Agour now appeals the order

denying her motion to consolidate the two lawsuits, the order granting Mr. Dalrymple's motion for summary judgment in the first action, and the order denying her request for a continuance of the summary judgment motion.

## **II. ISSUES PRESENTED**

A. Should this Court affirm the trial court's denial of Ms. Agour's Motion to Consolidate where the trial court did not abuse its discretion in denying the motion, given that Ms. Agour brought her motion very late in the proceedings, just before hearings on Mr. Dalrymple's two respective motions for summary judgment (well after the motions had been fully briefed) and where Mr. Dalrymple had continued the motions for summary judgment for several months at Ms. Agour's counsel's request?

B. Should this Court affirm the trial court's grant of summary judgment in favor of Mr. Dalrymple where Ms. Agour failed to raise a genuine issue of material fact in response to Mr. Dalrymple's and Mr. Winsor's clear testimony that Mr. Dalrymple was not personally served?

C. Should this Court affirm the trial court's denial of Ms. Agour's motion to continue the summary judgment hearing, where the motion was noted for the same day as the summary judgment hearing, where the evidence did not demonstrate any dispute of material fact

requiring a continuance, and where Ms. Agour made no attempt to conduct discovery during the several months while the motion for summary judgment was pending?

### **III. STATEMENT OF CASE**

#### **A. STATEMENT OF RELEVANT FACTS.**

The motor vehicle accident occurred on October 5, 2009. Ms. Agour filed the lawsuit at issue (her first) on January 26, 2012. CP 1-4. The three-year statute of limitations for Ms. Agour's tort claims expired on October 5, 2012. Mr. Dalrymple was never personally served with the summons and complaint in that action. CP 76-78. Mr. Dalrymple was also not served by any other means recognized under state law. *Id.*

Ms. Agour attempted service of process upon Mr. Dalrymple by leaving the summons and complaint at his home, while Mr. Dalrymple was not at home. See CP 72-75; 76-78. This service attempt is insufficient, as explained below.

Mr. Dalrymple was not served, but rather the summons and complaint in this case were left at his residence while he was out. CP 76, at ¶6; CP 73, at ¶¶5-7. The process server conversed with a friend of his, Henry Winsor III, who was present at Mr. Dalrymple's residence when the papers were left. Mr. Winsor is a friend of Mr. Dalrymple's who was staying at the house, but was not a resident at the house and was not

staying over night at Mr. Dalrymple's home. CP 72-73, at ¶¶3, 7-9. Mr. Winsor explained to the process server that he is not Mr. Dalrymple, but the process server apparently did not believe Mr. Winsor. See CP 77, at ¶8; CP 73, at ¶¶5-7.

**B. STATEMENT OF PROCEDURE.**

As indicated above, Bouchra Agour filed two separate but identical lawsuits against Ian Dalrymple alleging personal injuries sustained in a single motor vehicle accident. Ms. Agour failed to properly serve Mr. Dalrymple in either of the two identical lawsuits, and Mr. Dalrymple filed motions for summary judgment based on this deficiency in both cases.

Mr. Dalrymple filed a motion for summary judgment with regard to the first lawsuit (King County Superior Court No. 12-2-03377-3) on November 1, 2012, and subsequently re-noted the motion at plaintiff's / appellant's request to be heard on March 15, 2013. CP 29-50; CP 82. Similarly, Mr. Dalrymple filed a motion for summary judgment with regard to the second lawsuit (King County Superior Court No. 12-2-27331-6) (hereafter, "lawsuit two") on February 22, 2013 and subsequently re-noted it at plaintiff's / appellant's request for March 22, 2013. CP 228-385; CP 526-27. On March 1, 2013, Ms. Agour filed a response to the summary judgment motion in lawsuit one. CP 386-408.

On March 6, 2013, just nine days before the hearing for the summary judgment motion in lawsuit one and sixteen days before the summary judgment hearing in lawsuit two, plaintiff / appellant filed a motion to consolidate the two matters into one lawsuit. CP 85-94. This motion to consolidate the two matters was filed more than four months after repondent originally filed a motion for summary judgment with regard to the service issue in lawsuit one. CP 31-42. Mr. Dalrymple filed an opposition to the motion to consolidate. CP 516-520.

Also, on March 6, 2013, Ms. Agour filed a motion to continue the summary judgment hearing in lawsuit one. See CP 95-107. On March 7, 2013, Ms. Agour filed a second motion for continuance that appears to be identical. CP 108-124. The hearing for this motion was set for March 15, 2013. CP 95, 108, 125.

On March 11, 2013, Mr. Dalrymple filed a Reply in support of his Motion for Summary Judgment in lawsuit one and Ms. Agour filed a response to the summary judgment motion in lawsuit two. See CP 133-37; 432-513.

The trial court signed an Order denying plaintiff's Motion to Consolidate the two lawsuits into one action on March 14, 2013. CP 530-31.

The Court denied Ms. Agour's motion to continue on March 15, 2013. CP 154-155. The Court granted Mr. Dalrymple's Motion for Summary Judgment in lawsuit one on March 15, 2013. CP 152-53.

Subsequently, Judge Lum signed a second Order also denying Ms. Agour's Motion to Consolidate the two lawsuits on March 18, 2013. CP 534-35.

Ms. Agour stipulated to a dismissal of lawsuit two with prejudice and the trial court ordered the same on March 18, 2013. CP 532-33. Ms. Agour's motion for discretionary review of the motion to consolidate filed in lawsuit two was denied by this court on August 23, 2013. CP 536-39.

Ms. Agour now appeals the court's grant of summary judgment in lawsuit one and the court's denial of Ms. Agour's late request to consolidate the two actions below, also filed in lawsuit one, as well as the motion to continue the summary judgment hearing. CP 157-62.

#### **IV. ARGUMENT**

##### **A. MOTION TO CONSOLIDATE.**

###### **1. Standard of Review.**

A trial court's denial of a motion to consolidate is reviewed for abuse of discretion. *State ex rel. Sperry v. Superior Court for Walla Walla County*, 41 Wn.2d 670, 671, 251 P.2d 164 (1952).

Here, the trial court did not abuse its discretion in denying Ms.

Agour's "eleventh hour" motion to consolidate, given that summary judgment motions in the two cases had been pending for several months before she finally made the motion, and given that Ms. Agour had improperly filed two separate, but identical cases at the outset.

**2. The Trial Court Did Not Abuse Its Discretion in Denying Ms. Agour's Motion to Consolidate.**

Consolidation of matters are permissible under certain conditions pursuant to Civil Rule ("CR") 42 which states, in relevant part:

(a) *Consolidation.* When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

CR 42.

As the Washington Supreme Court has explained:

Whether or not cases should be consolidated for trial is a matter within the discretion of the trial court. We do not feel inclined to interfere with the method in which a trial court handles its own affairs, unless there has been a clear abuse of discretion. It is the trial court's responsibility to arrange its trial calendar and to determine in what manner the cases can be most expeditiously and fairly tried in order that justice can be given to all of the parties.

*Sperry*, 41 Wn.2d at 671. See also *Nat'l Bank of Wash. v. Equity Investors*, 86 Wn.2d 545, 560-61, 546 P.2d 440 (1976) ("Consolidation of claims for trial is within the sound discretion of the trial court.")

As the *Nat'l Bank* court explained, “Such decision not to consolidate will be final unless there has been a clear abuse of discretion, and if the moving party can show prejudice. *Hawley v. Mellem*, 66 Wn.2d 765, 405 P.2d 243 (1965); *In re Maypole*, 4 Wn. App. 672, 483 P.2d 878 (1971).” *Nat'l Bank of Washington*, at 561.

In *Sperry*, the trial court denied a motion to consolidate three lawsuits arising out of three separate collisions that occurred “one immediately after the other.” *Id.*, at 670. Other cases have also demonstrated Washington appellate courts’ reluctance to overturn a trial court’s ruling on a motion to consolidate. See e.g. *Hawley v. Mellem*, 66 Wn.2d at 767-68, (affirming a trial court’s order consolidating two separate motor vehicle cases which involved the same witnesses and same collision - and quoting *Sperry* for the proposition “we do not feel inclined to interfere with the method in which a trial court handles its own affairs.”)

In her appellant brief, Ms. Agour cites RAP 2.3(b)(2) which concerns when a matter is subject to discretionary review. The Court of Appeals has already decided that the first lawsuit is appealable as a matter of right and the appellant’s request for discretionary review of the second lawsuit was denied. (See Commissioner’s August 23, 2013, Notation’s Ruling). RAP 2.3(b)(2) is no longer applicable or at issue in

this case and Ms. Agour's arguments based on RAP 2.3(b)(2) can be disregarded.

Ms. Agour also cites numerous cases (criminal and family law cases) using the phrase "probable error,"<sup>1</sup> apparently in connection with the use of the phrase from RAP 2.3(b)(2). Again, because no request for discretionary review is currently before the court, these citations are not on point and should be disregarded.

Here, the trial court had good cause to deny the motion to consolidate and it did not abuse its discretion. As a threshold matter, Ms. Agour impermissibly filed two identical lawsuits against the same defendant in the same jurisdiction, alleging the same causes of action. As appellant admits, this was done solely in an attempt to ensure that Mr. Dalrymple was adequately served in one of the two cases. Because the two lawsuits were completely identical, proper procedure would have been for Ms. Agour to dismiss one of the two lawsuits (or to not have filed a second, separate lawsuit in the first place). Ms. Agour could have made multiple service attempts within one lawsuit. Ms. Agour's improper

---

<sup>1</sup> For example, *State v. Haydel*, 122 Wn. App. 365, 95 P.3d 760 (2004) (concerning withdrawal of an Alford plea); *State v. Hegge*, 53 Wn. App. 345, 766 P.2d 1127 (1989) (concerning a criminal defendant's motion to represent himself); and *Greenlaw v. Smith*, 67 Wn. App. 755, 840 P.2d 223 (1992) (concerning discretionary review granted to review a ruling awarding temporary custody to the noncustodial parent, involving subject matter jurisdiction concerns).

maintenance of the two lawsuits did not oblige the court to consolidate the two on Ms. Agour's late motion.

Further, there was no abuse of discretion in denying the motion to consolidate, given the timing of the motion. The court granted Summary Judgment in lawsuit one on March 15, 2013. CP 152-153. Ms. Agour's Motion for Consolidation was noted for the same day, March 15, 2013. CP 129-130. Ms. Agour filed lawsuit one on January 26, 2012 and filed lawsuit two on August 15, 2012. CP 1-4; 165-68. Ms. Agour's actions in waiting until the day of the summary judgment hearing in lawsuit one to move to consolidate the two actions was unreasonable. This is particularly true where Ms. Agour's motion was filed more than seven months after lawsuit two was filed, and more than four months after the summary judgment motion in lawsuit one had first been briefed and served upon her. Ms. Agour could have moved to consolidate these two cases much earlier, and saved Mr. Dalrymple much time and expense in working up these cases and preparing for motions in summary judgment in each matter. Moreover, Ms. Agour did not need to consolidate the two suits, as proper procedure would have been to simply make additional service attempts within the first lawsuit, rather than to file an entirely second, new

suit.<sup>2</sup> By waiting until the last possible moment to move to consolidate the two lawsuits, Ms. Agour forced Mr. Dalrymple to defend and answer the two lawsuits, and brief motions for summary judgment in both cases. Given the improper maintenance of the two separate but identical lawsuits, and given the late timing of the motion to consolidate, the court properly denied Ms. Agour's late-filed motion.

Consolidation of these two actions would not have had any substantive impact on these cases. Ms. Agour's first lawsuit (lawsuit one) was dismissed with prejudice on Mr. Dalrymple's Motion for Summary Judgment within one day of the denial of the motion to consolidate. CP 152-53, 530-31. This ruling was res judicata as to lawsuit two, which Ms. Agour recognized when she stipulated to dismiss lawsuit two. CP 532-33. Ms. Agour was only entitled to one lawsuit against Mr. Dalrymple, and the second lawsuit filed against him was of no effect from the moment it was filed. If Ms. Agour believed she had effected service in lawsuit two,

---

<sup>2</sup> The Washington Supreme Court has explained that when a defendant is placed in the unjust and untenable position of being forced to defend two separate lawsuits concerning the same incident, the proper recourse is to "plead the pendency of the first as a bar to the second." *Brice v. Starr*, 93 Wash. 501, 502, 161 P. 347 (1916). Further, the doctrine of res judicata bars the instant lawsuit. See *State ex rel. Evergreen Freedom Found. v. Wash. Educ. Ass'n*, 111 Wn. App. 586, 607-08, 49 P.3d 894 (2002), *rev. denied*, 148 Wn.2d 1020 (2003) ("Res judicata precludes a later lawsuit when the second lawsuit has identical subject matter, cause of action, persons and parties, and the quality of the persons for or against whom the claim is made. *Rains v. State*, 100 Wn.2d 660, 663, 674 P.2d 165 (1983).")

but not in lawsuit one, then she should have dismissed lawsuit one before the summary judgment hearing. If she believed she had effected service in lawsuit one, then she never should have brought lawsuit two, which served only to improperly increase Mr. Dalrymple's defense costs. To the extent Ms. Agour was concerned about service issues in both cases, she could have made multiple service attempts (by multiple means) within one lawsuit. Instead, she chose to try to maintain both suits, apparently wanting to see which of the identical lawsuits survived summary judgment. This type of gamesmanship cannot be countenanced (how many identical lawsuits is too many?). Further, as a practical matter, neither lawsuit was served properly and so there was no prejudice, particularly where Ms. Agour voluntarily dismissed the second lawsuit at Mr. Dalrymple's request after the first one was dismissed. Ms. Agour suffered no prejudice from the court's denial of her motion to consolidate two lawsuits which were identical and therefore could not properly be separately maintained anyway; and particularly where one of the two lawsuits was dismissed with prejudice on the same day consolidation was denied.

**B. THE TRIAL COURT PROPERLY GRANTED SUMMARY JUDGMENT WHERE THERE WAS NO MATERIAL ISSUE OF FACT THAT IAN DALRYMPLE HAD NOT BEEN SERVED.**

**1. Standard of Review.**

Summary judgment awards are reviewed de novo. *Wilson v. Steinbach*, 98 Wn.2d 434, 437, 656 P.2d 1030 (1982). Summary judgment shall be granted if there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. CR 56(c); *Kesinger v. Logan*, 113 Wn.2d 320, 325, 779 P.2d 263 (1989).

The purpose of summary judgment is to avoid a useless trial where there is no genuine issue of material fact. *Hines v. Data Line Sys., Inc.*, 114 Wn.2d 127, 148, 787 P.2d 8 (1990). Summary judgment should be granted where there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *United Pac. Ins. Co. v. Boyd*, 34 Wn. App. 372, 375, 661 P.2d 987 (1983).

Here, the trial court properly granted summary judgment in favor of Ian Dalrymple because he did not receive service of process under the law, and because the statute of limitations for the claims against him had expired, as a matter of law.

**2. Mr. Dalrymple Did Not Receive Service of Process.**

“Basic to litigation is jurisdiction, and first to jurisdiction is service of process.” *Rodriguez v. James-Jackson*, 127 Wn. App. 139, 143, 111

P.3d 271 (2005). Service must be both constitutionally adequate *and* in compliance with statutory requirements. *Woodruff v. Spence*, 88 Wn. App. 565, 571, 945 P.2d 745 (1997), *rev. denied*, 135 Wn.2d 1010 (1998).

Constitutional due process requires that a plaintiff use a method of service “reasonably calculated to inform the defendant of the lawsuit.” *Gerean v. Martin-Joven*, 108 Wn. App. 963, 971, 33 P.3d 427 (2001), *rev. denied*, 146 Wn.2d 1013 (2002). However, the fact that the defendant received actual notice of the suit is not sufficient. *See Lepeska v. Farley*,<sup>3</sup> 67 Wn. App. 548, 552, 833 P.2d 437 (1992): “[A]ctual knowledge of pending litigation . . . standing alone is insufficient to impart the statutory notice required to invoke the court’s in personam jurisdiction.” *Thayer v. Edmonds*, 8 Wn. App. 36, 40, 503 P.2d 1110 (1972), *rev. denied*, 82 Wn.2d 1001 (1973). Washington statutes mandate that a copy of the summons either be delivered to the defendant personally or by substitute service. *Gerean*, 108 Wn. App. at 969.

RCW 4.28.080 sets forth how a summons must be served on a defendant. The statute generally requires personal service of a summons on the defendant. The statute also permits substitute personal service on

---

<sup>3</sup> Distinguished on other grounds by *Sheldon v. Fettig*, 129 Wn.2d 601, 610, 919 P.2d 1209 (1996) (concerning which address was the proper “place of abode” for purposes of service) and *Jones v. Stebbins*, 122 Wn.2d 471, 860 P.2d 1009 (1993) (concerning an alleged technical violation of the service by mail statute).

the defendant “by leaving a copy of the summons at the house of his or her usual abode with some person of suitable age and discretion then resident therein.” RCW 4.28.080(15). Ms. Agour here failed to accomplish either method of service of process. Mr. Dalrymple was not personally served, and there was not substitute service of process, and there was no dispute of material fact on these points. The trial court properly granted summary judgment.

**a. The Undisputed Facts Show that Mr. Dalrymple Was Never Personally Served.**

The undisputed facts demonstrate that Ms. Agour did not personally serve Mr. Dalrymple. The process server’s “Affidavit of Service” itself states “Mr. Dalrymple initially denied his identity stating, ‘He is not home right now’, but took the paperwork when I noted this was for his auto accident in October of 2009 and he needed to get in touch with his insurance carrier, State Farm. He thanked me.” CP 71. The person the process server described may have taken the paperwork and thanked the process server,<sup>4</sup> but it was not Mr. Dalrymple. CP 76, at ¶¶4-6. The process server’s description also does not match Mr. Dalrymple’s

---

<sup>4</sup> Mr. Winsor denies that he physically received the paperwork and maintains that it was left in the door to the residence. CP 73, at ¶ 6. This issue of fact is not material, and need not be resolved here for the purposes of affirming the summary judgment award. See *Morris v. McNicol*, 83 Wn.2d 491, 494, 519 P.2d 7 (1974) (a material fact is one upon which the outcome of the litigation depends).

appearance. Mr. Dalrymple has dark brown hair and does not have a crew cut. CP 76, at ¶5. The description does match Henry Winsor III, who is blonde and had a crew cut at the time of the service attempt. CP 72; CP 76-77., at ¶7. The process server confirmed that the address to which he served the papers was Mr. Dalrymple's residence (which it was) but wholly failed to confirm the identity of the person to whom he was speaking, and to whom he allegedly handed the Summons and Complaint. CP 71. In fact, the process server denied Mr. Winsor's offer to produce identification. CP 73, at ¶6. Mr. Dalrymple was not personally served in this matter.

**b. Appellant Fails to Raise an Issue of Fact.**

On appeal, Ms. Agour argues that an issue of material fact exists as to whether Mr. Dalrymple was personally served. A genuine issue of material fact exists if, after weighing the evidence, reasonable minds could reach different factual conclusions about an issue that is material to the disputed claim. *Jones v. State*, 170 Wn.2d 338, 352, 242 P.3d 825 (2010). "Mere allegations, argumentative assertions, conclusory statements, and speculation do not raise issues of material fact that preclude a grant of summary judgment." *Greenhalgh v. Dep't of Corr.*, 160 Wn. App. 706, 714, 248 P.3d 150 (2011). Only factual disputes supported by the

evidence are reviewed in the light most favorable to the nonmoving party on motion for summary judgment.

Ms. Agour points to three contentions that she believes create an issue of fact as to whether Mr. Dalrymple was personally served: (1) the physical description in M. James' Affidavit of service, which she contends matches Mr. Dalrymple; (2) that the person served by M. James "spoke in an American accent similar to that of Ian Dalrymple;" and (3) "the address of service was verified by an earlier call to Ian Dalrymple and verified by his neighbor." See Brief of Appellant, at page 9-10. As explained below, the first contention is simply inaccurate and unsupported by the evidence that was before the trial court or is now before the Court on Appeals; and the second and third contentions, even if true, fail to create an issue of fact as to whether Mr. Dalrymple was personally served.

**i. M. James' vague description does not create an issue of material fact.**

M. James' Affidavit of Service contains the following physical description of the person he attempted to serve:

Mr. Dalrymple can best be described as a 40ish white male, crew cut blonde, light brown hair about 6'0", 180 lbs. . . . Upon service Mr. Dalrymple initially denied his identity stating, "He is not home right now", but took the paperwork when I noted this was for his auto accident in October of 2009 and he needed to get in touch with his insurance carrier, State Farm. He thanked me.

CP 71.

The uncontroverted evidence shows that Ian Dalrymple has dark brown hair and does not and did not have a crew cut. CP 76, at ¶ 5. The uncontroverted evidence also shows that the person M. James talked to told M. James that he was not Ian Dalrymple. CP 71. The person M. James talked to never indicated he was Ian Dalrymple. CP 71. Ian Dalrymple's friend, Henry Winsor, provided a declaration stating that he was the individual to whom M. James spoke, that he has blonde hair and had it cut in a crew cut. CP 72-73, ¶¶ 2; 4-6. All evidence suggests that Mr. Winsor was the person to whom M. James spoke, and the person M. James claims to have served.<sup>5</sup> M. James' declaration is too vague as to the physical description of the person to whom he spoke to create an issue of fact, and nothing in his declaration is inconsistent with the declarations of Ian Dalrymple and Henry Winsor. See CP 71, 76-77, 72-75. There is no evidence that M. James served Mr. Dalrymple. Viewed in the light most favorable to the nonmoving party (Ms. Agour), the evidence indicates that

---

<sup>5</sup> M. James claims to have physically handed papers to the man he spoke to, while Mr. Winsor denies that he took the paperwork. CP 71. M. James also disputes Mr. Winsor's testimony that he told M. James that his name was Henry and that he offered to show identification. CP 388-89. These factual discrepancies are not material to this case however. Even if M. James had physically handed the papers to Mr. Winsor, Mr. Winsor was not a resident of Mr. Dalrymple's household and therefore, service was not perfected. See RCW 4.28.080(15). The discrepancies regarding identification are not material because there is no evidence that the man M. James spoke at Mr. Dalrymple's residence was Mr. Dalrymple.

M. James served a man matching Henry Winsor's description who denied that he was Ian Dalrymple. *Id.* The physical description given in M. James' affidavit does not create an issue of fact as to whether Ian Dalrymple was personally served.

**ii. Evidence that Ian Dalrymple and Henry Winsor Both Have American Accents Does Not Create an Issue of Material Fact.**

The only evidence of accents presented at the trial court (or presented now on appeal) comes from the Declaration of process server Michael James, apparently created in response to Mr. Dalrymple's Motion for Summary Judgment. CP 388-89. Per Mr. James' Declaration, the gentlemen he handed papers to at Mr. Dalrymple's spoke with an American accent.<sup>6</sup> The fact that Mr. Winsor had an American accent is not evidence of anything material to this case.

To the extent Ms. Agour is arguing (without expressly stating) that Mr. Winsor should not have an American accent because he lives in New Zealand, there is no evidence to support this argument. This Court need not consider evidence that was not available to the trial court when the trial court made its ruling nor should it consider issues that were not raised

---

<sup>6</sup> Although not in evidence, based on information and belief, Mr. Winsor is originally from the United States and likely therefore has an American accent.

with the trial court. RAP 9.12 (“On review of an order granting . . . a motion for summary judgment the appellate court will consider only evidence and issues called to the attention of the trial court.”). There was no evidence regarding the accent of the individuals at issue in this lawsuit at the trial court level and no argument was made regarding the same. The idle speculation about accents, without evidentiary support, cannot create an issue of material fact.

**iii. The residence is not in dispute.**

Ms. Agour observes that the residence at which M. James attempted service (where he spoke to a man who denied being Ian Dalrymple and who matches the physical description of Henry Winsor) was confirmed to be the residence of Ian Dalrymple. This fact is not in dispute. But while leaving the summons at the defendant’s place of usual abode is one element of substitute service of process, substitute service is not achieved unless it is left with a resident therein. RCW 4.28.080(15). To the extent Ms. Agour intends the fact that M. James attempted service of a man at Ian Dalrymple’s residence to be evidence that he served Mr. Dalrymple, this fact is not sufficient to make such a showing particularly where, as here, Mr. Dalrymple testified by declaration that he was not served at his residence, and where Mr. Winsor testified that a process server attempted to serve him at Mr. Dalrymple’s residence. The service

attempt at Mr. Dalrymple's residence does not create an issue of fact as to whether Mr. Dalrymple was personally served.

**C. There Was No Substitute Service of Process.**

Mr. Dalrymple also did not receive substitute service. The facts of this case and applicable precedent demonstrate that plaintiff failed to achieve substitute service. Moreover, Ms. Agour does not argue that Mr. Dalrymple received substitute service of process and appears to concede that argument here. This court need not address an issue not raised or argued by appellant in her brief. See *In re Welfare of L.N.B. – L*, 157 Wn. App. 215, 242, 237 P.3d 944 (2010) (“An appellant waives an assignment of error when she presents no argument in support of her assigned error”).

If this Court does elect to consider this issue, there is no dispute that Mr. Dalrymple was not served via substitute service. RCW 4.28.080(15) lists three requirements for valid substitute service of process: (1) the summons must be left at the defendant's “house of his or her usual abode”; (2) the summons must be left with a “person of suitable age and discretion”; and, (3) the person with whom the summons is left must be “then resident therein.” *Salts v. Estes*, 133 Wn.2d 160, 161, 943 P.2d 275 (1997) (substitute service not effective on person who was monitoring house while defendant on vacation). Each of the three requirements must be met.

Mr. Dalrymple does not dispute that the service attempt of June 7, 2012 was made at Mr. Dalrymple's house of usual abode. Ms. Agour failed, however, to serve the Summons and Complaint upon a resident of Mr. Dalrymple's home. CP 76-77 at ¶8; CP 72-73, at ¶¶4-8. Moreover, the process server made no *attempt* to determine whether Mr. Winsor lived there, and apparently chose to believe that Mr. Winsor was in fact Mr. Dalrymple, despite Mr. Winsor's assertions to the contrary. See CP 76-77, at ¶8; CP 72-73, at ¶6.

Washington jurisprudence does not permit a wholesale disregard of the language of a statute. In fact, the *Salts* court specifically recognized and followed the established rules of statutory construction. The *Salts* court stated:

Our duty is to effectuate the intent of the Legislature in enacting a statute. If a statute is unambiguous, as is RCW 4.28.080(15), we are obliged to apply the language as the Legislature wrote it, rather than amend it by judicial construction. *GESA Fed. Credit Union v. Mutual Life Ins. Co.*, 105 Wn.2d 248, 252, 713 P.2d 728 (1986). We must provide consistency and predictability to the law so the people of Washington may conform their behavior accordingly. The language of RCW 4.28.080(15) sets forth the standards for substituted service of process. We best accomplish the purpose of establishing predictable standards by not stretching the meaning of those standards beyond their plain boundaries.

133 Wn.2d at 170.

The evidence established undisputedly that service of process was made, at most, only upon Mr. Winsor, an individual who did not and does not live with Mr. Dalrymple. See CP 76-77 at ¶¶8-9; CP 72-73, at ¶8. Even the process server's affidavit indicates that Mr. Winsor denied that he was Mr. Dalrymple and further reflects the process server made no inquiry or other attempt to determine the identity of Mr. Winsor or whether he was a resident. See CP 71.

The Washington Supreme Court's decision in *Salts v. Estes* is instructive. There, the plaintiff's process server served a copy of the Summons and Complaint at the defendant's primary residence by leaving them with the person who answered the door, Mary TerHorst, who was neither related nor married to the defendant. Ms. TerHorst was at the defendant's home because she was "looking after Estes's [defendant's] home, at Estes's request, while Estes was out of town for a couple of weeks. TerHorst was at Estes's home over the two-week period for the purpose of feeding his dog, bringing in the mail, and taking care of similar matters." *Salts v. Estes*, at 133 Wn.2d at 163. There, as here, the third requirement of RCW 4.28.080(15) was at issue.

The court determined that Ms. TerHorst was not a resident of Mr. Estes' home, and service upon her at his home was therefore not sufficient:

The answer to “who is a resident” should engender no controversy. Most people would express little confusion over the meaning of “resident.” Nevertheless, “When the common, ordinary meaning is not readily apparent, it is appropriate to refer to the dictionary.” *Zachman v. Whirlpool Fin. Corp.*, 123 Wn.2d 667, 671, 869 P.2d 1078 (1994). The word “resident” comes from Latin:

The - *side* of *reside* has no connection with English *side*. It comes from the Latin *sedere* “settle” (source of English *sedentary*, *session*, etc. and related to *sit* ). Combination with the prefix *re-*“back” produced *residere* “settle back, remain in place, rest,” which passed into English via its present participle as *resident* “settling permanently in place.”

John Ayto, *Dictionary of Word Origins* 441 (1990). “Resident” means “[r]esiding, dwelling, or having an abode in a place.” 8 *The Oxford English Dictionary* 517-18 (1933). Faithful to the Latin roots of the word, dictionaries uniformly define “resident” to have the sense of settling permanently in place. . . .

Thus, RCW 4.28.080(15) is unambiguous. “Resident” requires something more than “present” in the defendant's usual abode. The Court of Appeals here was correct in determining that nothing in the record establishes Ms. Terhorst as a resident of defendant Estes's house. When the Legislature required in RCW 4.28.080(15) that service be on a person who is “then resident” in the defendant's usual abode, it meant something more than fleeting occupancy.

*Salts v. Estes*, 133 Wn.2d, at 167. With the interpretation of the relevant statute thus established, the *Salts* court turned its attention to the cases cited by the plaintiff, primarily *Wichert v. Cardwell*, 117 Wn.2d 148, 812 P.2d 858 (1991), wherein the court apparently determined that service of the defendant's wife's 26-year-old daughter who infrequently stayed the

night at the defendant's residence was sufficient for purposes of the statute. The *Salts* court distinguished *Wichert* because there the Summons and Complaint were left with a relative of the defendant who occasionally lived at the residence: "*Wichert* is distinguishable from the present case both by the fact that the daughter was related to the defendants, and had actually slept in the home of the defendants the previous night at the time service was accomplished. Neither one of these facts was present here." *Salts v. Estes*, 133 Wn.2d at 169.

The *Salts* court further analyzed other jurisdictions with regard to this issue and determined that the general rule requires service upon someone who *actually lives in the home*, and the few exceptions to this have been cases where service was had upon a close family member:

Although some courts, like *Wichert*, have generally approved service on close relatives of the defendant who happen to be temporarily in the defendant's home, the usual rule is that service on employees and others who do not reside in the defendant's home does not comport with due process. See, e.g., *Hardy v. Kaszycki & Sons Contractors, Inc.*, 842 F.Supp. 713 (S.D.N.Y.1993) (service defective where there was no evidence person who received service was a resident of defendant's apartment); *Hasenfus v. Corporate Air Serv.*, 700 F.Supp. 58 (D.C.1988) (part-time secretary present at home of defendant, but not living there, not proper recipient of service); *Polo Fashions Inc. v. B. Bowman & Co.*, 102 F.R.D. 905 (S.D.N.Y.1984) (service on defendant's non-live-in housekeeper during her working hours at defendant's house not sufficient because housekeeper did not live there); *Zuckerman v. McCulley*, 7 F.R.D. 739 (E.D.Mo.1947) (service on janitor who spent

only part of each day at rooming house doing janitorial work not sufficient because janitor did not live there), *appeal dismissed*, 170 F.2d 1015 (8th Cir.1948); *Bible v. Bible*, 259 Ga. 418, 383 S.E.2d 108 (1989) (invalid service where summons and complaint left with defendant's employee at defendant's home when employee did not live there). In *Franklin America, Inc. v. Franklin Cast Prods., Inc.*, 94 F.R.D. 645, 647 (E.D.Mich.1982), the United States District Court for the Eastern District of Michigan indicated that residence for purposes of Fed.R.Civ.P. 4(d)(1) meant something more than fleeting presence at a house:

It appears the common theme in the case is not only whether the defendant is reasonably likely to receive the papers served, but whether the person to whom they are handed is a full-time resident of the defendant's dwelling house or usual place of abode. See 2 Moore's Federal Practice ¶ 4.11(3) at 4-126. As 4 Charles A. Wright and Arthur R. Miller, Federal Practice & Procedure § 1096 at 368-69, note:

“Residing therein” has long been held to require the recipient of the papers to be actually living in the same place as defendant. Thus, service on an employee of defendant who spends only a part of his time at defendant's residence is defective. See also 62 Am.Jur.2d, *Process* § 102 at 887-88 (1972).

*Salts v. Estes*, 133 Wn.2d at 168-169, footnote omitted, emphasis added.

Following this thorough analysis, the court concluded, emphatically:

We hold for purposes of RCW 4.28.080(15) that “resident” must be given its ordinary meaning—a person is resident if the person is actually living in the particular home. . . . We decline to transform “resident” into “present” by judicial construction. The Legislature is free to amend the statute; we are not. The Court of Appeals was correct and we affirm the trial court’s dismissal of Salts’ action.

*Salts v. Estes*, 133 Wn.2d at 170-71.

RCW 4.28.080(15) requires that to achieve substitute service, “the person with whom the summons is left must be “then resident therein” of the defendant’s usual place of abode. *Salts v. Estes*, 133 Wn.2d 160. A resident of Mr. Dalrymple’s home was the only acceptable recipient of the Summons and Complaint in order for the plaintiff to obtain substitute service. Mr. Winsor did not live with Mr. Dalrymple, but he was the only one at the residence when the Summons and Complaint were left at Mr. Dalrymple’s residence. CP 72-73, 76-77. Mr. Dalrymple was not served by substitute service and this lawsuit must be dismissed for insufficient service of process.

**3. Plaintiff’s Lawsuit Must Be Dismissed Where Plaintiff Has Not Obtained Proper Service Within the Applicable Statute of Limitations.**

The applicable statute of limitations for Ms. Agour’s tort claims for personal injury is three years from the date of the motor vehicle accident. RCW 4.16.080. The motor vehicle accident occurred on October 5, 2009 and the statute of limitations ran on October 5, 2012. CP 1-4. Plaintiff filed the instant lawsuit on January 26, 2012, and had only one interaction with an individual wherein service was attempted (discussed above) on June 7<sup>th</sup>, 2012. CP 71. The statute of limitations has not been tolled. Mr. Dalrymple has not been served under the law and the statute of limitations

has expired. The trial court properly granted Mr. Dalrymple's Motion for Summary Judgment, and the ruling should be affirmed.

**C. THE TRIAL COURT PROPERLY DENIED MS. AGOUR'S MOTION TO CONTINUE MR. DALRYMPLE'S MOTION FOR SUMMARY JUDGMENT.**

**1. Standard of Review:**

Appellate courts review a trial court's denial of a motion to continue for abuse of discretion. *Briggs v. Nova Services*, 135 Wn. App. 955, 961, 147 P.3d 616 (2006), *aff'd*, 168 Wn.2d 794, 213 P.3d 910 (2009). "A court abuses its discretion if its decision is based on untenable grounds or untenable reasons. *Cogle v. Snow*, 56 Wn. App. 499, 507, 784 P.2d 554 (1990)." *Briggs*, at 961.

**2. The Trial Court Did Not Abuse Its Discretion in Denying Ms. Agour's Motion to Continue Where Ms. Agour Offered No Reason for the Continuance in Her Brief.**

A request for continuance of a motion for summary judgment should be granted only for good cause. *See Cofer v. County of Pierce*, 8 Wn. App. 258, 262-63, 505 P.2d 467 (1973). Ms. Agour's "Motion for Continuance of Summary Judgment Hearings" identified no reason to continue the summary judgment hearing, other than to note that a motion to consolidate was pending. See CP 110-11; 114-15. Ms. Agour cited no legal authority in her motion or the supporting declaration. *Id.* The trial court did not abuse its discretion in denying the motion to continue.

**3. The Trial Court Did Not Abuse Its Discretion in Denying the Continuance Because There Is No Factual Dispute that Would Require a Fact Finding Hearing.**

Ms. Agour's argument that there is a factual dispute as to whether M. James served Mr. Winsor or Mr. Dalrymple is not well taken. A fact finding hearing is only necessary "when affidavits present an issue of fact requiring a determination of witness credibility." See *Harvey v. Obermeit*, 163 Wn. App. 311, 327, 261 P.3d 671 (2011). As explained in detail above, M. James' Affidavit does not indicate that he served Ian Dalrymple. M. James testified by Affidavit that he served a man at Mr. Dalrymple's residence who denied being Mr. Dalrymple and who had blonde crew-cut hair. CP 71. This creates no issue of fact, particularly where Mr. Dalrymple did not have blonde hair or a crew cut and where Mr. Dalrymple's friend, Henry Winsor, explained he interacted with M. James and he did have blonde, crew cut hair. See CP 72-78. Ms. Agour failed to meet her burden of proof to show that she obtained proper service or to even create a factual dispute, and no fact finding hearing was warranted therefore.

**4. The Trial Court Did Not Abuse Its Discretion in Denying the Continuance Where Ms. Agour Had Ample Time to Conduct Depositions or Discovery Before the Summary Judgment Hearing.**

The trial court also did not abuse its discretion in denying the motion for a continuance, because respondent had originally filed his

motion for summary judgment on November 1, 2012, and the motion was not heard until March 15, 2013. CP 29; 152-153. The motion was originally set for January 18, 2013 (roughly 48 days after it was filed) and the motion was then continued several times at Ms. Agour's counsel's request. See CP 29-30, CP 53 (renoting the motion for March 1, 2013); CP 79 (renoting the motion for March 8, 2013); and CP 82 (finally renoting the motion for March 15, 2013). CR 56 requires 30 days notice for a motion for summary judgment; Ms. Agour had 135 days notice. Despite this ample lead time, Ms. Agour made no attempt to conduct a deposition of Henry Winsor and also made no discovery attempts of any other type. Given these circumstances and thorough lack of diligence on the part of the Ms. Agour, the trial court did not abuse its discretion in denying Ms. Agour's motion to continue the summary judgment hearing.

## **V. CONCLUSION**

The trial court did not abuse its discretion when it denied a late motion to consolidate two identical lawsuits, particularly where Ms. Agour had no right to file and maintain two separate but identical actions and where Ms. Agour waited until day day before the hearing on summary judgment (several months after summary judgment briefing had been filed in both cases) before it ruled.

Further, the trial court properly granted summary judgment where Ms. Agour failed to demonstrate any issue of material fact as whether Mr. Dalrymple had been properly served.

Finally, the trial court did not abuse its discretion when it denied Ms. Agour's motion to continue the summary judgment hearing where Ms. Agour made no argument as to why the motion should be continued in her briefing, where there was no factual dispute in the evidence before the trial court on summary judgment, and where Ms. Agour had already had four and a half months to conduct discovery in between Mr. Dalrymple's filing of the motion for summary judgment on November 1, 2012 and the hearing on the same on March 15, 2013.

DATED this 12<sup>th</sup> day of February, 2014.

REED McCLURE

By   
\_\_\_\_\_  
Jason E. Vacha                      WSBA #34069  
Attorneys for Respondents

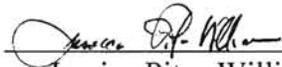
067825.000081/ 441543



copies of the following documents:

1. Brief of Respondents; and
2. Affidavit of Service by Mail

DATED this 12<sup>th</sup> day of February, 2014.

  
\_\_\_\_\_  
Jessica Pitre-Williams

SIGNED AND SWORN to before me on 2-12-14 by

Jessica Pitre-Williams.



  
\_\_\_\_\_  
Print Name: REBECCA LEWIS  
Notary Public Residing at LYNNWOOD, WA  
My appointment expires: 4-9-2014