

No. 80554-7

SUPREME COURT OF THE STATE OF WASHINGTON

WASHINGTON MOTORSPORTS, LTD., by and through Barry W.
Davidson, in his capacity as Receiver and as Acting General Partner,

Respondent,

v.

LeMASTER & DANIELS, P.L.L.C., a Washington limited liability
company,

Defendant,

and

LARRY D. WYATT and JANE DOE WYATT, husband and wife,

Petitioner.

PETITIONER'S BRIEF

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I. INTRODUCTION

Petitioner Larry D. Wyatt (“Wyatt”) and his employer, LeMaster & Daniels, P.L.L.C. (“L&D”), were named as defendants in an accounting malpractice action in Spokane County Superior Court. Prior to any discretionary rulings being made in the case, Wyatt individually moved for a change of judge. Instead of granting Wyatt’s motion as a matter of right under the non-discretionary provisions of RCW 4.12.050, the trial court wrongfully exercised significant discretion and denied Wyatt’s motion.

The only difference between this and any other case in which a litigant files a motion for change of judge is that the accounting malpractice action was filed against Wyatt and L&D by a receiver in an on-going receivership action. Under RCW 7.60.160, all actions by or against a receiver must be “referred” to the receivership court and, thereafter, remain “adjunct” to the receivership case. The trial court interpreted this language as giving it authority to exercise discretion in denying Wyatt’s timely Motion for Change of Judge.

Essentially, the court found that RCW 7.60.160’s requirements trump a litigants’ right to a change of judge as a matter of right. The trial court’s interpretation is not supported by the plain language of the statutes and is not in accordance with the rules of statutory interpretation.

Further, in wrongfully exercising this discretion, the trial court erroneously relied on its concerns regarding judicial economy. It is well-established that concerns about judicial economy are irrelevant to a properly filed motion for change of judge. In addition, the trial court further erred in supporting his decision with reference to discretionary decisions it made in the Receivership Action, to which Wyatt was never made a party.

The trial court erred in denying Wyatt's Motion for Change of Judge, and this Court should reverse the trial court's ruling and remand for a change of judge.

II. ASSIGNMENT OF ERROR

The trial court erred in denying Wyatt's Motion for Change of Judge.

ISSUES PERTAINING TO ASSIGNMENT OF ERROR

1. Did the trial court err in exercising discretion in denying Wyatt's Motion for Change of Judge, where Washington's receivership statute, chapter 7.60 RCW, does not take precedence over the non-discretionary provisions of RCW 4.12.050, nor deny a litigant the right to a change of judge?

2. Did the trial court further err in denying Wyatt's Motion for Change of Judge, where, in wrongfully exercising discretion under RCW 4.12.050, it erroneously concluded:

a. Concerns regarding judicial economy and inconvenience provided a valid basis for denying Wyatt's Motion for Change of Judge; and

b. Discretionary rulings in the main receivership action provided a valid basis to deny Wyatt's Motion for Change of Judge for procedural defects?

III. STATEMENT OF THE CASE

An action for accounting malpractice was filed against L&D and individually against Petitioner Wyatt, an L&D member and accountant, on February 3, 2006, in Spokane County Superior Court.¹ (Clerk's Papers ("CP") at 4-20.) The accounting malpractice action (hereafter, the "L&D Action") was filed as an adjunct to a receivership action by Washington Motorsports LTD against Spokane Raceway Park, Inc. (hereafter, the "Receivership Action").² The receiver commenced the Receivership

¹ Washington Motorsports, Ltd. v. LeMaster & Daniels, P.L.L.C., et al., Spokane County Superior Court No. 06-2-00566-4.

² Materne, et al. v. Spokane Raceway Park, Inc., et al., Spokane County Superior Court No. 03-2-06856-4.

Action pursuant to Washington's receivership statute, RCW 7.60, *et seq.*, which requires all actions by or against a receiver to be "referred" to the receivership court and "adjunct" to the related receivership action.³ RCW 7.60.160.

The Honorable Robert D. Austin had presided over the Receivership Action since it was originally filed in October 2003. (CP at 31.) Wyatt had a limited, non-party role in the Receivership Action. Wyatt's participation was restricted solely to: (1) entering a Special Notice of Appearance in the Receivership Action on February 6, 2004, for the stated purpose of receiving all further pleadings regarding the third-party depositions of Wyatt and other L&D employees in the Receivership Action (CP at 1-3), and (2) responding to requests to produce documents as a non-party. (CP at 30-32.)

The L&D Action was initially assigned to the Honorable Neal Q. Rielly. (CP at 21.) Early in the week of May 1, 2006, Wyatt learned that

³ The vast majority of the factual and procedural history of the underlying Receivership Action is not relevant to the current appeal, and thus, is not recounted herein. However, as background, the underlying Receivership action is an action for an accounting and damages by Washington Motorsports, Ltd. against its general partner – Spokane Raceway Park. L&D and Wyatt performed various accounting services for Washington Motorsports, Ltd. from approximately 1980 purportedly through 2004. (CP at 7-8.)

the L&D Action had been reassigned to Judge Austin, apparently pursuant to RCW 7.60.160. (CP at 23-25.)

Without delay, on May 4, 2006, Wyatt filed a Motion, Certificate and Order for Change of Judge. The Motion for Change of Judge was initially granted, and the matter was reassigned to the Honorable Jerome J. Leveque. (Id.) Judge Austin then requested briefing on the issue of whether Wyatt, as a party to an adjunct proceeding under chapter 7.60 RCW, had the right to a change of judge under RCW 4.12.050. After briefing and oral argument from both sides, Judge Austin denied Wyatt's Motion for a Change of Judge. (CP at 26-29.)

The Order Denying Motion for Change of Trial Judge evidences both the trial court's significant departure from the non-discretionary mandate of RCW 4.12.050, and its erroneous exercise of that discretion.

The trial court had several bases for denying Wyatt's Motion. First, it provided its purported bases for authority to exercise discretion. It pointed out that RCW 7.60.160(2) requires litigation by a receiver to be adjunct to a receivership case and also provides that adjunct litigation shall be referred to the judge assigned to the receivership case. (CP at 35.) The court held that the provisions of RCW 7.60.160 "take precedence over the general provisions of RCW 4.12.050." (Id.) It noted that the receiver statute rests "discretion in the assigned receivership court," and "shows a

legislative intent to vest administrative and judicial control of receiverships and adjunct litigation in one judge so it can be judicially managed as one overall litigation matter.” (Id.) Therefore, the trial court concluded that “[a] party in adjunct litigation brought by or against a receiver that is assigned, pursuant to RCW 7.60.160, to the same judge assigned to the main receivership case is not by right entitled to a change of judge in the adjunct case.” (CP at 35.)

In exercising this discretion, the trial court voiced its concerns over judicial economy: “Under the circumstances of this case, granting a change of judge could lead to a waste of judicial resources and may lead to inconsistent results.” (Id.) It explained: “Affording, as a matter of right, a different judge for each potential claimant may exhaust judicial resources, cause inconsistent results, time delays, and create chaos....” (Id. at 36.)

The trial court also provided an apparent procedural basis for denying Wyatt’s Motion. Although it recognized that at the time of the ruling on Wyatt’s motion for change of judge, it had not made any discretionary rulings in the L&D Action, the court found it relevant that it had “made numerous discretionary rulings in the Main Receivership Case after the Defendants had jointly filed a Notice of Appearance.” (Id.)

Wyatt timely moved for discretionary review in the Court of Appeals, which was denied. This Court then granted Wyatt’s Motion for

Discretionary Review under RAP 13.5(b)(1), necessarily finding that the trial court committed “an obvious error which would render further proceedings useless.”

IV. ARGUMENT

A. STANDARD OF REVIEW.

This appeal turns on the trial court’s interpretation of RCW 7.60.160 and RCW 4.12.050. A trial court’s interpretation of a statute is a question of law, which this Court reviews de novo under the error of law standard. Nevers v. Fireside, Inc., 133 Wn.2d 804, 809, 947 P.2d 721 (1997). The error of law standard allows the reviewing court to substitute its judgment for that of the trial court. Franklin Cy. Sheriff’s Office v. Sellers, 97 Wn.2d 317, 325, 646 P.2d 113 (1982).

B. THE TRIAL COURT ERRED IN DENYING WYATT’S MOTION FOR CHANGE OF JUDGE.

Under RCW 4.12.040 and .050, a party litigant is entitled, as a matter of right, to a change in judge upon the timely filing of a motion and affidavit of prejudice against a judge. RCW 4.12.040, .050; see also State v. Cockrell, 102 Wn.2d 561, 565, 689 P.2d 32 (1984); State v. Dixon, 74 Wn.2d 700, 702, 446 P.2d 329 (1968). RCW 4.12.050 expressly and unambiguously entitles “[a]ny party to or any attorney appearing in any action or proceeding in a superior court” to file a motion and affidavit of

prejudice against the judge, and it will be granted upon filing provided that it is filed before the court rules on any motion or makes a ruling which involves the exercise of discretion. RCW 4.12.050.

1. The Court Wrongfully Exercised Discretion in Denying Wyatt's Motion for Change of Judge.

It is well-established that a motion for change of judge presents no question of discretion or policy and it must be granted as a matter of right. State v. Mauerman, 44 Wn.2d 828, 830, 271 P.2d 435 (1954). This Court has recognized that the legislature intended to give litigants the absolute right to remove one judge when it enacted RCW 4.12.050. See e.g., Marine Power & Equipment Co. v. State, 102 Wn.2d 457, 460, 687 P.2d 202 (1984). “[O]nce a party timely complies with the terms of RCW 4.12.050, prejudice is deemed established. Thereafter, ‘the judge to whom [the motion] is directed is divested of authority to proceed further into the merits of the action.’” Id. This Court has made it clear that “[t]he purpose of RCW 4.12.050 was to remove discretion from the trial court when presented with a motion for change of judge.” Id. at 464.

Here, the trial court improperly exercised considerable discretion in denying Wyatt's Motion for Change of Trial Judge. Its primary basis for ignoring non-discretionary mandates of RCW 4.12.050 and exercising discretion was a conclusion that the “specific” provisions of RCW

7.60.160 “take precedence” over the “general” provisions of RCW 4.12.050, and granted it discretion to reject a timely motion for a change of judge in the adjunct proceeding.

This reasoning violates the plain statutory language of RCW 4.12.050 and this Court’s interpretations of that statute, which divest the trial court of any discretion under RCW 4.12.050 to deny a timely request for a change of judge.

RCW 7.60.160 provides that “[l]itigation by or against a receiver is adjunct to the receivership case,” and that “[a]ll adjunct litigation shall be referred to the judge, if any, assigned to the receivership case.” RCW 7.60.160(2) (emphasis added). Based on this statutory language, the trial court found that RCW 4.12.050 is a general statute “regarding seeking a change of judge,” but that “RCW 7.60.160 is a specific statute regarding the assignment of adjunct receivership cases to the same judge assigned to the main receivership case.” (CP at 34.) Thus, the trial court concluded that “[t]he specific provisions of RCW 7.60.160 regarding assignment of the case take precedence over the general provisions of RCW 4.12.050.” (Id.)

Under this flawed analysis, all parties to adjunct litigation under RCW 7.60.160, including Wyatt, lose the statutory, non-discretionary

right to a change of trial judge, simply because RCW 7.60.160 purportedly empowers the trial court to administratively manage receivership cases.⁴

Initially, the trial court's conclusion that RCW 7.60.160 specifically addresses the issue of whether a party in a main or adjunct receivership action has the right to request a change of judge is mistaken. RCW 7.60.160 is silent as to a party's right to seek a change of judge in a receivership action. See RCW 7.60.160. To the contrary, RCW 4.12.050 – not RCW 7.60.160 – is the only statute specifically addressing a litigant's right to seek a new judge. See id.; RCW 4.12.050. The plain language of RCW 7.60.160 simply requires that all adjunct cases be initially assigned to the judge overseeing the related receivership action and ultimately remain associated with and subordinate to that receivership action.

The trial court was required to give credence to this plain language. “If a statute is clear on its face, its meaning is to be derived from the language of the statute alone.” Cerillo v. Esparza, 158 Wn.2d 194, 201,

⁴ Moreover, the trial court's analysis would also presumably apply to motions to recuse based on actual prejudice. The trial court's flawed interpretation of RCW 4.12.050 and RCW 7.50.150 would prevent a litigant from obtaining a new judge, even in the face of actual prejudice, based on the assertion that once an adjunct case has been “referred” to the receivership court, it must remain with that court. As with presumed prejudice under RCW 4.12.050, nothing in the receivership statute would support such a draconian result.

142 P.3d 155 (2006). A court must “decline to add language to an unambiguous statute, *even if it believes the Legislature intended something but did not adequately express it.*” Id. (emphasis added). “Courts may not read into a statute matters that are not in it and may not create legislation under the guise of interpreting a statute.” Id. Thus, when a statute is not ambiguous, only a plain language analysis of a statute is appropriate. Id. The trial court’s reliance on the statutory purpose of the receivership statute is in error.

Moreover, the trial court’s summary conclusion that RCW 7.60.160 “takes precedence over” RCW 4.12.050 ignores the rule of statutory construction that it attempted to apply. As this Court has consistently recognized: “A more specific statute supersedes a general statute *only if the two statutes pertain to the same subject matter and conflict to the extent they cannot be harmonized.*” Kerr v. Bennett, 134 Wn.2d 328, 343, 949 P.2d 810 (1998) (emphasis added); see also City of Tacoma v. The Taxpayers of the City of Tacoma, 108 Wn.2d 679, 691, 743 P.2d 793 (1987) (holding, “this court gives preference to a more specific statute *only if the two statutes deal with the same subject matter and they have an apparent conflict*”). Courts have a “responsibility to harmonize statutes if at all possible, so that each may be given effect.” Id.

Here, the trial court failed to address whether RCW 4.12.050 actually conflicts with RCW 7.60.160. It does not. The trial court's analysis omits this essential step in the statutory construction and simply presumes that RCW 4.12.050 and RCW 7.60.160 conflict because they both deal with the tenuously related topics of "change of judge" and "assignment of adjunct receivership cases." (CP at 34-35.) The two statutes do not conflict because only one – RCW 4.12.050 – addresses a party's right to request a change of judge. Nothing in the receivership statute strips a party of his right to remove a judge. At most, RCW 7.60.160 merely requires that the same judge preside over matters adjunct to the main receivership action.

In fact, the two statutes can be easily harmonized by recognizing that a request for change of judge in an adjunct case would also require a change of judge for the receivership. RCW 7.60.160(2) merely states that litigation by or against a receiver shall be "referred" to the judge that is assigned to the receivership case and that such litigation be "adjunct" to the receivership case. This is not subject to two interpretations as would render it ambiguous. See Cerillo, 158 Wn.2d at 20.

Nothing in RCW 7.60.160 (or any other part of the receivership statute) requires receivership and adjunct cases to remain with that same receivership judge throughout litigation, especially considering a proper

motion for change of judge. The trial court failed to realize that if both the receivership and adjunct case are transferred upon a motion for change of judge, both RCW 4.12.050's and RCW 7.60.160's statutory requirements are met. In short, there is no conflict between these two statutes.

On this basis alone – the wrongful exercise of discretion based on flawed statutory interpretation – the trial court erred in denying Wyatt's Motion.

2. The Court Further Erred by Relying on Concerns Over Judicial Economy in Denying Wyatt's Motion for Change of Judge.

Believing it had discretion to deny a motion for change of judge, the trial court then concluded that Wyatt's statutory request for a change of judge was inappropriate based on judicial economy concerns. (CP at 35-36.) In its previous briefing, the receiver has repeatedly relied on a related argument that application of RCW 4.12.050 in receivership actions would result in "limitless" changes of judge and create chaos.

First, it is well-established that a trial court's concerns about judicial economy do not trump a party's statutory right to a change of judge. See State ex rel. Goodman v. Frater, 173 Wash. 571, 24 P.2d 66 (1933); Marine Power & Equip., 102 Wn.2d at 464-65.

In Goodman, this Court considered a motion for change of judge brought by a third-party defendant who had been joined two days into the

execution phase of a trial. The Court held that the movant was entitled to a change of judge, despite the obvious interference with the orderly administration of justice. The Court noted: “It is hard to see why, under the circumstances here present, [the movant] should be deprived of the statutory right simply because she was brought into the case, against her will, after the original complaint was filed or, indeed, after the judgment was entered.” Id. at 573; see also Bode v. Superior Ct., 46 Wn.2d 860, 285 P.2d 877 (1955) (holding that a motion for change of judge filed the day prior to hearing was timely because it was filed in compliance with the terms of the statute).

This Court reiterated this position more recently in Marine Power & Equipment, when it declined to adopt a rule granting the trial court discretion in “special cases” of “complex litigation.” Marine Power & Equip., 102 Wn.2d at 464-65.

The purpose of RCW 4.12.050 was to remove discretion from the trial court when presented with a motion for change of judgeWere we to adopt the rule suggested by DOT, judges would have discretion to determine whether a case is sufficiently complex to warrant departure from the general rule and, if so, whether a party’s motion is filed sufficiently soon. *Such a rule would clearly contravene legislative intent.*

Id. at 465 (emphasis added).

Moreover, the receiver's assertions of "limitless" recusals is misplaced. At the time the trial court denied Wyatt's motion, only the current adjunct proceeding was pending before the trial court; thus, there was no potential for "limitless" recusals. In any case, only one party per side is allowed to move for a change of judge. See LaMon v. Butler, 112 Wn.2d 193, 203, 770 P.2d 1027 (1989). Thus, giving effect to the change of judge statute in receivership actions will result in, at most, two changes of judge within the main receivership action. In any case, as discussed, this Court has previously rejected the idea that this in any way negates a party's right to a non-discretionary change of judge.

Thus, the trial court erred in relying on concerns over judicial economy in denying Wyatt's Motion for Change of Judge.

3. The Trial Court Further Erred in Denying Wyatt's Motion for Change of Judge on Procedural Bases.

The trial court's denial of Wyatt's Motion for Change of Trial Judge is also based on its finding that Wyatt did not comply with the procedural requirements of RCW 4.12.050. While the trial court recognized that it had not made any discretionary rulings in the L&D Action prior to Wyatt's Motion for Change of Trial Judge (CP at 33-34), it noted that it had "made numerous discretionary rulings in the Main Receivership Case, and LeMaster & Daniels and Wyatt have participated

therein as described above after they filed their Special Notice of Appearance.” (*Id.* at 36.) This conclusion erroneously assumes that RCW 4.12.050 would have allowed Wyatt to obtain a change of judge in the Receivership Action, and that the L&D Action is the same case as the Receivership Action.

RCW 4.12.050 allows “[a]ny party to or any attorney appearing in any action or proceeding in a superior court” to file a motion for change of judge by “motion and affidavit . . . filed and called to the attention of the judge before he shall have made any ruling whatsoever *in the case*. . . .” RCW 4.12.050 (emphasis added). If a statute’s meaning is clear on its face, the court “must give effect to that plain meaning as an expression of legislative intent.” Wash. Pub. Ports Ass’n v. Dep’t of Revenue, 148 Wn.2d 637, 645, 62 P.3d 462 (2003). An unambiguous statute should not be subjected to judicial construction. Fraternal Order of Eagles, Tenino Aerie v. Grand Aerie of Fraternal Order of Eagles, 148 Wn.2d 224, 239, 59 P.3d 655 (2002).

RCW 4.12.050 unambiguously permits “any party” to an action to file a request for change of judge. See RCW 4.12.050 (allowing “[a]ny party to or any attorney appearing in any action of proceeding in a superior court” to file an affidavit of prejudice) (emphasis added); see also Riverpark Square, LLC v. Miggins, 143 Wn.2d 68, 80, 17 P.3d 1178

(2001) (holding that in order to file a successful motion for change of judge, the applicant “*must be a party to the action* and establish prejudice by motion, supported by affidavit”) (citing RCW 4.12.050) (emphasis added). A party is “an interested litigant whose name appears of record as a plaintiff or defendant or some other equivalent capacity, and over whom the court has acquired jurisdiction.” In re Special Inquiry Judge, 78 Wn. App. 13, 16, 899 P.2d 800 (1995). It is undisputed that Wyatt was never a party of record in the Receivership Action.

Rather, Wyatt had a very limited, non-party role in the Receivership Action.⁵ His counsel appeared under a special, limited notice of appearance to defend Wyatt at his third-party deposition and to respond to other third-party discovery and deposition requests. Based on this limited involvement by a non-party in the Receivership Action, the trial court read an exception into RCW 4.12.050 which would allow non-parties to file a Motion for change of judge if they have some level of participation in that case. Indeed, under the trial court’s finding, such a non-party is *required* to exercise a non-party “right” to a change of judge

⁵ In the proceedings below, the Receiver repeatedly relied on actions taken by L&D in the Receivership Action to bolster the argument that Wyatt actively participated in the Receivership Action and also exaggerated the actions actually taken by L&D. This Court should reject any similar attempts to attribute L&D’s actions to Wyatt. L&D is a separate party, L&D did not move for a change of judge, and L&D is not a party to this Motion.

or waive that right in subsequent adjunct litigation in which he or she is actually a party. This interpretation is not permitted under the plain reading of the unambiguous text of RCW 4.12.050, which allows only for a “party” or “attorney” to file a motion for change of judge.

Further, such an interpretation has been rejected by this and other Washington courts. In River Park Square, LLC v. Miggins, 143 Wn.2d at 79-80, this Court upheld the trial court’s denial of a non-party’s motion for change of judge, despite the fact that the non-party had “participated” in the case by filing a motion for intervention. See also In re Special Inquiry Judge, 78 Wn. App. at 16 (finding that non-party witness was not a “party” for purposes of RCW 4.12.050 and did not have the right to change of judge).

In addition, RCW 4.12.050 unambiguously requires a party to file a motion for a change of judge before the judge has “made any ruling whatsoever *in the case*. . . .” RCW 4.12.050 (emphasis added). The court’s interpretation of RCW 4.12.050 as requiring Wyatt to make a motion for change of judge in the Receivership Action assumes that the L&D Action is the same case as the Receivership Action. However, the L&D Action is separate cause of action for purposes of RCW 4.12.050. It is an accounting malpractice action that arises under different facts and seeking different relief than the Receivership Action.

In Mauerman, this Court considered a trial court's denial of a motion for change of judge in a petition for modification finding that the motion was "untimely" because the judge had presided over the initial custody proceeding. Mauerman, 44 Wn.2d at 830. In overturning the decision, this Court found that because the modification proceeding presented "new issues arising out of new facts," the trial court erred in denying the change of judge, which should have been granted "as a matter of right." Id.

Similarly here, even though the L&D Action is related to the Receivership Action, it is a separate cause of action with different facts and different parties for purposes of RCW 4.12.050. Wyatt was not allowed to file a motion for change of judge in the Receivership Action. Wyatt only possessed the ability to exercise his absolute right for a change in judge after he became a party, which occurred with the filing of the L&D Action. Upon commencement of the L&D action, it is undisputed that Wyatt exercised his rights under RCW 4.12.050 prior to the trial court issuing any rulings in that case.

Thus, the court erred in denying Wyatt's Motion for Change of Judge based on Wyatt's non-party participation in the underlying Receivership Action.

C. APPROPRIATE RELIEF UPON REMAND.

Once a party complies with the statutory requirements of RCW 4.12.050, prejudice is deemed established, “and the judge to whom it is directed is divested of authority to proceed further into the merits of the action.” State v. Dixon, 74 Wn.2d 700, 702 P.2d 329 (1968). Under the plain reading of the rule, the court loses all jurisdiction over the case. State v. Cockrell, 102 Wn.2d 561, 565, 689 P.2d 32 (1984). Thus, once Wyatt filed a motion for change of judge in accordance with RCW 4.12.050, the trial court lost all jurisdiction to act in the L&D Action, and any subsequent rulings must be reversed.

In addition, because a change of judge in the L&D Action also requires a change of judge in the Receivership Action, the trial court’s continuing jurisdiction in the Receivership Action and the validity of its rulings in that case after that point are highly questionable. Had the Receivership Action been properly re-assigned with the L&D Action, the trial court would not have made any of the subsequent rulings in that case.

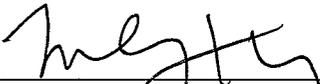
V. CONCLUSION

Based on the foregoing argument, Wyatt respectfully submits that the trial court erred in denying Wyatt’s Motion for Change of Judge. This Court should reverse and remand for assignment of the L&D and Receivership Actions to a new judge and vacate any rulings in the L&D

and Receivership Actions entered after the wrongful denial of Wyatt's
Motion for Change of Judge.

RESPECTFULLY SUBMITTED this 12th day of February, 2008.

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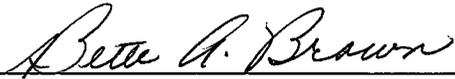
CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of February, 2008, I caused to be served via email a true and correct copy of the foregoing PETITIONER'S BRIEF addressed to the following:

John P. Giesa
Reed & Giesa, P.S.
222 N Wall, #410
Spokane, WA 99201-0873
jpgiesa@reedgiesa.com
agoforth@reedgiesa.com
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Barry W. Davidson
Davidson - Medeiros, P.S.
601 W Riverside Ave, Suite 1340
Spokane, WA 99201
bdavidson@davidson-medeiros.net

Dated this 12th day of February, 2008, at Spokane, Washington.



Bette A. Brown
Lukins & Annis, P.S.