SUPREME COURT OF THE STATE OF WASHINGTON

NO. _____

(COA No. 59690-3-11)

Philippe Chantreau, Respondent

vs.

Helen Nowlin ///, Petitioner

PETITION FOR REVIEW

Helen Nowlin, WSBA #40086
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Attorney for Isabelle Chantreau

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Washington

I. INTRODUCTION AND IDENTITY OF PETITIONER

This issue was always about Isabelle, a young disabled woman who is trying to get her legal rights enforced against her non-paying parent. The court system has allowed him to abandon her financially. This is not discretionary because the original Petition's record proved her disability beyond any doubt. Respondent originally agreed with the findings and diagnosis in 2019 by authorizing his signature. The federal government - Social Security and Veterans Administrations and the State of Washington agree to use the same medical criteria to make disability decisions. The purpose of the 2023 Petition was to update the Courts.

The evidence Washington State requires to document Isabelle's disability is an individualized assessment and Report done by a Washington-certified school psychologist, which the original Petition provided [**CP 1-17**]. Her father received Notice on June 01, 2023, and later, after obtaining counsel, did not see fit to timely Answer in the 20 days as RCW 26.09.175

(4) requires. Under normal circumstances, the Court would not have ruled in their favor or allowed baseless arguments to continue because they had not followed the Court's rules. The Court did not coincidentally strike Helen Nowlin's Motion for Default. It was stricken based on well-timed false testimony and the Court's refusal to acknowledge key facts in the record.

This Court's leading decision on the duty for post-majority support remains in Childers (89 Wn.2d 592) (1978). Isabelle's identified Intellectual Disability establishes the dependency. The Court should ordinarily appoint or require a parent to pay for legal services on behalf of an adult-dependent person. In this case, Helen Nowlin, Esq, is Isabelle's mother and represents Isabelle's rights and interests in the foregoing matter [Childer @ 595]. Without financial means, I am the only one who would advocate for her. Ordinarily, the Court should order for costs, fees, and any legally entitled disbursements in favor of the child / dependent's attorney. [RCW 26.09.110, *In re Marriage Waggener* 13 Wn. App. 911, 915 (Wash. Ct. App.

1975)]. COA-II relies on RCW 26.09.140 [**Opinion, pg 4, 7**], recognizing me as Isabelle's attorney, then denies the $3800.00 previously requested from the July 20, 2023 hearing. This Petition also relies on the American Disabilities Act and RCW 49.60 to pursue federal rights as necessary.

II. COURT OF APPEALS DECISIONS

Isabelle and her counsel seek an appeal from the Order denying the Appellant's Motion for Reconsideration and Publication on December 11, 2024 (**Appendix B**). This also seeks a review of the unpublished opinion filed on November 21, 2024 in Division II of the Court of Appeals affirming Clark County Superior Court's denial of the Petition for (financial) support to continue (**Appendix C**)

III. ISSUES PRESENTED FOR REVIEW

1. After years of problems at Washington's institutions as residences for the developmentally disabled, the Washington legislature admitted its care was failing. The efforts of particularly wealthy fathers and their lawyers to push off the

financial burden required to meet the needs of the disabled population became a taxpayer burden, or the other parent unwilling to institutionalize his/her loved one might be considered successful. With the inbound wrecking ball and seeds of chaos represented by the Trump administration, there is no guarantee that taxpayer funding will be available or at the scale needed to support people with developmental disabilities in Washington. Where do Courts construe their authority to decide who is dependent to ignore a medical diagnosis, particularly in this case, after the COA was informed that the Secretary of the Veterans Affairs determined, based on the diagnosis and assessment Report, that Isabelle is permanently disabled and incapable of self-support?

2. What is the proper process of the Court if one attorney accuses the other attorney of failure to serve under CR5, and the record shows the Attorney charged did certify service by mail, with proof of service in the Court's record? Under CR 5, the literal interpretation of this procedural rule

applies to both attorneys, not just to one. Neither controls the U.S. Postal Service. How can any Court penalize any attorney when the proof of service is in the Court's record under CR5?

IV. STATEMENT OF THE CASE

A. Factual Background

Re: Issue #1: In Washington, parents have a duty to support dependent children even adults if disabled. [**CP: 14, paragraph 16**] (*Childers* @ 794) when the evidence *proves* the disability is permanent and renders the person unable to live independently and/or unable to secure financial independence because of the disability. [**CP: 14, paragraph 17**] [**Appellant's Brief, pg 36-37, 39**] Standard of proof is set by the State.

Who decides the disability (what type and severity) is a question for qualified experts, not the Court. The court needed to see even more of the relevant law. RCW 71A.10.020 (6) defines Intellectual Disability, citing in part:

"<u>developmental disability to mean a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism or another neurological or other condition of an individual found by the **Secretary**….. which disability originates before the individual</u>

attains age eighteen (18), which has continued or can be expected to continue indefinitely, and which constitutes a substantial limitation to the individual."

RCW 71A.10.020 (6) & (13) identifies the Secretary of the Washington Department of Health and Human Services (herein, hereafter "Secretary") as having the authority to define disabilities and when a disability meets the legal definition (that then triggers additional legal rights), not the Courts.

WAC 388-823-0200, the Secretary promulgates how a person proves Intellectual Disability or equivalent, and the following are required as a set of criteria: 1) condition must have onset before the age 18; 2) diagnosis must be made by a licensed psychologist, a Washington **certified school psychologist**, or other school psychologists (if a diagnosis was documented from another state); and 3) the diagnosis must be documented in an acceptable diagnostic report. All these factors are met in the original Petition for Modification/update of the Court filed on May 25, 2023 [**CP: 6-8, 15-16**]

Isabelle's Assessment Report was signed on the same day by both parents on 01-30-2019. [**CP: 6-8**]. Respondent waived any challenge to the Petition in 2023 because of acquiescence and waiver by estoppel. [**Motion for Reconsideration, pg 10**] COA – II attempted to accommodate Respondent's acquiescence in saying: "Chantreau was aware of *and* (instead of using but) did not challenge the evaluator's assessment." [**Opinion, pg 5**] COA-II's use of the word "and" instead of "but" is an essential point. Under law & equity, Respondent's failure to bring a challenge on or before Isabelle's 18th birthday should have been construed by the Court to favor financial support for Isabelle's benefit. COA-II treated this case differently (to be discussed).

However, Respondent's consent to his daughter's disability is not part of the evidence required under the RCW/WACs. The State does not consider non-medical based opinions. Non-medical opinions should not be persuasive in a court of law either.

WAC 388-823-0740 states that the Secretary promulgates the evidence necessary to prove adaptive skills limitations for the purpose “to be the (measured) substantial limitation” to the individual (Infra, definition pg 5). A petition arose to meet this standard and provided the required evidence. Instead, the trial court TOTALLY ignored the issue and failed to give Isabelle her day in Court through her legal representative. Petitioners only needed to provide assessment and scoring for evidence of adaptive skill limitation [**CP 6-8**]. Under WAC 388-823-0210, Isabelle met the definition of having substantial limitations with her assessed score governed under WAC 388-823-0740. WAC 388-823-0740 specifies the qualifying score, which is not the court's role or decision; Isabelle’s proof is in the record [**CP: 6-8**] The Court system lacks the authority to take decision-making rights away from the legislature or the Secretary. This could be unconstitutional.

This case is solely based on the right to post-majority financial support because of DISABILITY and the state

required evidence of a valid medical diagnosis, individualized assessment, and expert opinion. [**CP: 15-16**] [**Appellant's Appeal Brief, pg 45**] - a standard set under the WAC. In the trial court's July 20, 2023 denial of the original Petition, Isabelle's disability is not mentioned or referenced. The trial court implies having magical authority; thus, COA – II, by affirming the trial court, a medical opinion in the Court's record is supplanted with its own. It is not clear where this authority is located. A denial is equivalent to altering what Washington State requires from the Petitioner, or anyone else, as to what evidence proves a developmental disability (see supra), then ignoring what the Petitioner successfully presented to the Court. Is this court authorized to allow total child abandonment?

The Childer's factors do not apply in this case. The Court cannot make them apply. Doing so would be plain error when a Petition for post-majority support does not involve educational support.

Isabelle's future educational opportunities were not a topic in the original Petition filed on May 25, 2023 but reserved. Under RCW 26.09 the Court can order support to continue past a child's majority. However, the trial court and COA lack the authority to define who has a disability when, as in this case, the disability is the sole relevant factor establishing DEPENDENCY. A dependent child, even if in the post-majority situation, means under Washington common law, financial obligations to assist with expenses continue.

The Appellate Court refused to consider and admit new information about the Secretary of Veterans Affairs who found Isabelle proved a permanent disability that rendered her incapable of self-support, to exceed their authority when it denied the appeal. Based on grounds of comity, federal supremacy under the U.S. Constitution, and common notions that who or what comes first makes the decision, res judicata applies. COA-II failed to properly consider the new information [**Reply Brief, pg 7-8**], and V.A's decision is proof the trial court failed to

consider the medical Report and diagnosis in the record and was ("manifestly unreasonable or based on untenable grounds or untenable reasons" – **Opinion, pg 4**) requiring reversal.

Isabelle's eligibility for special education services gave her the right to age out of high school at 21, under WAC 172A-01034 (2)(g) and Individuals with Disabilities Education Act, 20 U.S.C. § 1400 (2004). The common language in Washington divorce decrees require parental support to continue "until 18 or the child leaves high school." Isabelle's disability, not the court's decree procured these rights (in 2024 a federal court held WA disabled students can stay in public school until age 22). Isabelle's disability itself is why she would stay in public school. However, Isabelle did not acquire a high school diploma and could not surpass fifth-grade capabilities at complete mastery [**Motion for Reconsideration, filed on December 06, 2024; Denied on December 11, 2024, pg 1**].

The trial court was unaware of the disability when the final 2009 support order was issued. Isabelle was too young for an accurate assessment at that time. Neither was there a prior modification request before 2023. Based on WAC, the sole thing that matters for Washington law purposes is confirmation that the onset was during childhood. The 2019 individual assessment achieves that confirmation.

Issue #2: Motion to Reconsider, Motion for Sanctions, and ER 201 (d) filed in the Court on July 27, 2023, were mailed in compliance with CR 5. COA-II fails to cite the Service of motions by mail, governed under CR 5 (b)(2), and is what applies in this case. The false, misleading written comment [CP: 80, 82] by Manesh, Respondent's lawyer, provides no evidence in the record that supports her claim of "unserved" pleadings [CP:80, 82]. Under CR 5 (b) (2) (B) proof of service is complete when filed in the Court's record (by an attorney). Without evidence of non-compliance in the record of a procedural rule and CR 5 is a procedural rule, the Court lacked authority to strike the

documents on September 28, 2023. As unopposed motions, the Court should grant them.

General position of COA-II on CR 5 is held in *O'Neill v Jacobs*, 77 Wn. App. 366 (Wash. Ct. App. 1995) and treats my situation differently. COA-II applied substantial compliance with a procedural rule, such as CR5. Substantial compliance applies in this case based on what the evidence in the record supports.

Total of (3) documents, (3) Certificate of Services dated July 25, 2023 in one - packet with the same tracking service #: 7020 3160 0000 7666 2602 and received on July 27, 2023, with a copy to McCray's agent by first-class, prepaid mail (with no additional services). **CR 5 (2) (A)** states service is proper **by use of mail service**: "If service is made by mail, the papers shall be deposited in the post office addressed to the person on whom they are being served, with the postage prepaid. The service shall be deemed complete upon the third day following the day upon which they are placed in the mail…." The trial court received its copy within

two days, so unless a diabolical, unforeseen circumstance occurred, a party in the same city should have received theirs.

CR 5 (2) (B) affirms that proof of service of all papers permitted to be mailed, as well as written acknowledgment of service filed in the Court is proof of service when done by an attorney. As a bar-certified attorney, I can rely on my Certificates of Service as PROOF OF SERVICE under CR5. As a bar-certified attorney, I shouldn't be treated as an outsider by any court system.

Manesh writes: "After checking OnBase around August 25th, I saw other Motions filed 7/27 that were never served to my office despite the 8/3 Certificate of Service (**false statement; certificate of service verifiably dated on 7/25**) stating such. When I contacted Respondent, she stated she sent her pleadings to the Court and knew of "no such requirement" to serve us the pleadings filed 7/27."

Manesh offered "Exhibit A" [CP:82], reproduced for COA-II in Motion for Reconsideration. It is an exhibit which

does not support Manesh's claim. This Court can review Manesh's exhibit and sole source of evidence against Helen Nowlin, Esq. [**See Appendix A**]. Instead of reading the Exhibit, the Court defames Helen Nowlin, Esq, again, without any "competent" evidence or proof in the record. It is a procedural rule, and the evidence in the record supports my compliance. (Lee v. WESTERN PROCESSING COMPANY, 667 P. 2d 638 - Wash: Court of Appeals, 1st Div. 1983). CR5 also applies to both parties (See Supra). The following is what the email exchange between Manesh and my home office substantiates. Helen Nowlin wrote (to Manesh):

"Good afternoon, by my election, I sent all documents to the court by paying extra, by certified tracking and/or a third-party carrier. **YOUR OFFICE WAS SERVED BY REGULAR FIRST-CLASS MAIL** WITH THE EXCEPTION OF THE MOST RECENT documents (by third-party carrier) because you provided a stated time to respond." [**Appendix A**]

This exchange does not support Manesh's claim that Helen Nowlin, Esq. knew of "no service requirement" [**Opinion, pg 6**], and that none exists. However, CR5 does not yet require the

purchase of additional mail services, and additional services are not a requirement.

Rules are given ordinary meaning [In re Stoker, 118 Wn.2d, 792 P.2d 986 (1992)] It is this Court's role to apply CR 5 equally between two attorneys or change the rule, specifically as proof of service under **CR 5 (2)(B)**.

Helen Nowlin and Isabelle attended September 28, 2023, hearing by Zoom [**VRP**, pg 5, lines 17-25]. To defer to the fact finder on "witness credibility" and the persuasiveness of the evidence on a procedural rule is not standard even for COA-II under *O'Neill*. There is no basis to defer when the competing evidence supports service was complete and proof of service filed [Opinion, pg 6]. The doctrine of substantial compliance is an equitable remedy under procedural rules. It must continue when the Court, through its rule, allows reliance on the U.S. Postal Service. Courts can't presume attorneys violate their rules of professional conduct (without actual evidence in support). **Procedural History** Helen Nowlin filed a motion for reconsideration, based on the record,

and denied on 12-11-24. Helen Nowlin seeks review from this Court based on all the grounds in the record and this Petition.

V. ARGUMENT

A. This Court Should Grant Review under RAP 13.4 (3) & (4) because Washington State law provides for post-majority support when the onset of the disability occurs in childhood, and the child remains dependent on parental support.

The Washington Legislature has established the standards of proof and evidence required to settle the disability issue, and the Petition settled the dependency. It met or exceeded the evidentiary burden the State requires. Secretary of Veterans Affairs decided Isabelle suffers from a permanent disability and is unable to support herself (without aid and assistance) [**Motion for Reconsideration, pg 7**]. Res judicata bound COA-II while failing to consider this added information or didn't correctly apply it. "In appropriate circumstances, a party may waive a known right." See Wilson v. Horsley, 137 Wn.2d 500, 510, 974 P.2d 316 (1999)" cited in *Pulich v. Dame*, 99 Wn. App. 558, 564 (Wash. Ct. App. 2000). Respondent's signature

and approval in 2019 (of the diagnosis) waived his rights to later argue otherwise in 2023. He agreed in 2019, and until this Court suggested he could rescind his common law contractual obligation, he otherwise had continued to help support Isabelle financially. Respondent accepted service on June 01, 2023 – Summons and Petition to then fall outside of the time to respond under RCW 26.09.175 (4) with aid of his attorney which a "responding party's failure to file an answer within the time required **shall** result in the entry of a default judgment." Besides being untimely, it was also improperly served on July 11, 2023 *in violation of the Summons and CR5* [CP: 42-45; Appendix A]. Why does the Court's procedure apply against one but not the other to trigger due process concerns? Helen Nowlin's documents struck could have prevented the occurrence of the September 28 hearing and the appeal if heard on the merits. It appears Respondent's lawyer filed late, then threatened she had some uncanny influence over the Court [**Appellant's Appeal Brief, pg 22**] and proffers evidence that

fails to support her argument of unserved pleadings under CR 5 (2) (A) & (B) [**Appendix A**] and couldn't prove her claim. There is defamation of Helen's character in the record, and unjust benefits granted without grounds and secured by false testimony. [Motion for Reconsideration, filed December 06, 2024, pg 15-16] A decision is based on untenable grounds or made for untenable reasons if it rests on facts unsupported in the record or reached by applying the wrong legal standard. *Mitchell v. Washington State Institute of Public Policy,* 153 Wn.App. 803, 821-22, 225 P.3d 280 (2009).

B. This Court Should Grant Review under RAP 13.4 (b) (2) & (4) since it has been a while since the WA Supreme Court has looked at CR 5 as a procedural rule, particularly as to proof of service under CR5 (b) (2)(B) for attorneys.

The exhibit used to support the opposing counsel's claim of "unserved papers" instead supports my Certificate and proof of service (by mail) in my recognized role by COA-II as Isabelle's

attorney/advocate. My Certificates contained the wording required in CR 5, and/“or the notice "was served in a manner reasonably calculated to give notice . . ." *Saltis,* 94 Wn.2d at 896” *by submission in the Postal Service*, *O'Neill v. Jacobs*, 77 Wn. App. 366, 370 (Wash. Ct. App. 1995). Manesh claimed no injury; the record contained proof of service. Missing mail has become common since 2020.

VI. CONCLUSION

No doctors or psychologists exist in a Court except by the Record and evidence; WAC creates the guardrails. Respondent’s attorney had the burden of proof and produced an exhibit that wholly unsupported herself but supports the attorney she falsely accused. Service by mail was complete under CR 5 (b)(2) (A) & (B). Petition requests sanctions in the amount commensurate with the conduct, fees for services already requested and any other relief due.

Respectfully submitted, January 07, 2025.
Tribal Consultancy, L.L.C.
By: /s/ Helen Nowlin, WSBA 40086
Individual / Attorney for Isabelle C

CERTIFICATE OF SERVICE

I, Helen Nowlin, Esq certify under penalty of perjury under the laws of Washington (CR 5/RAP 18.5) that on 07 day of January, 2024, I served a complete copy of this document on Respondent, if listed in the E-service portal OR by Postal Service, prepaid mail, to his place of residence (3815 NE 84th St. Vancouver, WA 98665) or his counsel of record, if any via Court's e-Service portal.

/s/: Helen Nowlin #40086
P.O. Box 55
Glenoma, WA 98336

Appendix A

(Court of Appeals No: 596903-11)

Roxana Manesh

From: Helen N <forestresources@hotmail.com>
Sent: Thursday, August 31, 2023 4:44 PM
To: Roxana Manesh
Cc: Liya Basarab; Helen N
Subject: Re: Received documents & plans to cite for hearing

Good afternoon, by my election, I sent all documents to the Court by paying extra, by certified tracking and/or a third-party carrier. Your office was served by regular first-class mail with the exception of the most recent documents (by a third-party carrier) because you provided a stated time to respond. Otherwise, I know of no requirement that I have to pay for extra service when dealing with mailing service copies. I think everyone is aware that the Post Office hasn't been reliable, since 2020.

Just to let you know – the only documentation I received from your office by mail to my correct address as the Petition certified to be my Post Office box is none. The Notice of Intent to withdraw, and the only thing so far received was sent incorrectly to my physical street address which was not listed in the Petition as a proper mailing address (it was re-directed by the U.S. Post Office to my PO Box, or it could have been sent back to you by the Post Office), and I wouldn't have been aware that you sent it anyway. Besides, my physical street address has no mail service. Other than for "procedural" matters, email was also carved out in the Petition - not supplied and not listed as a contact option.

I cited all of these filings (7/27 and 8/3) by incorporation in the objections with the supplement discussion/sanctions. They are brought into any hearing that the law firm will bring to discuss the intention to withdraw. As you know, under Rule 59 (e), the presiding Judge may by her own Motion or on application call the hearing to hear the Petition for Reconsideration. I specifically asked the Court in my cover received at the Court on 8/3, to call the matter for a hearing or grant the default judgment as the relevant statute requires and would otherwise moot the need for any purported hearing as it relates to my prior filings. Given the gravity of the situation, I felt it was a reasonable request and one that has been neither denied nor granted.

I expect to benefit from remote access since I was the one who wrapped the request for remote access within the Petition itself. I was never notified remote access had been granted nor given a Zoom key.

Thank you.

Helen Nowlin, Attorney, Legal Education and Heirs' Title Consultant
B.S. in Cons.Bio; J.D.; L.L.M. in Intl' Env Law
https://www.tribal-consultants.info/
https://www.linkedin.com/in/helennowlin
360-635-6437 (home/business)

From: Roxana Manesh <roxana@vernmccraylaw.com>
Sent: Thursday, August 31, 2023 3:00 PM
To: Helen N <forestresources@hotmail.com>
Cc: Liya Basarab <liya@vernmccraylaw.com>
Subject: Received documents & plans to cite for hearing

Good afternoon Ms. Nowlin,

Appendix B

(Court of Appeals No: 596903-11)

Filed
Washington State
Court of Appeals
Division Two

December 11, 2024

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

In the Matter of the Marriage of PHILIPPE CHANTREAU, Respondent, and HELEN NOWLIN, Appellant.	No. 59690-3-II ORDER DENYING MOTION FOR RECONSIDERATION AND PUBLICATION

The unpublished opinion in this matter was filed on November 21, 2024. On December 6, 2024, appellant moved for reconsideration and publication of this court's opinion. After consideration, it is hereby

ORDERED that appellant's motion for reconsideration and publication is denied.

PANEL: Jj. Glasgow, Cruser, Price.

FOR THE COURT

GLASGOW, J.

Appendix C

(Court of Appeals No: 596903-11)

Filed
Washington State
Court of Appeals
Division Two

November 21, 2024

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

In the Matter of the Marriage of PHILIPPE CHANTREAU, Respondent, and HELEN NOWLIN, Appellant.	No. 59690-3-II UNPUBLISHED OPINION

GLASGOW, J.—During their marriage, Helen Nowlin and Philippe Chantreau had a daughter, IC, who received special education services from an early age. Nowlin and Chantreau finalized their divorce in 2009. In 2023, shortly before the conclusion of IC's high school education, Nowlin petitioned the trial court for modification of the child support order, arguing that a substantial change in circumstances warranted monthly support from Chantreau throughout IC's adult life. The trial court denied her petition.

Nowlin appeals the trial court's order denying her petition to modify child support, as well as the trial court's order awarding Chantreau attorney fees and denying Nowlin's request for attorney fees. We affirm.

FACTS

In 2002, during their marriage, Helen Nowlin and Philippe Chantreau had a daughter, IC. According to Nowlin, IC was born at full term but weighed less than five pounds due to

complications during her pregnancy that prevented proper nourishment and development. IC has been eligible for special education services and was on an individual education plan since approximately third grade. Nowlin and Chantreau finalized their divorce in October 2009. The final support order stated that child support would continue until IC was 18 or for as long as she was enrolled in high school, whichever occurred last.

In 2019, when IC was in 10th grade, a school psychologist and special education manager conducted a series of testing with IC to assess her intellectual ability and to measure her adaptive skills. The evaluation determined that IC had an intellectual disability rendering her eligible to continue special education services at the high school. The signature page of the report contained a notation indicating that the results were shared with Nowlin and Chantreau via teleconference, stating "agreed w/ results. Ok to sign." Clerks Papers (CP) at 14.

In 2023, shortly before the conclusion of IC's high school education, Nowlin filed a petition to modify the final child support order. The petition sought a modified child support order requiring Chantreau to provide $760.65 in support for IC every month indefinitely on the basis of IC's intellectual disability. Nowlin contended that the 2019 school evaluation identifying IC as having an intellectual disability constituted a new formal diagnosis and amounted to a substantial change in circumstances warranting a modification to the final child support order.

The trial court denied Nowlin's petition, concluding that there had not been a substantial change in circumstances since the entry of the final child support order to warrant modifying the final order.

Nowlin filed a motion for reconsideration of the trial court's order denying her petition for modification. For the first time, Nowlin contended that the petition to modify child support was

brought by IC herself and that Nowlin appeared only as IC's attorney. Nowlin also filed a petition for default judgment against Chantreau, contending that he had failed to timely reply to her petition. She also filed a "Judicial Notice of Adjudicative Fact" under ER 201 requesting that the trial court take notice that (1) WAC 392-172A-01035(2)(g) defines intellectual disability, (2) IC was diagnosed with an intellectual disability, and (3) Chantreau signed the report acknowledging IC's intellectual disability. CP at 53.

Chantreau's counsel then moved to withdraw from the case. Nowlin objected to the notice of intent to withdraw, filed a motion for $75,000 in sanctions against Chantreau's counsel based on their motion to withdraw from the case, and requested $3,800 for attorney fees for herself. In turn, Chantreau requested attorney fees for having to respond to Nowlin's objection and request for sanctions, which Chantreau contended was made in bad faith. Chantreau also moved to strike several of Nowlin's pleadings based on insufficient service.

The trial court granted Chantreau's counsel's motion to withdraw and his motion to strike Nowlin's motions. The trial court also granted Chantreau's request for $1,000 in attorney fees to be paid by Nowlin and denied Nowlin's motion for sanctions.

Nowlin appeals the trial court's order denying her petition to modify child support. Nowlin also appeals the trial court's order granting Chantreau's counsel's motion to withdraw, granting Chantreau's motion to strike Nowlin's motions on the basis of improper service, ordering Nowlin to pay Chantreau $1,000 in attorney fees, and denying Nowlin's motion for sanctions against Chantreau and her request for attorney fees.

ANALYSIS

As an initial matter, it bears clarification that IC is not a party in this case. Despite Nowlin's contention in her motion for reconsideration and in her briefing on appeal, Nowlin herself is a party to the lawsuit—specifically the party moving for modification—not simply the attorney for IC.

I. DENIAL OF CHILD SUPPORT MODIFICATION

Nowlin requests that we reverse the trial court's denial of her petition for child support modification. We hold that the trial court did not abuse its discretion by denying her petition.

The superior court generally has broad discretion to modify child support when there has been a substantial change in circumstances. *In re Marriage of Goodell*, 130 Wn. App. 381, 388, 122 P.3d 929 (2005); RCW 26.09.170. We will not reverse the superior court's decision on modification absent a manifest abuse of discretion. *In re Marriage of McCausland*, 159 Wn.2d 607, 616, 152 P.3d 1013 (2007). The superior court "abuses its discretion if its decision is manifestly unreasonable or based on untenable grounds or untenable reasons." *In re Marriage of Littlefield*, 133 Wn.2d 39, 46-47, 940 P.2d 1362 (1997).

In support of her petition, Nowlin relies on the 2019 school assessment finding that IC has an intellectual disability. But that finding does not necessitate a finding of a substantial change in circumstances such that the child support order must be modified. By Nowlin's own declaration, the record shows that the 2019 finding was consistent with IC's condition throughout most, if not all, of her life. The assessment determined that continued special education services for IC were appropriate. In her declaration, Nowlin noted that IC had received special education services at school since approximately the third grade, before the divorce and child support were finalized.

Accordingly, the trial court's decision that the 2019 assessment did not constitute a substantial change in circumstances was not manifestly unreasonable.[1]

Nowlin also contends that Chantreau's acknowledgment of the school report identifying IC as having an intellectual disability constituted a binding contract between IC and Chantreau. She is misguided. Even assuming that the "Ok to sign" notation on the report amounts to a signature, nothing in the report could reasonably be construed to constitute a contract for support. CP at 14. The report identified IC as having an intellectual disability and concluded that she qualified for continued special education services at the high school. At most, the record suggests that Chantreau was aware of and did not challenge the evaluator's assessment.

II. Orders Related to Reconsideration

Nowlin also argues that the trial court erred by granting Chantreau's motion to strike Nowlin's motions on the basis of improper service and ordering Nowlin to pay Chantreau $1,000 in attorney fees. We disagree.

A. Motion to Strike

We review trial court rulings on motions to strike for an abuse of discretion. *Tortes v. King County*, 119 Wn. App. 1, 12, 84 P.3d 252 (2003). The trial court granted Chantreau's motion to strike Nowlin's motion for reconsideration, motion for default, and declaration of judicial notice based on failure to properly serve Chantreau. Service of motions is governed by CR 5(b)(1) which requires service upon the attorney of a party be made by

> delivering a copy to the party or the party's attorney or by mailing it to the party's or the party's attorney's last known address or, if no address is known, filing with

[1] Nowlin suggests that the trial court erred by denying her petition based on IC's failure to provide financial worksheets. We need not reach this issue because we affirm the trial court's denial of Nowlin's petition on the merits.

> the clerk of the court an affidavit of attempt to serve. Delivery of a copy within this rule means: handing it to the attorney or to the party; or leaving it at the party's or the attorney's office with a clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at the person's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein.

CR 5(b)(1). Chantreau's counsel declared that her office had never received Nowlin's filings, despite her certificate of service stating such. Chantreau also provided an e-mail exchange between counsel and Nowlin wherein Nowlin acknowledged that she knew of "no [service] requirement" regarding the "most recent documents." CP at 81. At the hearing, Nowlin argued to the court that Chantreau's counsel was misleading the court regarding service.

The trial court weighed the competing evidence of service and ultimately determined that Nowlin had not complied with CR 5. We defer to the fact finder on witness credibility and the persuasiveness of the evidence. *In re Marriage of Akon*, 160 Wn. App. 48, 57, 248 P.3d 94 (2011). Nowlin has not established any other basis for us to find an abuse of discretion. We hold that the trial court did not abuse its discretion by granting Chantreau's motion to strike.

B. Attorney Fees & Sanctions

We apply a two-part standard when reviewing a trial court's award of attorney fees. *Falcon Props., LLC v. Bowfits 1308 LLC*, 16 Wn. App. 2d 1, 11, 478 P.3d 134 (2020). First, we review de novo whether there is a legal basis for the award of fees. *Id.* Second, we apply an abuse of discretion standard to the trial court's decision to award fees and its determination of the amount awardable. *Id.*

Although not cited directly, it is evident that the trial court awarded fees under CR 11, which permits the court to sanction a litigant for filing a pleading "not grounded in fact or law."

In re Recall of Lindquist, 172 Wn.2d 120, 136, 258 P.3d 9 (2011). Chantreau requested an award of attorney fees for having to respond to Nowlin's objection to Chantreau's counsel's notice of withdrawal. Chantreau contended that Nowlin objected in bad faith and without any basis in law or fact. The trial court agreed with Chantreau's argument, which we conclude was supported by the record. Accordingly, we hold there was a legal basis for awarding limited fees, and the trial court did not abuse its discretion by ordering Nowlin to pay attorney fees to Chantreau for having to respond to her baseless objection.

Nowlin also contends that the trial court should have awarded her CR 11 sanctions up to or including her requested amount of $75,000. Nothing in the record supports Nowlin's request for sanctions against Chantreau. Accordingly, the trial court did not abuse its discretion by denying her request.

Nowlin asserts she was entitled to attorney fees below, but she did not prevail and she did not submit any information to the trial court about need and ability to pay under RCW 26.09.140. Accordingly, we affirm the trial court's decision not to award Nowlin attorney fees for her own work.

Finally, Nowlin argues that the trial court proceedings were unfair to her. Upon diligent review of the record on appeal, we find no evidence of bias in the proceedings. The trial court appears to have judiciously reviewed and considered the numerous filings from Nowlin and the responsive pleadings from Chantreau prior to making its decisions. Likewise, we have diligently considered all of the arguments made in Nowlin's briefing to this court. We have also reviewed the entire record. Having considered those arguments in light of the entire record, we conclude the trial court did not err.

CONCLUSION

We affirm.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.

GLASGOW, J.

We concur:

CRUSER, C.J.

PRICE, J.

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Transmittal Information

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Appellate Court Case Title:	Philippe Chantreau, Respondent v. Helen Nowlin, on behalf of Isabelle Chantreau, Appellant
Superior Court Case Number:	08-3-00538-8

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