

**THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE**

JOHN HOAG and DELLA HOAG,
husband and wife, and their marital
community,

Petitioners,

v.

CAR WASH ENTERPRISES, INC.,
a Washington corporation or other
business entity; and GARY KNIGHT
and "PAT DOE" KNIGHT, and their
marital community,

Respondents.

No. 73792-9-I

DIVISION ONE

UNPUBLISHED OPINION

FILED: October 5, 2015

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STATE OF WASHINGTON
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PER CURIAM – John and Della Hoag seek discretionary review under RAP 2.3(b)(1) of a July 7, 2015 trial court order denying their affidavit of prejudice and a July 15, 2015 order denying reconsideration. We have reviewed the motion and answer, with appendices, and determined that review should be granted.

The trial court denied the Hoag's affidavit of prejudice on the ground that the court had made a discretionary ruling. But the order amending case schedule was before the court on a stipulation between the parties. See In re Marriage of Tye, 121 Wn. App. 817, 90 P.3d 1145 (2004), and State v. Parra, 122 Wn.2d 590, 859 P.2d 1231 (1993) (citing State ex rel. Floe v. Studebaker, 17 Wn.2d 8, 134 P.2d 718 (1943)). Because the Hoags filed their affidavit of prejudice before the trial court made any

discretionary ruling, it was error to deny the affidavit of prejudice. Accordingly, the stay is lifted, and we reverse and remand for further proceedings consistent with this order.

Reversed and remanded.

For the court:

Leach, J.
Trickoy, J.
Dryden, J.