No. _____

In The
Supreme Court of the United States

Tatyana I. Mason

Applicant (pro-se)

vs.

John A. Mason

Respondent

EMERGENCY APPLICATION FOR STAY THE MANDATE OF THE WASHINGTON STATE COURT PENDING RESOLUTION OF DIRECT APPEAL TO THIS COURT

To the Honorable John Roberts, Chief Justice of the United States Supreme Court.

Short Summary: Applicant appeared as a *pro-se* litigant in this case, who prevailed on the 2016 three day trial court and lost on appeal July 31, 2018. The state's supreme court denied her petition for review on March 6, 2019. The state court violate Federal Law, undermine the U.S. Congress law and is in direct conflict with this Court's decisions in similar cases.

The mandate issued on March 21, 2019 by the state's court of appeals. The Motion to Stay the Mandate was denied on March 22, 2019 by the state's court of appeals. On April 10, 2019 motion to stay was filed to the state's supreme court. On the same date, the state supreme court sent a letter stated: ("Because the State Supreme Court denied review, any mandate in this case would be issued by the Court of Appeals. Therefore, any request to stay the mandate in this case should be directed to the Court of Appeals").

Applicant complies with Rule 23.3, requested the same relief in the appropriate lower state courts and attached copies of these orders from the lower courts to this Application to Stay. This Court should stay the mandate pending the filing of a certiorari petition and until the final disposition of the case by the U.S. Supreme Court.

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EMERGENCY APPLICATION FOR STAY PENDING CERTIORARI

To the Honorable John G. Roberts, Jr., Chief Justice of the Supreme Court of the United States and Circuit Justice for the Ninth Circuit:

Applicant Tatyana Mason respectfully moves this Court for an order to stay the Washington state court of appeals' mandate in this case issued on March 21, 2019. *See* Appendix B. Applicant complies with Rule 23.3, requested the same relief in the appropriate lower state courts and attached copies of these orders from the lower courts to this Application. The Applicant set forth with particularity why relief is not available from any other court and why a stay is justified in this Court below:

On March 22, 2019 the Washington State court of appeals division II *denied* Tatyana's Motion to Stay the Mandate. *See* Appendix C. On April 10, 2019 in response to the Applicant's Motion to Stay the Mandate, the Washington State Supreme Court sent a letter where it states:

> ("Because the State Supreme Court denied review, any mandate in this case would be issued by the Court of Appeals. Therefore, any request to stay the mandate in this case should be directed to the Court of Appeals") *See* Appendix D.

JURISDICTION

This Court has jurisdiction to recall and enter a stay of the Washington State court of appeals division II pending review on a writ of certiorari. *See* 28 U.S.C.§§ 1254(1), 2101(f). Sup. Ct. R. 23.

PETITION WILL PRESENT SUBSTANTIAL QUESTIONS OF LAW.

A. The Washington State Court of Appeals' Decision Ignored and is in Direct Conflict with several U.S. Supreme Court's Decisions, as well is in conflict with the Circuit Courts' Decisions and is undermined the U.S. Congress.

B. The State Court's Decision Presents an Important Question of Federal Law That Has Not Been, But Should Be, and Decided by The U.S. Supreme Court.

Applicant Tatyana[1] will file a petition for a writ of certiorari pursuant to S. Ct. R. 13.1, 13.3. This Court should grant Tatyana's motion for a stay because her certiorari petition (1) will present substantial questions of law and (2) good cause exists for a stay. See Fed. R. App. P. 41(d) (2). A stay will not prejudice the Defendant in this case. In light of the standards for granting a certiorari petition, Applicant will respectfully submits that the Panel's decision (1) decided an important question of federal law that has not been, but should be, settled by the U.S. Supreme Court and (2) conflicts with decisions of the U.S. Supreme Court and other courts. S. Ct. R. 10.

There is a substantial probability that members of the U.S. Supreme Court will consider the legal issues to be sufficiently meritorious for the grant of certiorari. A certiorari petition in this case would not be frivolous or filed merely for purposes of delay. See Ninth Cir. R. 41-1.

Accordingly, the Applicant requests that this Court stay the issuance of the mandate in this case pending the filing of a certiorari petition and until the final disposition of the case by the U.S. Supreme Court.

REASONS FOR GRANTING THE STAY

(1) There are the Reasonable Probabilities that this Court Will Grant Certiorari and Reverse the Washington state court of appeals decision"

(2) A fair prospect that majority of this Court will vote to reverse this ridicules unpublished opinion of the Washington state court of appeals dated July 31, 2018.

(3) Irreparable Harm Will Result From The Denial of a Stay

These standards are readily satisfied in this case *see* below:

[1] Applicant Tatyana Mason (hereinafter "Tatyana" to avoid confusion with John Mason) Defendant John Mason (hereinafter "John" to avoid confusion with Tatyana Mason)

Issue # 1: The Washington state court of appeals ignored and is in direct conflict with Federal Law 8 C.F.R.§274 (a) (12) and with this Court's decisions in the case: **Arizona v. United States,** 567 U.S. 387 (2012) by improperly damaging immigration status, and forcing the noncitizens to work without proper work authorization by stating ("voluntarily unemployed").

In **Arizona** case, this Court held that ("Federal governance is extensive and complex. Among other things, federal law specifies categories of aliens, who are ineligible to be admitted to the United States, 8 U. S. C. § 1182; requires aliens to register with the Federal Government and to carry proof of status, §§1304(e),1306(a); Imposes sanctions on employers who hire unauthorized workers §1324a. ("The Federal Government's broad, undoubted power over immigration and alien status rests, in part, on its constitutional power to "establish an uniform Rule of Naturalization," Art. I, §8, cl. 4, and on its inherent sovereign power to control and conduct foreign relations"). In this Court's cases: **Toll v. Moreno,** 458 U. S and **Hoffman Plastic Compounds, Inc. v. NLRB,** 535 U. S. 137, this Court held: ("makes it illegal for employers to knowingly hire, recruit, refer, or continue to employ unauthorized workers, 8 U. S. C. §§1324a (a)(1)(A), (a)(2), and requires employers to verify prospective employees' employment authorization status, §§1324a(a)(1)(B),(b)").

According to Immigration law: ("A noncitizen may not seek or obtain employment in the United States without proper work authorization") *See* INA §274(A)(a). ("If a person works without proper authorization s/he may be found inadmissible and unable to adjust their status to that of a lawful permanent resident") *See* INA §245(c). Under the Immigration and Nationality Act ("INA") certain classes of immigrant are eligible to obtain employment authorization. The list

can be found in 8 C.F.R. §274 (a)(12). Eligibility to be legally employed extends to lawful permanent residents as well. **The Washington state court of appeals division II has no basis to enforce noncitizens to work without proper authorization and imputed income based on the noncitizens' debt (school loan).**

Additionally, an applicant for adjustment of status must establish that s/he has good moral character if order for AG to exercise its discretion favorably.
A noncitizen's failure to support dependent by paying child support is a negative discretionary factor in establishing good moral character. *See* **In re Malaszenko** 204 F. Supp. 744 (D.N.J. 1962). Appendix A (The North West Immigration Right Project)

Issue # 2: The Washington state's court of appeals division II undermined and violated the U.S. Congress' passage of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRAIRA), Pub. L. No. 104-208,110 Stat. 3009 included 8 U.S.C. § 1182 (a)(4)(B). When on September 30, 1996, the President approved enactment of the (IIRIRA) to make an alien inadmissible as likely to become a public charge if the alien is seeking adjustment of status as immediate relatives to permanent resident status. To overcome this presumption of inadmissibility, (IIRIRA) created the new INA § 213 to specify ("the conditions that *must* be met in order for an affidavit of support Form I-864 to be sufficient to overcome the public charge inadmissibility ground. **The US Congress required visa sponsors, rather than the American people, serve as a safety net to immigrants".)**

The Affidavit of Support on Behalf of Immigrants, 62 Fed. Reg. 54346 (Oct. 20 1997) ("preliminary rules", which later finalized by Affidavit of Support on Behalf of Immigrants, 71 Fed. Reg. 35732 (June 21, 2016), both were codified in 8 C.F.R. §213 a 1 *et. seq.*). **The sponsors' obligations could not be waived** by marital agreement **Erier v.**

Erier 824 F 3d. 1173, 1777 (9th Cir.2016); the sponsors' obligation exist wholly and apart from any rights the sponsors and sponsored immigrants may have under state courts matrimonial law (quoting **Liu v. Mund**, 686 F 3d. 418, 419-2- (7th Cir 2012) and **Wenfang Liu**, 686 F. 3d at 421; **U.S v. Smith**, 499 U.S. 160, 167, 111 S Ct 1180, 113 L. Ed. 2d 134 (1991). Here, the Washington state court directly undermines the clear statutory purpose of ("ensuring a new immigrant does not become a public charge").

(1) Likelihood That Irreparable Harm Will Result From The Denial of a Stay

If the mandate is not stayed, then Applicant Tatyana will be daily harassed by the Washington state's enforcement and face irreparable injury because she is in disfavored status placed by the Washington state court of appeals. Her conditions were not removed by John do to his domestic violence toward Tatyana. The Washington state court improperly damaged her immigration status. Also, John (who is the sponsor for Tatyana) failed and refuses to pay his I-864 obligation to her. In the result, Tatyana has no income and as someone who has significant unpaid arrears of child supports the immigration authorities have the discretion to deny her permanent residency at this point; so she is in the awkward position of being in this country but having no ability to obtain status. And with the focus on legal status that currently exists in this country, the employers will not hire her, because she is not able to show proof of legal status. *See* **Hollingsworth v. Perry,** 558 U.S. 183, 190 (2010).

Same in this Court's case **Arizona v United States** 567 U.S. 387 (2012) held: ("requires aliens to register with the Federal Government and to carry proof of status, §§1304(e), 1306(a); imposes sanctions on employers, who hire

unauthorized workers, §1324a; and specifies which aliens may be removed and the procedures for doing so, *see* §1227. *Id*"). *See* also **In re Malaszenko** 204 F. Supp.744 (D.N.J. 1962). Also, Tatyana is a cancer patient who also is unable to work due to her serious medical conditions

GOOD CAUSE AND REASONS EXIT FOR THE STAY THE MANDATE:

> The Mandate of the Washington State court of appeals division II should stay and reverse by this Court because it will prevent harassment from the state court' enforcement of payment from a cancer patient and noncitizen; It also will have the effect of allowing Tatyana to remove the conditions that were placed on her conditional permanent residence status by a domestic violence John, and fix her immigration status damaged by the state court - which in the long run is going to be beneficial to both parties, because it will ultimately allow her to obtain citizenship, which will terminate the sponsored I-864 obligation. That's one of the grounds to do that. It also will allow her to obtain employment and earn a living, which is another basis for stay the mandate. Otherwise, there is no way for either party to get out of this box.

The Washington state court of appeals division II decisions should warrant this Court's review because the Federal Questions in this case—under what circumstances a state court improperly ignored, undermined and intrudes on authority allocated to: Federal Law 8 C.F.R. §274 (a)(12); the U.S. Congress' passage of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRAIRA), Pub. L. No. 104-208,110 Stat. 3009 included 8 U.S.C. § 1182 (a)(4)(B); and in direct conflict with this Court's rulings in **Arizona vs. United States** 567 U.S. 387 (2012); **Toll v. Moreno,** 458 U. S; **Hoffman Plastic Compounds, Inc. v. NLRB,** 535 U. S. 137 cases; in conflict with the Circuit Courts' decisions in the cases **Erier v. Erier** 824 F 3d. 1173, 1777 (9th Cir.2016); **Liu v. Mund,** 686 F 3d 418, 419-2-(7th Cir. 2012); **U.S v. Smith**, 499 U.S. 160, 167, 111 S Ct 1180, 113 L. Ed. 2d 134 (1991), which has specifically been identified as meriting review by multiple Justices of this Court.

PARTIES:

Defendant -John Mason is a citizen of the United States of America resides and employed and owns a few houses and other properties in the State of Washington. Applicant Tatyana Mason is a citizen of Moldova and Ukraine and resides in the State of Washington. She is unemployed, her immigration status had been damaged by the state court, and she was diagnosed with metastasis cancer and lives at her American friends' house that are supporting her with basic needs.

Defendant [John] served as Applicant [Tatyana's] family-based immigration sponsor thereby contractually promising to provide a specific level of annual income to her. John has failed to provide Tatyana with the basic level of subsistence support promised in the Form I-864 contract. The parties had *a bona fide* marriage that was punctuated by domestic violence perpetrated by John on Tatyana. Tatyana and her two children were not adequately provided for by John. Tatyana lived on her school loan and education work study in order to survive. The parties divorced in July 2008.

Factual and Statutory Background:

John filed for Tatyana a form I-129F Petition for Alien Fiancée. The INS approved the petition. John signed a Form I-134, affidavit of support before notary. Tatyana was granted a K-1, Fiancée Visa, as a result of the John's petition and Form I-134. Tatyana legally entered the U.S. after her visa was approved. John and Tatyana married in August 1999. John required signed and filed his Form I-864 Affidavit of Support to sponsor Tatyana. John's support duty under the contract was subject to the condition that Tatyana gain status as a Temporary Lawful Permanent Resident based on the contract signed by John. John caused the contract District Adjudications Officer reviewed the Form I-485, Form I-864 met the requirements of

Section 213 (A) and approved the Form I-485 application. **Tatyana's status was based on the contract I-864 signed and notarized by John (on September 2, 1999).**

The Defendant [John] **breached** the contract of affidavit of support and failed to support Tatyana. Also, John is using the Washington State Courts to damage Tatyana's immigration status, prevent her from working in the U.S. and financially harassing her through the state court by unreasonably enforcing a support from Tatyana. Tatyana is a noncitizen, not an attorney, has not received formal training as an attorney, and does not speak English as her first language. Based on her financial disadvantage, she appears in this case as a *pro-se* litigant. Tatyana prevailed at the 2016 three day trial court; lost in the state's court of appeals; her petition for review was denied by the Washington Supreme Court.

The Washington State Courts' Actions in this Case:

A domestic violence protection order was entered against John Mason in 2007. The 2013 Washington state trial court ignored the DV order, ignored Federal law, and all immigration issues in this case, undermine the U.S. Congress law; treated the sponsored immigrant and noncitizen as she was born in the United States and English is her native language. No language interpretation service was available for her. Income was imputed to Tatyana based on her **debt** (school loan) and the court stated that ("she is voluntarily unemployed"). The court separated children from Tatyana through a financial barrier. Tatyana was required to pay a support, other huge bills and court's expanses to the sponsor John in this case who failed to pay his obligation to sponsored immigrant Tatyana.

The 2016 three day Washington state's trial court found that the 2013 trial court was ("fundamentally wrong and unjust"). Based on the substantial evidence and

testimony of a expert witness' on immigration law –the 2016 trial court vacated the 2013 orders under the state law CR 60(b)(11) as extraordinary circumstances; Granted expert witness fees and imposed sanctions against John and his attorney for promoting fabricated, untrue information to the court.

A few factual issues reviewed in this case:

> Is a person who does not have employment authorization eligible to work in the United States INA §274(a)(a) INA §245(c).
>
> Whether being in default of child support payment may adversely affect an application for adjustment of status. **In re Malaszenko** 204 F. Supp. 744 (D.N.J. 1962)
>
> Whether John had signed an Affidavit of Support (Form I-864) on behalf of Tatyana and whether the Affidavit of Support is enforceable.
>
> Whether relieving the sponsor of his duty of support when the immigrant is fortunate enough to find another person willing to provide the necessary support could itself be considered a windfall to the sponsor".

The 2016 trial court ruled:

> ("[John] who is a sponsor to beneficiary [Tatyana] had no real incentive to continue to work with her to maintain her permanent status in the United States early on in the marriage due to his domestic violence toward Tatyana") *See* RP 11/02/16 at 4 (ruling). ("The conditions on the conditional permanent residence status were not removed within the two years as required under the law"). RP 11/02/16 at 4 (ruling).
>
> ("Right now, [Tatyana] is in disfavored status as someone who has significant unpaid child support and that the immigration authorities have the discretion to deny her permanent residency at this point, so she is in the awkward position of being in this country but having no ability to obtain permanent status. And with the focus on legal status that currently exists in this country, it's not hard to believe that most employers will not hire her, because she is not able to show proof of legal status. And were she to go back to immigration, she would most likely be denied because of the child support order") RP 11/02/16 at 5 (ruling).
>
> ("No evidence that the court ever considered the impact of the I-864 on the obligations of John and Tatyana to each other. Certainly, if a court

> was entering a child support order, it would take into account whether or not the person receiving child support was also paying affidavit of support to the person paying it. I think that goes without saying that that would be considered both in the calculation of the child support and as to offsets". The 2013 trial court is fundamental wrong and unjust") RP 11/02/16 at 5-7 (ruling).

John filed an appeal. Here, the 2018 Washington state court of appeals division II, ignored all Immigration and Federal issues in this case, ignored the 2016 trial court findings by applying *de-novo* of the fundamentally wrong 2013 court) and reversed the 2016 trial court orders. In its unpublished opinion dated July 31, 2018, the court of appeals misstated the facts of the case, approved John's false statements and is in a directly conflict with the U.S. Supreme Court's decisions, undermined Federal law and the US Congress passage of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRAIRA). **Here the court of appeals ruled:**

> ("John testified that he did not complete or file the form I-864 affidavit; John stated in multiple declarations that he did not file the I-864 affidavit, and added that he was not required to do so based on Tatyana's type of visa. So John did not file Form I-864"). Opinion at 13. See Apx.

These frivolous rulings of the Washington state court of appeals directly undermined the clear Federal regulations, which expressly provide that ("a sponsor cannot "disavow" his obligations once residency is granted to the beneficiary"). 8 C.F.R. § 213a.2(f); (f)(1). Tatyana's rights under the I-864 are there not only for her protection, but the protection of the American public. **The majority of the courts have held that a beneficiary such as Tatyana and the courts cannot waive her support rights, even through the formalities of a nuptial agreement.**

Next, the Court of appeals imputed income to a noncitizen based on her **debt** (school loan) and stated ("Tatyana is voluntarily unemployed"). The state court of appeals unreasonably ruled in the unpublished opinion that: ("At the time of the

2013, Tatyana's income level was $1,197 per month as 125% of federal poverty guideline, to serve as a "Self-Support Reserve") Opinion at 11, by improperly damaging Tatyana's immigration status and forcing the noncitizen to work without proper authorization. **School loan is a debt and not an income!** The Washington state court of appeals division II ignored that Tatyana is an immigrant and noncitizen by imputing income based on her debt and rule that "she is voluntarily unemployed" is in direct violation to the INA §274(a)(a) and INA §245(c). When ("A noncitizen may not seek or obtain employment in the United States without proper work authorization") *See* INA §274(A)(a). ("If a person works without proper authorization s/he may be found inadmissible and unable to adjust their status to that of a lawful permanent resident") INA § 245 (c).

Further, the state court of appeals ignored the 2016 trial court findings regarding damaged Tatyana's immigration status and by misstating the facts the court of appeals ruled: ("failure of the parties to inform the court o the I-864 affidavit was not an extraordinary circumstance"). Here, the Washington state court of appeals adopted a rule allowing sponsors to escape their support obligations by withholding payments and waiting for charitable third parties to pick up the slack. As the Seventh Circuit in a similar case, the judges have ("recognized that purpose of From I-864 is best served by interpreting the affidavit in a way that makes prospective sponsors more cautious about sponsoring immigrants. Id"). The Ninth Circuit judge ruled in the similar case **Erer v. Erler** 824 F.3d 1173 (9th Cir.2016). ("Such a rule would make sponsors less cautious about sponsoring immigrants, and thus it would undermine the very purpose of the support requirement. 8 U.S.C. § 1182 (a)(4)(B).

Misstatements of facts of this case in the unpublished opinions dated July 31, 2018 do not resolve the Immigration and Federal issues in this case, instead the Washington state court is undermined and intrudes on authority allocated to: Federal Law 8 C.F.R. §274 (a)(12); the U.S. Congress' passage of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRAIRA), Pub. L. No. 104-208,110 Stat. 3009 included 8 U.S.C. § 1182 (a)(4)(B); and in direct conflict with this Court's rulings in **Arizona vs. United States** 567 U.S. 387 (2012); **Toll v. Moreno,** 458 U. S; **Hoffman Plastic Compounds, Inc. v. NLRB,** 535 U. S. 137 cases; This Court was faced with exact situation. Certiorari had already been granted in related cases. The Washington state court is in conflict with the Circuit Courts' decisions in the immigration cases **Erier v. Erier** 824 F. 3d. 1173, 1777 (9th Cir.2016); **Liu v. Mund,** 686 F 3d 418, 419-2-(7th Cir. 2012) has specifically been identified as meriting review by multiple Justices of this Court.

> This Court should stay the mandate of the Washington state court of appeals division II dated March 21, 2019. Because a fair prospect that majority of this Court will vote to reverse this ridicules unpublished opinion of the Washington state court of appeals dated July 31, 2018.

CONCLUSION

A stay of the mandate is essential to protect Applicant Tatyana from harassment of Washington State court's enforcement to support the sponsor John who has failed to provide Tatyana with the basic level of subsistence support promised in the Form I-864 contract. 8 U.S.C. 1182 (a)(4)(B). Also, the stay will allow Tatyana remove the conditions from her green card, fix her immigration status which was damaged by the Washington state court and obtain an employment.

Throughout this marriage and after, Tatyana has been living on her school loan in order to survive and at American friends' house for under the support threshold that John agreed to provide. The Washington state court of appeals violated Federal law in this case and undermine The U.S. Congress requirement that ("visa sponsors, rather than the American people, serve as a safety net to immigrants to prevent the admission to the U.S. of any alien who is likely at any time to become a public charge Id.(*quoting* 8 U.S.C. 1182 (a)(4)(B) and **Liu v. Mund**).

The Washington state court of appeals is improperly manufactures a duty "*ex nihili*" by waiving the sponsors' obligation, imputing income on noncitizens' debt (school loan), damaging immigrations' status and forcing noncitizens work without proper work authorization is directly undermines the clear statutory purpose of ensuring a new immigrant does not become a public charge. This stay will also protect the immigrants in all United States from irreparable harm and harassment who are in the same situation like Tatyana while Applicant seeks certiorari. Without interim relief, access to safe and legal rights could be decimated before this Court has an opportunity to consider Applicant' petition for certiorari and correct the Washington state's court of appeals extraordinary decision to uphold unreasonable decision identical to one this Court has already struck down and poor decisions which are directly violate Federal regulation and undermine the US Congress law.

Dated April 17 2019

Respectfully Submitted by

Tatyana Mason
Applicant *pro-se* for
a Petition for Writ
of Certiorari

APPENDIX A

NORTHWEST
IMMIGRANT RIGHTS
Project

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Thurston County Family and Juvenile Court
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October 21, 2015

RE: Tatyana Mason—Case #: 07-3008480

Dear Commissioner,

My name is Mozhdeh Oskouian and I am an attorney with the Northwest Immigrant Rights Project. I have practiced immigration law for the past 10 years. I write this note per Ms. Mason's request. Ms. Mason requested clarification of two issues: first, is a person who does not have employment authorization or lawful permanent residency eligible to work in the United States; second, whether being in default of child support payment may adversely affect an application for adjustment of status.

A noncitizen may not seek or obtain employment in the United States without proper work authorization. INA § 274A(a). If a person works without proper authorization s/he may be found inadmissible and unable to adjust their status to that of a lawful permanent resident. INA § 245(c). Under the Immigration and Nationality Act ("INA") certain classes of immigrants are eligible to obtain employment authorization. The list can be found in 8 C.F.R. 274a.12. Eligibility to be legally employed extends to lawful permanent residents as well. Therefore, if Ms. Mason is not a lawful permanent resident and does not have basis to apply for employment authorization she may not legally work in the United States.

Additionally, grant of applications for adjustment of status is within the discretion of the Attorney General. INA 245. An applicant for adjustment of status must establish that s/he has good moral character if order for AG to exercise its discretion favorably. A noncitizen's failure to support dependents by paying child support is a negative discretionary factor in establishing good moral character. *See* In re Malaszenko 204 F.Supp. 744 (D.N.J. 1962).

Please feel free to contact me if you have any questions or concerns. My contact information is below.

Sincerely,

Mozhdeh Oskouian
Attorney
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APPENDIX B

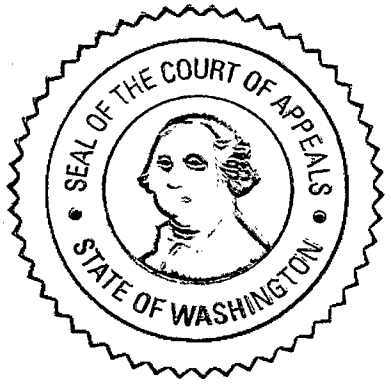
IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

IN THE MATTER OF THE MARRIAGE OF: JOHN ARTHUR MASON, Appellant, v. TATYANA IVANOVNA MASON, Respondent.	No. 49839-1-II MANDATE Thurston County Cause No. 07-3-00848-0

The State of Washington to: The Superior Court of the State of Washington in and for Thurston County

This is to certify that the opinion of the Court of Appeals of the State of Washington, Division II, filed on July 31, 2018 became the decision terminating review of this court of the above entitled case on March 6, 2019. Accordingly, this cause is mandated to the Superior Court from which the appeal was taken for further proceedings in accordance with the attached true copy of the opinion.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court at Tacoma, this 20th day of March, 2019.

Derek M. Byrne
Clerk of the Court of Appeals,
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APPENDIX C

Washington State Court of Appeals
Division Two

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Derek Byrne, Clerk/Administrator (253) 593-2970 (253) 593-2806 (Fax)
General Orders, Calendar Dates, and General Information at http://www.courts.wa.gov/courts **OFFICE HOURS**: 9-12, 1-4.

March 22, 2019

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RE; CASE #: 49839-1-II; John Mason v Tatyana Mason

Counsel:

On the above date, this court entered the following notation ruling:

A RULING BY COMMISSIONER SCHMIDT:

The motion to stay is denied. The mandate has already issued.

Very truly yours,

Derek M. Byrne
Court Clerk

APPENDIX D

THE SUPREME COURT
STATE OF WASHINGTON

SUSAN L. CARLSON
SUPREME COURT CLERK

ERIN L. LENNON
DEPUTY CLERK/
CHIEF STAFF ATTORNEY

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April 10, 2019

LETTER SENT BY E-MAIL ONLY

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Re: Supreme Court No. 96438-6 - In the Matter of the Marriage of John Mason and Tatyana Mason
Court of Appeals No. 49839-1-II

Counsel and Ms. Mason:

On April 10, 2019, the Court received the Petitioner's "MOTION TO STAY THE MANDATE." The motion requests that the Court stay the mandate pending the United States Supreme Court's decision on a writ of certiorari.

Because the Supreme Court denied review, any mandate in this case would be issued by the Court of Appeals. Therefore, any request to stay the mandate in this case should be directed to the Court of Appeals.

In addition, it appears that the Court of Appeals issued its mandate in the case on March 20, 2019. Any motion to recall the mandate would also need to be directed to the Court of Appeals.

Because the Supreme Court can take no action on this motion, it will be placed in the closed file.

Sincerely,

Erin L. Lennon
Supreme Court Deputy Clerk

ELL:sk

APPENDIX E

THE SUPREME COURT OF WASHINGTON

In the Matter of the Marriage of: JOHN MASON, Respondent, v. TATYANA MASON, Petitioner.	No. 96438-6 **ORDER** Court of Appeals No. 49839-1-II

Department II of the Court, composed of Chief Justice Fairhurst and Justices Madsen, Stephens, González and Yu, considered at its March 5, 2019, Motion Calendar whether review should be granted pursuant to RAP 13.4(b) and unanimously agreed that the following order be entered.

IT IS ORDERED:

The petition for review is denied. The Petitioner's motion for extension of time to file a reply to the answer to the petition for review, motion for a continuance, and motion to accept the reply to the answer to the petition for review are all denied. The Respondent's motion to strike the reply to the answer to the petition for review and the Respondent's request for attorney fees are both denied.

DATED at Olympia, Washington, this 6th day of March, 2019.

For the Court

Fairhurst, C.J.
CHIEF JUSTICE

APPENDIX F

Filed
Washington State
Court of Appeals
Division Two

July 31, 2018

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

In the Matter of the Marriage of JOHN ARTHUR MASON, Appellant, and TATYANA IVANOVNA MASON, Respondent.	No. 49839-1-II UNPUBLISHED OPINION

MAXA, C.J. – John Mason appeals the trial court's order vacating a 2013 order requiring his former wife Tatyana Mason to pay him child support. The trial court vacated the child support order under CR 60(b)(11) because in the 2013 proceeding the court had not been informed that John[1] had an obligation to support Tatyana based on an I-864 affidavit of support relating to Tatyana's immigration to the United States.

We hold that (1) the trial court erred in vacating the 2013 child support order because the failure of the parties to inform the court of the I-864 affidavit was not an extraordinary circumstance extraneous to the prior proceedings, (2) the trial court did not err in awarding Tatyana a portion of her expert witness fees under RCW 26.09.140, and (3) the trial court erred in imposing CR 11 sanctions against John without including specific findings supporting the award in its CR 11 order.

misstatements of fact.

The 2016 TRial court was re: Tatyana's damaged Immigration status by the 2013 order of child support.

[1] To avoid confusion, we refer to the parties by their first names. We intend no disrespect.

Accordingly, we reverse the trial court's order vacating the 2013 child support order and a related order vacating an order that prospectively modified Tatyana's child support obligation. We affirm the trial court's award of expert fees to Tatyana under RCW 26.09.140. And we vacate the trial court's order imposing CR 11 sanctions on John and remand either for entry of specific findings supporting the award of CR 11 sanctions that are included or incorporated in the court's CR 11 order or a determination that CR 11 sanctions are not warranted.

FACTS

Marriage and Dissolution

Tatyana came to the United States in 1999 on a "fiancée visa" sponsored by John. At the time, Tatyana did not speak English, so John filled out her immigration paperwork. One of the forms that John signed was an affidavit of support, known as an I-864 affidavit, agreeing that he would provide financial support to Tatyana for a certain period of time.

The parties married in 1999 and later had two children. John filed a petition for dissolution in 2007. The trial court entered a decree of dissolution in 2008, which allocated residential time evenly and included a requirement that John make child support payments to Tatyana.

In 2011, John filed a petition to modify the parenting plan based on his allegation that Tatyana abused the children. The trial court held a trial on the modification, during which Tatyana was represented by counsel. The trial court granted John's petition to modify the parenting plan and entered a finding of abuse against Tatyana under RCW 26.09.191.

As part of its modification, the trial court entered an amended order of child support on November 25, 2013. The court imputed income to Tatyana on the basis that she was voluntarily unemployed. The previous year Tatyana had worked and been paid at an hourly rate of $12, and

she agreed that this level of income should be imputed to her. The court ordered that Tatyana pay $412.04 per month in child support. Neither party informed the court that John had signed an I-864 affidavit agreeing that he would provide financial support to Tatyana.

Tatyana appealed the trial court's order granting John's petition. *See In re Marriage of Mason*, No. 45835-7-II (Wash. Ct. App. July 7, 2015) (unpublished), http://www.courts.wa.gov/opinions/. She did not contest the trial court's imputation of income or its imposition of child support payments. *Id.* at 1. In July 2015, we affirmed the trial court's order. *Id.*

Motions to Dismiss Child Support

Shortly after we affirmed the trial court's modification, Tatyana filed a series of three motions in the trial court to dismiss her child support obligation.[2] She filed a motion in September 2015, arguing that it was error to impute income to her and that her unpaid child support was interfering with her immigration status. A superior court commissioner denied the motion. Tatyana did not appeal.

The same day that her first motion was denied, Tatyana filed a second motion requesting modification of her child support obligation and again contesting the imputation of income and child support. On October 13, 2015, a superior court commissioner granted Tatyana's motion in part. The commissioner entered an amended child support order ruling that Tatyana was unable to work and imposing monthly child support of $50 per child, the statutory minimum. However, the commissioner denied Tatyana's motion to vacate unpaid child support that already had accrued. Neither party appealed.

[2] The case procedure has been abbreviated at certain points for clarity.

Next, Tatyana filed a petition to modify the parenting plan and a motion to vacate the full amount of the child support order. The motion to vacate alleged various errors relating to the 2013 child support order. The motion also described Tatyana's precarious economic situation, including the allegation that she was unable to obtain employment because of her immigration status and unpaid child support. Tatyana did not reference John's I-864 affidavit by name, but stated, "I am asking for a maintains [sic] fee, since he brought me to here, promised to a government to support me 100%." Clerk's Papers (CP) at 1001.

A superior court commissioner denied Tatyana's petition to modify the parenting plan and motion to vacate the child support order. Tatyana moved to revise the commissioner's order. At an April 29, 2016 hearing, Tatyana argued that John had completed an I-864 affidavit of support as part of her initial visa application. Tatyana presented a copy of the affidavit, and John objected because it was not notarized or dated. The trial court continued the hearing to July 8 and directed Tatyana to have an official authenticate the immigration documents.

Before the July 8 hearing, John submitted a declaration stating that he did not remember what he signed during the immigration process in 1999 and did not remember filing the I-864 affidavit. He added, "[Tatyana] claims that I would have had to complete an I-864 as part of the fiancé's [sic] visa application but that is not true." CP at 403. He explained that the fiancée visa required a different form and that the I-864 affidavit was instead required for family-based immigration. John added that he had attempted to submit a Freedom of Information Act request for the documents he had submitted but he received a letter stating that he was not eligible to receive them unless Tatyana signed the request.

At the July 8 hearing, the trial court stated that it would treat Tatyana's motion to vacate the 2013 child support order as a motion to vacate under CR 60(b). In a subsequent letter ruling,

the court explained that because the parties had raised credibility issues, a trial was necessary to allow the parties to present testimony.

Trial and Ruling

At trial, Tatyana represented herself. She offered the testimony of Jay Gairson, an immigration attorney, as an expert witness. The trial court ruled that it would allow Gairson's testimony on immigration law to assist in understanding the issues and law in that area.

Gairson testified generally about immigration law, as well as about Tatyana's particular immigration situation. He stated that he had reviewed Tatyana's files and concluded that John had signed an I-864 affidavit. The affidavit imposed on John a financial obligation to Tatyana, requiring him to support her up to 125 percent of the federal poverty guideline. Gairson explained how the support requirement operated: "If you look at those guidelines for a . . . single individual, you take 125 percent of that amount and then you subtract any income that she would have earned from that year, and that will tell you how much Mr. Mason would have owed her." Report of Proceedings (RP) (Oct. 17, 2016) at 67.

The trial court entered an order granting the motion to vacate and provided written findings of fact and conclusions of law. The court found that John had signed an I-864 affidavit, but that there was no evidence that any other judge in the case had considered the affidavit. The trial court entered a conclusion of law that the I-864 affidavit created a continuing obligation on John to support Tatyana and that the obligation had not terminated. The court also concluded, "The I-864 affidavit is such a significant factor in this case that to set child support without its consideration creates an unjust result." CP at 124. In its oral ruling, the trial court explained that the I-864 affidavit would be considered "in the calculation of the child support and as to offsets." RP (Nov. 2, 2016) at 472.

The court ruled that CR 60(b)(11) was the appropriate basis to bring a motion to vacate and that the 2013 child support order should be vacated because the court was not informed of the I-864 affidavit when the order was entered.[3] On that basis, the court vacated the 2013 child support order as well as any remaining unpaid child support. The court stated that John could seek entry of a new child support order, and that the court would consider a request for expert fees at a later hearing.

The court subsequently entered an order in December 2016 vacating the amended child support order the commissioner entered on October 13, 2015, which the court inadvertently failed to include in its previous order.

Expert Witness Fees

The trial court held a hearing on the issue of expert witness fees. Tatyana requested the costs of Gairson's expert testimony, which he calculated to be $12,800, as well as sanctions under CR 11. The trial court awarded Tatyana costs equal to two-thirds of Gairson's fee based on the parties' relative financial positions.

The trial court awarded to Tatyana the remaining one-third of Gairson's fee as CR 11 sanctions. The court based its sanction award on John's declaration statements that because he was not required to file I-864 affidavit, he did not do so. The court reasoned,

> Those statements raise the issue of the existence of the I-864, which is what required this court to have a three-day trial over whether or not that document existed. Now, clearly clients are entitled to aggressive advocacy, but I believe the advocacy in this case presented an untrue presentation to the court which created unnecessary litigation.

RP (Dec. 9, 2016) at 18. However, the court did not enter any written findings regarding CR 11 and did not include the basis of its award in the CR 11 order.

[3] The trial court considered whether vacation would be appropriate under CR 60(b)(1), (2) and (3), but declined to apply those subsections.

Based on its rulings, the trial court entered an order awarding Tatyana $8,533 in costs under RCW 26.09.140 and $4,267 in sanctions under CR 11.

John appeals the trial court's order vacating the 2013 child support order and the order awarding expert fees and imposing CR 11 sanctions.

ANALYSIS

A. FORM I-864 AFFIDAVIT OF SUPPORT

This court previously reviewed the effect of an I-864 affidavit of support in *In re Marriage of Khan*, 182 Wn. App. 795, 798-99, 332 P.3d 1016 (2014). As the court explained, a family-sponsored applicant for permanent residency in the United States must prove that he or she is unlikely to become a public charge. *See* 8 U.S.C. § 1182(a)(4). To that end, the applicant's family sponsor may be required to execute and submit an affidavit of support on Form I-864. 8 U.S.C. §§ 1182(a)(4)(C)(ii), 1183a(a)(1). The sponsor must agree "to provide support to maintain the sponsored [immigrant] at an annual income that is not less than 125 percent of the [f]ederal poverty line during the period in which the affidavit is enforceable." 8 U.S.C. § 1183a(a)(1)(A).

The I-864 support obligation continues indefinitely until it is terminated. *Khan*, 182 Wn. App. at 799. Termination occurs when the sponsored immigrant (1) becomes a United States citizen, (2) has worked or is credited with 40 qualifying quarters of coverage (as defined by the Social Security Act, 42 U.S.C. § 413), (3) no longer has lawful permanent resident status and departs the United States, (4) becomes subject to removal but obtains a new grant of adjustment of status as relief from removal, or (5) either the sponsor or the sponsored immigrant dies. 8 U.S.C. § 1183a(a)(2)-(3); 8 C.F.R. § 213a.2(e)(2). The support obligation continues after

dissolution of the marriage between the sponsor and the sponsored immigrant. *Khan*, 182 Wn. App. at 799.

The I-864 affidavit creates a binding contract between the sponsor and the federal government, and establishes the sponsored immigrant as a third-party beneficiary. *Id.* The immigrant can enforce the support obligation against his or her sponsor. 8 U.S.C. § 1183a(a)(1)(B); *Khan*, 182 Wn. App. at 799, 803-04.

B. APPLICATION OF CR 60(b)(11)

John argues that the trial court erred in applying CR 60(b)(11) to vacate the 2013 child support order.[4] We agree.

1. Legal Principles

Under CR 60(b), a trial court may relieve a party from a final judgment, order, or proceeding for one of 11 stated reasons. A catch-all provision under CR 60(b)(11) states that the court may grant relief from a final judgment for "[a]ny other reason justifying relief from the operation of the judgment." That provision is "intended to serve the ends of justice in extreme, unexpected situations and when no other subsection of CR 60(b) applies." *Shandola v. Henry*, 198 Wn. App. 889, 895, 396 P.3d 395 (2017). CR 60(b)(11) applies to "extraordinary circumstances involving irregularities extraneous to the proceeding." *Shandola*, 198 Wn. App. at 895.

The trial court has discretion in deciding whether to grant or deny a motion to vacate under CR 60(b). *Jones v. City of Seattle*, 179 Wn.2d 322, 360, 314 P.3d 380 (2013). Therefore,

[4] Initially, John argues that Tatyana's motion was barred by collateral estoppel because she already appealed the child support order and the order was affirmed. Br. of App. at 25-28. We decline to consider this argument because John did not raise it in the trial court. RAP 2.5(a). As an aside, we note that RCW 26.09.170(5)(a) expressly states that a party owing child support may file a petition to amend "at any time."

we review CR 60(b) orders for abuse of discretion. *Shandola*, 198 Wn. App. at 896. A trial court has abused its discretion when its decision is based on untenable grounds or is made for untenable reasons. *Id.*

For the purpose of this court's review, any unchallenged findings of fact included in the trial court's order are verities on appeal. *Rush v. Blackburn*, 190 Wn. App. 945, 956, 361 P.3d 217 (2015).

2. Extraordinary Circumstances

a. Legal Background

A trial court may vacate a judgment under CR 60(b)(11) only when the case involves "extraordinary circumstances." *Shandola*, 198 Wn. App. at 903. Courts considering motions to vacate orders in a dissolution have found circumstances to be sufficiently extraordinary when they materially frustrate the purpose of the relevant order. *See, e.g., In re Marriage of Hammack*, 114 Wn. App. 805, 810-11, 60 P.3d 663 (2003); *In re Marriage of Thurston*, 92 Wn. App. 494, 503-04, 963 P.2d 947 (1998).

The court in *Hammack* considered a separation agreement that exempted one party from child support payments in exchange for the other party receiving a larger share of the couple's property. 114 Wn. App. at 807. The court concluded that the agreement waiving child support was against public policy, making it void and unenforceable. *Id.* at 811. A settlement based on a void agreement was an extraordinary circumstance sufficient to vacate the settlement. *Id.*

In *Thurston*, the court vacated a dissolution decree when one party refused to transfer a partnership interest as required in the decree. 92 Wn. App. at 496-97. Because failure of the transfer would "throw the whole settlement out," it was a material condition of the settlement and presented an extraordinary circumstance supporting vacation. *Id.* at 503-04 (quotation marks

omitted); *see also In re Marriage of Knies*, 96 Wn. App. 243, 250-51, 979 P.2d 482 (1999) (holding that transition of the obligor's income from pension to disability allowed the obligor to circumvent property settlement and constituted an extraordinary circumstance).

But an attorney's error, erroneous advice, or negligence are not sufficient grounds for vacating a judgment. *Lane v. Brown & Haley*, 81 Wn. App. 102, 109, 912 P.2d 1040 (1996). Similarly, an unfair result, even when caused by poor representation, is insufficient grounds to vacate. *See In re Marriage of Burkey*, 36 Wn. App. 487, 488-90, 675 P.2d 619 (1984).

In *Burkey*, Ms. Burkey discovered that she had received inadequate representation and moved to vacate a decree of dissolution based on her allegation that Mr. Burkey had failed to inform her of the value of all of their property. *Id.* at 488. The court held that vacation of the dissolution decree was improper. *Id.* at 489-90. The court stated that the parties knew of all the property, there was no fraud between Mr. Burkey and Ms. Burkey's attorney, and Mr. Burkey was not responsible for the quality of Ms. Burkey's representation. *Id.*

In addition, in *In re Marriage of Yearout*, this court held that extraordinary circumstances did not exist when an obligor lost 25 percent of his income, allegedly making it impossible to meet his child support and other obligations. 41 Wn. App. 897, 898, 902, 707 P.2d 1367 (1985).

b. Extraordinary Circumstances Analysis

Here, the trial court vacated the 2013 child support order based on the parties' failure to inform the court of the I-864 affidavit when the court entered the child support order. The trial court stated that the affidavit was a "significant factor" and that imposing child support without considering it created an "unjust result." CP at 124. It appears that the trial court's rationale was that the I-864 affidavit was new evidence not previously considered. But we hold that the

court's failure to consider the I-864 affidavit in the 2013 proceeding is not the type of extraordinary circumstance required by CR 60(b)(11).

First, it is questionable whether the I-864 affidavit would have impacted Tatyana's child support obligation even if it had been presented to the court in 2013. During the 2013 proceedings, the court found that Tatyana was voluntarily unemployed and the parties agreed to impute income of $2,080 per month to her. The court used Tatyana's imputed income to calculate her child support obligation, and that obligation applied regardless of her actual income. *See In re Marriage of Goodell*, 130 Wn. App. 381, 389-90, 122 P.3d 929 (2005) (stating that a parent cannot avoid child support by remaining voluntarily unemployed or underemployed).

The I-864 affidavit would not have changed Tatyana's income for purposes of the child support calculation. The I-864 affidavit required John to provide payments to Tatyana only when her income was below 125 percent of the federal poverty guideline. *See Khan*, 182 Wn. App. at 798-99. At the time of the 2013 child support order, this income level was $1,197 per month.[5] But even if John was required to pay that amount to Tatyana, her child support obligation would not decrease because her *imputed* income for child support was significantly greater. Therefore, even if the trial court had considered the I-864 affidavit in 2013, the affidavit would have had no practical effect.

In her earlier motions to avoid her child support obligations, Tatyana argued that the trial court erred in imputing income to her. But a revelation that Tatyana may be entitled to I-864 payments is not a reason to question the validity of the court's 2013 ruling that she was

[5] The child support schedule attached to the 2013 order listed $1,197 as 125 percent of federal poverty guideline, to serve as a "Self-Support Reserve." CP at 20.

voluntarily unemployed. Tatyana's entitlement to payments under the I-864 affidavit is a separate issue from whether she was voluntarily unemployed. And even if the imputation of income to her was error, legal errors cannot be the basis for a CR 60(b) motion; they must be corrected on appeal. *In re Marriage of Tang*, 57 Wn. App. 648, 654, 789 P.2d 118 (1990). Tatyana did not appeal the court's 2013 calculation of child support payments.

Second, the fact that John's I-864 obligation might be relevant as an offset for Tatyana's child support obligation[6] does not constitute an extraordinary circumstance. Even if John owed money to Tatyana, that amount would not affect the amount of Tatyana's child support obligation. The trial court's calculation under RCW 26.19.065 and .071 determines the amount of child support based on actual or imputed income. And Washington dissolution law and a spouse's I-864 obligations are independent of each other. *Khan*, 182 Wn. App. at 801. "Nothing in the federal statutes or regulations provides that an I-864 obligation must . . . be enforced in a dissolution action." *Id.*[7] Imputed Income based on debt (school loan)

Third, there is reason to be cautious about vacating an order in circumstances like this one, where a party has merely presented new evidence that was previously available but not identified. CR 60(b)(11) does not relieve a party from a final judgment simply because some important evidence was not produced at trial. Reducing the threshold for what qualifies as an extraordinary circumstance also cuts against judicial values of preservation of resources and finality. *See Guardado v. Guardado*, 200 Wn. App. 237, 244, 402 P.3d 357 (2017) (recognizing

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[6] The trial court explained, "[I]f a court was entering a child support order, it would take into account whether or not the person receiving child support was also paying spousal maintenance." RP (Nov. 2, 2016) at 472.

[7] However, as this court noted in *Kahn*, Tatyana can enforce the I-864 support obligation against John in a separate action. 182 Wn. App. at 803-04.

value of preserving resources); *Shandola*, 198 Wn. App. at 895 (stating that finality of judgments is "a central value in the legal system").

Tatyana's primary argument seems to be that extraordinary circumstances exist because she lacked the resources to meet her past child support obligations. But to the extent that her argument is that the 2013 child support order is too burdensome, an unfair result does not amount to extraordinary circumstances as required by CR 60(b)(11). *See Yearout*, 41 Wn. App. at 902.

Tatyana also argues that extraordinary circumstances are present because her situation when she first arrived in the United States allowed John to take advantage of her. She points out that she did not know English, did not have friends or family, and did not have any money. Her limitations on arriving to the United States may explain why Tatyana was previously unaware of the I-864 affidavit. But Tatyana's limitations in 1999 do not demonstrate extraordinary circumstances to justify vacating the 2013 child support order. Whether her discovery of the I-864 affidavit is an extraordinary circumstance depends on how it impacts the validity of that order.

Finally, Tatyana argues that extraordinary circumstances exist because John knowingly withheld the I-864 affidavit from the court in the 2013 proceedings. But there is no evidence to support her argument. John testified that he was unaware that he had completed or filed the form. The I-864 affidavit Tatyana produced at the CR 60(b)(11) trial was signed in 1999, over a decade before any of the relevant proceedings began. John stated in multiple declarations that he did not remember filling out the I-864 affidavit, and added that he did not believe he was required to do so based on Tatyana's type of visa. The trial court made no factual finding that John knowingly withheld the affidavit from her.

COA approved mistatments of John.
See also Appx G of
RP 12/09/16 @ 17-20.

3. Extraneous to the Proceedings

To vacate an order under CR 60(b)(11), any extraordinary circumstances must either be an irregularity extraneous to the court's action or go to the question of the regularity of the proceedings. *Tatham v. Rogers*, 170 Wn. App. 76, 100, 283 P.3d 583 (2012). The extraordinary circumstance must demonstrate a " 'fundamental wrong' " or a " 'substantial deviation from procedure.' " *In re Marriage of Furrow*, 115 Wn. App. 661, 674, 63 P.3d 821 (2003) (quoting Philip A. Trautman, *Vacation and Correction of Judgments in Washington*, 35 WASH. L. REV. 505, 515 (1960)).

For example, an irregularity extraneous to the court's action occurs when a trial court fails to disqualify itself as required by the controlling judicial code. *See Tatham*, 170 Wn. App. at 100-01. An irregularity is also extraneous to the proceedings when there has been a change in the law, *Union Bank, NA v. Vanderhoek Assocs., LLC*, 191 Wn. App. 836, 845, 365 P.3d 223 (2015), or when an unforeseen event occurs after proceedings conclude. *See Knies*, 96 Wn. App. at 250-51 (applying CR 60(b)(11) when obligor's source of income changed, circumventing property settlement agreement).

Here, Tatyana's failure to submit the I-864 affidavit to the court previously was not an event extraneous to the 2013 proceedings that resulted in entry of the child support order. No event outside of the proceedings impacted that order. Rather, Tatyana identified evidence that should have been presented in the earlier proceedings but was not. But presentation of evidence regarding the parties' income was specifically at issue in the proceedings leading up to the 2013 child support order.

4. Summary

We hold that Tatyana's motion did not identify an event that was either an extraordinary circumstance or extraneous to the 2013 proceedings resulting in entry of the child support order. Accordingly, we hold that the trial court abused its discretion in vacating the 2013 child support order under CR 60(b)(11).[8]

C. AWARD OF EXPERT WITNESS FEE

John argues that the trial court erred in awarding to Tatyana a portion of Gairson's expert witness fee. We disagree.

1. Award of Costs

Under RCW 26.09.140, the trial court in a dissolution action "after considering the financial resources of both parties may order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding." This statute authorizes an award of costs on a motion to vacate filed in a dissolution action. *In re Marriage of Moody*, 137 Wn.2d 979, 993-94, 976 P.2d 1240 (1999). An award of costs under RCW 26.09.140 is not necessarily limited to the prevailing party. *In re Marriage of Rideout*, 150 Wn.2d 337, 357, 77 P.3d 1174 (2003).

In determining whether to award costs, the trial court compares each party's relative need and ability to pay. *In re Marriage of Spreen*, 107 Wn. App. 341, 351, 28 P.3d 769 (2001). We review a trial court's decision regarding an award under RCW 26.09.140 for abuse of discretion. *In re Marriage of Obaidi*, 154 Wn. App. 609, 617, 226 P.3d 787 (2010).

[8] John also argues that Tatyana's CR 60(b) motion was not filed within a reasonable time as that rule requires. Because we reverse on other grounds, we do not address this argument.

Here, the trial court awarded Tatyana costs of $8,533, based on its calculation of two-thirds of Gairson's expert witness fee for preparing and testifying. The trial court stated that it considered the parties' relative assets, including that Tatyana was "essentially unemployed and homeless" and that John earned roughly $4,500 per month. RP (Dec. 9, 2017) at 17. The trial court recognized that Gairson spent more time on this case than was typical. But the trial court concluded that the fee was reasonable based on Tatyana's language barriers, her lack of familiarity with the law, and the complicated nature of the case.

The court evaluated the amount of Gairson's fee and considered the parties' respective abilities to pay. Accordingly, we hold that the trial court did not abuse its discretion in awarding Tatyana these costs.

D. AWARD OF CR 11 SANCTIONS

John argues that the trial court erred in imposing sanctions against him under CR 11 without adequate written findings supporting the sanctions. We agree.

CR 11(a) requires every pleading, motion, and legal memorandum of a party represented by an attorney to be signed and dated by an attorney of record. The attorney's signature certifies that, to the best of the attorney's knowledge and based on an inquiry reasonable under the circumstances, the pleading, motion, or legal memorandum was not filed "for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation." CR 11(a)(3).

CR 11(a) authorizes the imposition of an appropriate sanction for a violation of the rule, including reasonable attorney fees and litigation expenses. *Eller v. E. Sprague Motors & R.V.'s, Inc.*, 159 Wn. App. 180, 190, 244 P.3d 447 (2010). We review imposition of CR 11 sanctions for abuse of discretion. *In re Marriage of Lee*, 176 Wn. App. 678, 690, 310 P.3d 845 (2013).

When the trial court imposes CR 11 sanctions, it must state the basis for the sanctions in its CR 11 order. *Biggs v. Vail*, 124 Wn.2d 193, 201, 876 P.2d 448 (1994). In *Biggs*, the Supreme Court stated:

> [I]n imposing CR 11 sanctions, it is incumbent upon the court to specify the sanctionable conduct *in its order*. The court must make a finding that either the claim is not grounded in fact or law and the attorney or party failed to make a reasonable inquiry into the law or facts, or the paper was filed for an improper purpose.

Id. (emphasis added) (additional emphasis omitted). The court remanded because there were no such findings. *Id.* at 201-02.

This court cited *Biggs* in requiring findings supporting the imposition of sanctions in the trial court's CR 11 order:

> [T]he court must make explicit findings as to which pleadings violated CR 11 and as to how such pleadings constituted a violation of CR 11. The court must specify the sanctionable conduct in its order.

N. Coast Elec. Co. v. Selig, 136 Wn. App. 636, 649, 151 P.3d 211 (2007). Written findings are not necessarily required as long as comprehensive oral findings are expressly incorporated into the court's CR 11 order. *Johnson v. Mermis*, 91 Wn. App. 127, 136, 955 P.2d 826 (1998).

Here, the trial court explained its ruling orally, stating that John improperly represented facts regarding filing the I-864 affidavit in a declaration statement. But the court's order imposing sanctions did not state the basis for the sanction or incorporate its oral ruling. Therefore, the trial court's sanction award was insufficient under *Biggs* and *North Coast Electric* and we vacate the trial court's CR 11 order.

E. ATTORNEY FEES ON APPEAL

Both parties request attorney fees on appeal. John requests fees based on Tatyana's alleged intransigence. Tatyana requests attorney fees and costs under RCW 26.09.140 based on

her financial need and because John's appeal is frivolous. We decline to award attorney fees to either party.

CONCLUSION

We reverse the trial court's order vacating the 2013 child support order, reverse the trial court's December 2016 order vacating the October 13, 2015 order that prospectively modified Tatyana's child support obligation, and reinstate the October 13, 2015 order. We affirm the trial court's award of expert fees to Tatyana under RCW 26.09.140. And we vacate the trial court's order imposing CR 11 sanctions on John and remand either for entry of specific findings supporting the award of CR 11 sanctions that are included or incorporated in the court's CR 11 order or a determination that CR 11 sanctions are not warranted.

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.

Maxa, C.J.
MAXA, C.J.

We concur:

Worswick, J.
WORSWICK, J.

Lee, J.
LEE, J.

APPENDIX G

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON
FAMILY AND JUVENILE COURT

In re the Matter of:	
JOHN MASON,	THURSTON COUNTY
Petitioner,	NO. 07-3-00848-0
vs.	COURT OF APPEALS
TATYANA MASON,	NO. 49839-1-II
Respondent.	

VERBATIM REPORT OF PROCEEDINGS
(Court's Ruling)

BE IT REMEMBERED that on November 2, the above-entitled matter came on for trial before the HONORABLE CHRIS WICKHAM, Judge of Thurston County Superior Court.

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For the Respondent: TATYANA MASON
(Appearing Pro Se)

November 2, 2016

THE HONORABLE CHRIS WICKHAM, PRESIDING

* * * * * * * * *

(After hearing trial, the court ruled as follows)

THE COURT: Thank you. In a perfect world, I'd spend a couple days, I'd write up a very complete and detailed analysis of this case, and I'd send it out to everybody. But I don't live in a perfect world, and so I'm going to do the best I can right now to summarize what I have heard and seen over the last few days of trial. And if I misstate something, I apologize. I think there's value in my communicating this while it's relatively fresh in my mind. Granted, it's been a couple weeks here since we started, but it's reasonably fresh in my mind.

So the record shows that John and Tatyana -- I'm going to call you by your first names, I hope that's okay -- were married on August 19th, 1999. That Tatyana was brought over here on a fiancee visa, that she received a conditional residency status upon the application of John. And upon his signing of an I-864 in 1999, which is an affidavit in which the sponsoring individual promises to the U.S. government to support the person who is being brought into this country, there was a two-year period during which the

conditions attached to that conditional permanent residence status could be removed.

I've heard testimony and seen evidence that, fairly early on in the relationship, there was conflict ultimately resulting in a protection order being filed, resulting in Ms. Mason going to SafePlace to get advice as to how to proceed and so on.

So it's not surprising that the couple did not file the necessary form to remove the conditions on the conditional residence status within the two-year period. How well either one of them understood what their obligation was, I'm not sure. I'm not persuaded that they were clearly aware of it. However, it's also apparent from what I've heard and seen that John had no real incentive to continue to work with Ms. Mason to maintain her permanent status in the United States early on in the marriage.

The parties separated on July 18th, 2007. The divorce was final June 24th, 2008. There was a modification proceeding which ultimately resulted in a child support order being entered November 25th, 2013. Now, I indicated that the conditions on the conditional permanent residence were not removed within the two years as required under the law.

However, I heard testimony that it is possible to file a Form I-751 to remove the conditions even after the two years have passed.

Ms. Mason, through her own testimony and through the testimony of her expert, however, has presented compelling evidence that she is now in a disfavored status as someone who has significant unpaid child support and that the immigration authorities have the discretion to deny her permanent residency at this point, so she is in the awkward position of being in this country but having no ability to obtain permanent status. And with the focus on legal status that currently exists in this country, it's not hard to believe that most employers will not hire her, because she is not able to show proof of legal status. And were she to go back to ~~immigration,~~ she would most likely be denied because of the child support order.

Now, it's true this matter got to my courtroom through a very circuitous path, as Ms. Robertson pointed out through John's testimony and through the entry of various exhibits along the way. However, based on my review of the record, I'm persuaded that no court in the lengthy proceedings involving John and Tatyana has ever considered the impact of the

I-864 on the obligations of John and Tatyana to each other. Certainly, if a court was entering a child support order, it would take into account whether or not the person receiving child support was also paying spousal maintenance to the person paying it. I mean, I think that goes without saying that that would be considered both in the calculation of the child support and as to offsets.

I understand the *Khan* case. I've reread it, and I understand that it stands for the proposition that a family law court is not required to enforce the I-864 obligation. The court was very clear to say that because the family court does not have to enforce the affidavit, that preserves the remedy to the beneficiary of the I-864 affidavit to pursue relief separately. But I don't read the *Khan* case as saying that the I-864 affidavit is not relevant. They did not reverse Judge Hogan for even considering it. And so I don't believe that the *Khan* case directs this court or any other court to disregard it.

In my mind, it is the elephant in the room in this case. I indicated to Ms. Mason that my understanding of Civil Rule 60(b)(1), (2) and (3) is that a motion under those paragraphs has to be brought within a year of the entry of the order. And she raised the

point, well, the year doesn't begin until the Court of Appeals speaks. That may be true. I've never seen that raised before, but there is some support for the idea that an order is not final until the last appeal has been completed.

But I think rather than rely on (1), (2) and (3), I think the court has to go to subsection (b)(11), which is, "any other reason justifying relief from the operation of the judgment." And in doing that, I will say that I do not believe, in 25 years of being a court commissioner and a trial judge, that I have ever found a basis to vacate a court order under (b)(11). My understanding of the case law is that (b)(11) is disfavored; that the appellate decisions encourage for us to use (1) through (10), and, if they are not available, to deny the motion.

However, (b)(11) does exist, and, as I say, in this case, it seems to me the I-864 affidavit is the elephant in the room. And for an order to stand that involves the financial relationship of the parties, without considering the obligation of one to support the other makes no sense to me, and so I think it has to be considered.

Now, there was some question raised by Ms. Seifert and by John that the I-864 affidavit was no longer

operable. And as we heard, it terminates on the death of the sponsor, which is not applicable here; if the sponsor becomes a U.S. citizen, which has not happened here; or if the sponsored immigrant is credited with 40 quarters of gainful employment in excess of 125 percent of the poverty level.

The *Davis vs. Davis* case stands for the proposition that a spouse's quarters are credited to the quarters of the person being sponsored during the marriage, even after a decree of separation. In this case, however, we don't have a decree of separation. We have a decree of divorce, and the section that speaks to crediting spousal quarters requires the parties to be married at the time the determination of 40 quarters is made.

In this case, according to my calculation, I have to believe it comes to 29 quarters, and the social security record of Tatyana shows essentially she had one quarter earnings during the marriage. She's had a number of quarters of earnings since, but, during the marriage, she had one. Even crediting John's quarters to her during the marriage, she does not reach 40 quarters by the end of the marriage, and so that provision does not apply.

Another basis for termination of the support

obligation is if she departs the United States permanently. As we heard from her testimony, she did depart, but it was for two weeks for her mother's funeral. It certainly wasn't permanent. And, finally, if the sponsored immigrant dies, and that hasn't happened either.

So the various provisions that allow for the termination of the I-864 support obligation, none of those have come to pass, so the obligation is still alive.

I also note with regards to credited quarters that I find credible Tatyana's testimony that, during the majority of the marriage, she was not supported by John. Granted, she lived in the house with him that he was paying the mortgage on in order for her to survive. She was taking out loans and probably not doing much of anything.

So based on all of this, I am prepared to vacate the child support order, which I believe will have the effect of allowing Tatyana to apply for her green card and remove the conditions that were placed on her conditional permanent residence status, which I think in the long run is going to be beneficial to both parties, because it will ultimately allow her to obtain citizenship, which will terminate the I-864

obligation. That's one of the grounds to do that. It also will allow her to obtain employment, which is another basis for terminating the obligation. Otherwise, I see no way for either party to get out of this box that you are both in.

We've talked about setting a new support amount. I'm going to leave it to John and his attorney as to whether or not they wish to do that. I have heard testimony from Ms. Gairson that John owed Tatyana a certain amount of money under the I-864 affidavit. I fully expected to hear an argument for that today. I would not have granted that relief, because, again, I'm only looking at the child support order, but I would expect a court setting support to consider that obligation and net out any child support. And I'm assuming the I-864 obligation would probably surpass any amount of support based upon Tatyana's difficulty in obtaining substantial gainful employment.

So I don't know that it's going to be beneficial to either side to enter that order, but I leave it up to John. He has a right to request it, and so that would be his choice.

For Tatyana, I would say that, from what I've seen, you have a right to seek support under the I-864 affidavit. You can file a claim for that in

state court or in federal court. My guess is if it were filed in Thurston County Superior Court, we would join it with this case, because the issues are related. But, currently, it's not part of the case, so unless and until that's filed, this court is not going to be enforcing that obligation separate and apart from an offset on child support.

I recognize that everyone here is operating at a disadvantage. I should say I've had a chance to observe Ms. Mason in court for three separate days with two interpreters. And although she has a reasonable ability to use English, her English is not good, and her statements were more clear through the interpreters than in her English. I know she is more comfortable, perhaps, speaking in an English-speaking situation with English than in Russian, and that's understandable. But it's not hard for me to understand why she might not have done well with an English-speaking attorney or with an English-speaking court prior to this proceeding.

I am aware of no proceedings prior to the last three days in which interpretive services were provided for her. I know that in the motion hearings I had leading up to this, she did not have interpreter services, and so I believe she's been

operating at a disadvantage. And although she has had the benefit of communication with immigration and more recently with Mr. Gairson, this is a complicated field, even for people who work in it, and so it's not hard for me to understand why she would not have understood it fully.

As to John, I think, in some ways, the same thing holds true. It's not surprising to me that he would not have fully understood all of the obligations he was undertaking and the requirements of the law. As I say, I've been doing this work for 25 years, and yet I've only had maybe four of these cases. And the only reason why this issue appeared to me is because I was educated by a self-represented party, a spouse, roughly three years ago in a trial. State court judges do not get training on these affidavits or their impact, and, as counsel has pointed out, there's very little case law on it.

And so everyone is doing the best they can without a lot of guidance, but, as I say, it's hard for me to understand why a court setting child support, if it knew about the existence of the affidavit, would not take that into account. I think it's a significant issue.

Now, I agree with the *Khan* court that it's not

controlling, but it is such a big issue that I don't think it can be ignored, and that's why I believe it's the elephant in the room and why it is a basis to vacate the prior child support order.

I'm going to set this matter on for my motion calendar on November 21st at 1:30. It's a special calendar, because we have some days that we won't have calendars coming up. And, at that point, Ms. Mason can present an order vacating the order of child support. You're the prevailing party here, so it's your responsibility to prepare the order. The best way to do that is for you to prepare an order, send a copy to Ms. Robertson, ask her if she agrees with it, listen to her suggestions as to how it could be better stated and, if you like, incorporate those suggestions, redo the order, get her to sign off on it, bring me an order with her signature. If that doesn't work, then both of you can be here, and I'll hear from you both as to what's right or what's wrong with the order that Ms. Mason prepares.

All we're doing is vacating the child support order. I anticipate a request for fees in this case. I'm going to want a separate motion from each side telling me exactly what you want, how much you're asking for, what it's based on. You can refer to

exhibits in the trial record if you want, or you can submit additional affidavits if you want. And I will need some information as to the financial status of both parties, so I'm going to ask that you both submit a new financial declaration as of November 2016, a court form which shows what your financial situation is, and I will consider that to determine financial situation. If you want to submit more than that, you're welcome to, but you don't have to. I'm fully prepared to determine an award of fees on financial declarations alone.

And then, Mr. Mason, should you choose to seek a new child support order retroactive to the date of the one that's being vacated, you can schedule that for another hearing. I only ask that you do that in the month of December, so that I can be the one to hear it. Because this case is so complicated, I don't want to have to pass it off to someone else.

MS. MASON: Will we put that on your regular motions calendar?

THE COURT: I have a special motion calendar Monday the 21st at 1:30.

MS. MASON: I mean, if you want us to do the other motion for December.

THE COURT: Oh, for support, yes. I have, I

believe, two calendars in the month of December. One is December 9th, and one is December 23rd. Any questions? Ms. Mason?

MS. MASON: So, basically, I understood with the affidavit of support, I have to file in federal court, right? That's what I understand.

THE COURT: If you are looking to receive money as a result of that affidavit, you can file it in state court or federal court, as far as I can tell. And what I'm saying is, if you file it in Thurston County Superior Court, it will get joined with this case. I'm not saying you have to do that or you should do that. I'm just explaining that that's a separate claim, separate from what's going on right now.

MS. MASON: Okay. And another question, it's in December 9 or 23, Mr. Mason will propose new child support order, right, motion?

THE COURT: He hasn't decided to do that. His attorney asked when he could do that. I told her those were the two calendars I have in December, so I'm inviting him to schedule it for one of those days. You'll get notice of this if he files.

MS. ROBERTSON: Okay.

THE COURT: Any other questions?

MS. ROBERTSON: No, that's fine.

THE COURT: Ms. Robertson? Thank you. Court will be in recess.

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CERTIFICATE OF REPORTER

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

I, AURORA J. SHACKELL, CCR, Official Reporter of the Superior Court of the State of Washington in and for the County of Thurston do hereby certify:

1. I reported the proceedings stenographically;

2. This transcript is a true and correct record of the proceedings to the best of my ability, except for any changes made by the trial judge reviewing the transcript;

3. I am in no way related to or employed by any party in this matter, nor any counsel in the matter; and

4. I have no financial interest in the litigation.

Dated this 17th day of November, 2016.

AURORA J. SHACKELL, RMR CRR
Official Court Reporter
CCR No. 2439

APPENDIX H

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON
FAMILY AND JUVENILE COURT

In re the Matter of:	
JOHN MASON,	THURSTON COUNTY
	NO. 07-3-00848-0
Petitioner,	
	COA 49839-1-II
vs.	
TATYANA MASON,	
Respondent.	

TRANSCRIPTION OF AUDIO RECORDING

BE IT REMEMBERED that on December 9, 2016, the above-entitled matter came on for hearing before the HONORABLE CHRIS WICKHAM, Judge of Thurston County Superior Court.

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10700 Meridian Ave. N, Ste. 107
Seattle, WA 98133-9008

For the Respondent: TATYANA MASON
(Appearing Pro Se)

(After hearing trial, the court ruled as follows)

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THE COURT: We're next going to go to the motion calendar, and the first matter is Mason and Mason. This seems to be a day for electronic challenges. I'm waiting for the record to be called up here. I have my notes, so maybe I'll just begin.

I noted -- as you know, I issued a written decision, an actual order, and when I was looking at it the other day, I noticed it was on Ms. Robertson's pleading paper, because she sent me the -- her associate sent me the electronic order, and that's what I worked from. And so I apologize, it looks like the order that you created. I know that it wasn't the order you created, just so it's clear that that was an order that the court created on your pleading paper.

And that order was entered on November 23rd, and it set another hearing, which is today, to take up the issue of attorney's fees and costs. And I have -- the motion is, I believe, from Ms. Mason. I don't believe that Mr. Mason has a similar motion, does he?

MS. ROBERTSON: Correct. No.

THE COURT: Okay. So, Ms. Mason, this is your

motion. Go ahead.

MS. MASON: Yes. Thank you. Your Honor, I am requesting to grant me fees under CR 11, $82,000, including 45,000 for my own time preparing for this trial. I am requesting -- as you know, Your Honor, CR 11(b) covered my conduct as a pro se, and I have done my best to do this job, and I have prevailed due to my diligent work and passion.

In contrast, Mrs. Robinson had ignored her duties under CR 11(a) as an attorney. Under CR 11(a)(1), Mrs. Robinson has made many misrepresentations that were not grounded in facts. On July 7, 2016, Mrs. Robertson filed Ms. Seifert's declaration, who failed to acknowledge the existence of Department of Justice before Department of Homeland Security. Ms. Seifert, who claimed herself as an immigrational expert for 27 years does not know immigrational law and does not know what's the year I-864 was enforced.

So single trip to my mother's funeral in 2004, they said, terminated obligation under I-864, Mr. Mason, but, however, she refused to mentioned, if I depart permanently. And other issues there. Is this because Ms. Robertson instructed Ms. Seifert to falsely testify in every aspect of law in this case?

John has consistently prejudiced himself by

stating in several of his declarations signed under oath that he never signed affidavit of support. Even the physical fact was presented at the trial. John still denied it. On April 29th, 2016, this court directed both parties to request I-864 from FOIA, Freedom of Information Act, and John decide to trick this case -- this court again. Instead of I-864, he request I-129, which is fiancee visa, and which was valid only for 90 days, and so it was expired before August 1999. So, of course, FOIA denied his request.

Next, Ms. Robertson helped John to continue his control, continue his abuse and prejudice in this court so many times by writing for him and on his behalf -- on his behalf submitted to the court all information what is just manipulating declarations signed under oath -- under oath with, "John does not sign affidavit of support."

Under CR 11(a)(2), Ms. Robertson made many unwarranted and bad faith arguments. Ms. Robinson shows a lack of competence before this trial. Ms. Robertson misled this court on several cases during the trial, as *Davis v. Davis* case, which -- she's supporting her argument with *Davis v. Davis* case, where couple were just separated, but they're still married. In our case, we're divorced. This case

does not apply to our case.

So another one, she misquoted case *Liu vs. Mund* where it's basically sponsor. A sponsor cannot mitigate I-864, but Ms. Robertson stated everything around backward. Ms. Robertson was wrong on the *Shumye vs. Felleke* case again during the trial and tried to enforce the income, which does not apply to both for me.

So is Ms. Robinson doing this because -- on purpose or is it because of the lack of competence of the law?

Ms. Robertson failed to understand and follow the law in this case and it's done in bad faith or it's through the gross incompetence as shown by use of the argument that is not warranted by the existing law CR 11 A(3). Many of Ms. Robertson's tactics in this case were done to increase my costs and put me even more in deeper economic hardship, to unnecessarily delay justice, to purposefully harass me for -- and for other inappropriate purposes.

So Ms. Robinson is not for the first time actually ambushed me at this court since 2007. For example, before the trial, it's five minutes before trial, she actually served me with the trial brief. When I served her -- which she knows was on October 13th, it

was exchanged the documents between parties. So she didn't do that. I filed in the court my paperwork, and on Friday, I submit to her, but she refused to give it to me. So it's okay for Ms. Robertson to serve her legal documents through e-mail when she wanted them, but she does not accept from me any legal documents through the e-mail. She wants priority mail, which costs 6.45 for each time.

THE COURT: You have three minutes left. Do you want to save some time to respond to her?

MS. MASON: Sure.

THE COURT: Your request, as I understand it, is for --

MS. MASON: Attorney's fees and several --

THE COURT: I have $81,751 for your costs.

MS. MASON: Right. This is including --

THE COURT: And that includes the CR 11.

MS. MASON: Well, this is basically, I present the information about my covering my time, because I believe why my time has less value than Ms. Robertson's time. And this because I didn't want to go the trial. Ms. Robertson presented her declaration which basically falsely represent the facts of the laws.

THE COURT: I have a document that you

submitted that shows a total of $81,751. Is that the number?

MS. MASON: Yes. Correct.

THE COURT: All right. Ms. Robertson, go ahead.

MS. ROBERTSON: First of all, we provided this per my client's declaration as well as a memoranda of law that clearly outlines the law on the request that has been made by the respondent. First and foremost, under the law, a pro se litigant cannot be awarded attorney's fees. They are not an attorney. They have not incurred attorney's fees. And multiple cases have ruled on that. We have those cases outlined in our brief, including *In re Marriage of Brown*, *West vs. Thurston County*, *Mitchell vs. Washington State Department of Corrections*. All of those are in our briefs. In fact, to award a pro se litigant attorney's fees would be contributing to them practicing without a license, which violates the law.

So Ms. Mason coming in here and requesting $45,000 in attorney's fees for herself, as well as an additional $15,000 to allegedly correct her immigration, are not proper for this motion. When the court set this motion at the end of the hearing,

it was set specifically to address expert fees. Those fees had been testified and addressed to you at the trial with regards to Mr. Gairson. That's what this court set the motion for. That's what was anticipated what would be argued. For Ms. Mason to come before this court and request attorney's fees for herself, a non-attorney, is completely improper. For her to request $15,000, as she says, to have her immigration corrected, is completely outside the scope of this matter.

So what the court needs to look at, really, are Mr. Gairson's fees versus Ms. Seifert's fees, and we've argued that, again, in the memo as well as in my client's declaration.

Under the law, this court needs to really look at the reasonableness of Mr. Gairson's fees. Even he testified at trial that his fees were unreasonable, that they were excessive, that he had spent over 20 hours just meeting with Ms. Mason. Really, he came into this court allegedly as an expert. He was admitted as an expert in immigrational law to explain parts of immigration al law to this court. He testified -- excuse me -- he testified that he did not know the history of this case. He testified that he was not representing Ms. Mason. He testified that

he didn't even know the nature of the motion before the court, that his role was to come in and talk about immigration law where he said he was an expert in. And yet, he charged 41 hours of his time and is seeking roughly $15,000 in fees.

Those fees don't apply to this case. If the court wants to make a reasonable comparison, we provided Ms. Seifert's bill. Ms. Seifert's bill is roughly $2,500 for doing exactly the same thing, for coming to this court and providing expert opinion on immigration law.

Now, those were the experts on immigration law, and if the court recalls, when the trial started, the court itself said that this was not an area the court had a lot of knowledge in, that this was not an area of law that comes before the family court, and that's why this court was looking at those two people to come in and offer their testimony and offer their information. There was never any bad faith. There was never any finding of bad faith by this court or that anything was manipulated.

My client provided responsive materials because we got Mr. Gairson's report the day before trial, something that we never even anticipated, because this was a motion to vacate a 2013 order. This

wasn't a motion for this court to decide what my client owed under the affidavit. And if the court looks back at the report that was provided by Mr. Gairson, a large part of that report, that's what that's all about. It was at that point that my client was required to provide responsive materials and to bring in Ms. Seifert. Prior to that, it was never his intention to do that, because that's not what the motion was about.

On the day of trial, we provided full copies to the court, to opposing party, of our exhibits. Our exhibits consisted of orders that had previously been entered before this court. There was nothing surprising about it. There was nothing new about it. We never got copies of Ms. Mason's exhibits, and the court can recall as we went through the trial, every time she presented an exhibit, we had to look at it because, previously, we had never received a copy of it.

So for her to make claims that there was any bad faith in this action, which my client wasn't the one who filed three years after the order was entered, is completely unreasonable. And, again, the case law is clear, she doesn't get attorney fees. So, really, what the court is looking at are the expert fees that

should be awarded to either party for their experts. Mr. Mason's position is that they both brought in experts, they should both be responsible for the experts that they provided to this court without an award of fees to either party.

Also, under 26.09.140, the court does have to look at ability to pay. My client solely supports the two children of these parties and now has lost a judgment for child support, support that should have gone to these children. He has incurred debt because of that. He gets nothing. He gets zero from Ms. Mason to support their children, and that needs to be a consideration. This court said it was requesting financial declarations from the party. We provided financial declarations. We provided bank statements. We provided pay records. We provided tax returns. All we got from Ms. Mason was a financial declaration.

So the court should look at the evidence before it and make a determination that each party should be responsible for their own expert fees, and there should be no additional award of fees to either party. Thank you.

THE COURT: All right. Ms. Mason, you have three minutes.

MS. MASON: Yes. As you see, Your Honor, Mr. Mason already contradicts himself by saying that he has very little income. However, he still was able to buy overly-aggressive attorney, and he still was able to pay a second attorney, Ms. Seifert. So two attorneys have been fighting me on the issues of law and interpretation of facts, so I had no other choice as to hire expert because I know the unethical behavior of Ms. Robertson since 2007.

So they compare Lisa Seifert and Jay Gairson, but it's absolutely incomparable because you can see -- you did see how Lisa Seifert's report. She does not know the law or she was instructed by Ms. Robertson to misrepresent every fact in this case and lost. Mr. Gairson actually, he took time. He actually looked at my old immigrational case. He had to view all those documents, and he takes time to make sure everything lies was not changed. So he did a very good job. Instead of Lisa, who spent for two hours and testified on every aspect of law is wrong. And Mr. Gairson, who actually prepared the report and spent time to explain everything, and in result, it sounds like what Ms. Robertson completely or she is incompetent in the law, or she did this on purpose in the bad faith to mislead, misquote, misinterpret the

law. And I am really asking what Ms. Robertson has to discipline by abuse of CR 11(a) as an attorney. Because I was following the duty my conduct under CR 11(b) as a pro se, but Ms. Robertson decide to not follow and ignore this conduct under CR 11(a) as an attorney.

So, also, I submitted --

THE COURT: You've got 30 seconds left.

MS. MASON: Yes. I submitted my paperwork, and based on equal justice, the litigant pro se can actually have -- based on federal statutes, can actually award at least attorney fees. And that's an established in law, and I provided this declaration. And, also, I complete -- I was basically calculated how I got this 45,000 is basically from July 8th to November 2nd is 15 weeks, multiply by five days a week and six hours per day, is 450 hours. And I multiplied by a hundred, because based on mean --

THE COURT: You're out of time.

MS. MASON: Yes.

THE COURT: I want to start by saying that I know you have spent a great deal of time on this case, and you ultimately prevailed in the hearing that we had, and that was in no small part due to the effort that you put into it. I've already

acknowledged the language barriers that you face, and you were still able to marshal the information together to present a strong case. However, this is a request for fees, and Washington law does not award -- does not compensate parties for the time that they spend preparing their case. You're not an attorney, as Ms. Robertson has said, and so your fees cannot be awarded by this court. And so all of the work that you did clearly was valuable, but I do not have the authority to compensate -- to require Mr. Mason to compensate you for it. That's the first piece.

So if I go through your summary here, I believe the only -- well, I can probably cover mail costs. There is such a thing as statutory attorney's fees which I can probably add on here. But I don't know that I can cover any of these other costs, other than Mr. Gairson. Mr. Gairson was a professional expert that you retained for the purpose of proving your case. He clearly presented good evidence for you, and so he was competent at what he did. I understand Ms. Robertson's point that even by his own admission, he spent more time with you than he thought was normal or customary under the circumstances, but I believe that that time probably was necessary because

of, again, your language barriers and also the complicated nature of this case. It's not as if he was consulting with another attorney; he was consulting with someone who he essentially had to educate as to the law so that you could bring the information yourself to the court.

And when I look at all of that, I look at his total fee of $12,800, in the scope of this case, with the degree of adversity presented in this case, I think that's a reasonable figure. So I will adopt that figure as reasonable. So I will allow that as a cost of litigation, along with your priority mail costs, which you've listed as $71, and I will add something called statutory attorney's fees.

And Ms. Robertson, help me out here with the number. It's a standard number in the statute. I haven't looked at it for some time.

MS. ROBERTSON: She's -- she's not entitled to that.

THE COURT: I think any party is.

MS. ROBERTSON: She's not an attorney.

THE COURT: I recognize that, but I think it goes with judgment.

MS. ROBERTSON: I mean, if you're talking about a contempt judgment, there's a $100 addition.

THE COURT: No, I'm talking about -- that's okay. I'm not going to order something that I don't have the authority in front of me. If you want to find the authority for this, Ms. Mason, I'll add it on to what I'm going to award. I will award you two-thirds of Mr. Gairson's costs on the financial -- relative financial positions of each of you. You are essentially unemployed and homeless. Mr. Mason earns roughly $4,500 a month net. And so it's reasonable to me that he pay two-thirds of that cost and you pay one-third.

As to the remaining one-third, I will impose the additional one-third under Civil Rule 11, and I'm doing that based on a declaration that was filed by Ms. Robertson July 6th. It's a statement of Mr. Mason, and I'm going to read in pertinent part. This is from the first page of that declaration, "She claimed in part that I have filed an I-864 support affidavit when she came to this country, and, therefore, I should have been supporting her, and she never should have been required to pay child support. Nothing could be further from the truth." That's his statement.

Then on the second page, "I believe the I-864 was a document I may have started to complete, but it was

not what I was required to file and so I did not complete or file the document." And then later on that page, "Respondent claims that I would have had to complete I-864 as part of the fiancee visa application, but that is not true." And then on page three, "Respondent's representation that I had to have filed the I-864 form is simply not true."

Those statements raise the issue of the existence of the I-864, which is what required this court to have a three-day trial over whether or not that document existed. Now, clearly clients are entitled to aggressive advocacy, but I believe the advocacy in this case presented an untrue presentation to the court which created unnecessary litigation. And I believe that that is a violation of the portion of CR 11 which says that the signature of a party or of an attorney constitutes a certificate by the party or attorney that the party or attorney has read the pleading, motion or legal memorandum and that, to the best of the party's or attorney's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, (1), it is well grounded in fact; (2), it is warranted by existing law or a good faith argument; (3), it is not interposed for any improper purpose such as to harass

or to cause unnecessary delay or needless increase in the cost of litigation." I believe those statements were made for that purpose, and, therefore, I believe CR 11 does apply here.

The remaining one-third of Mr. Gairson's fee, I will assess to Mr. Mason because of CR 11 violations. So I will grant a judgment for the entire cost of Mr. Gairson's services.

MS. ROBERTSON: And there's no consideration that she forged U.S. documents? And we provided proof that she forged --

THE COURT: Ms. Robertson, be careful here. You have already pushed this issue farther than you ever should have. Your client and, by extension, you should have known there was an I-864 regardless of what you were looking at, and you put this court and Ms. Mason through three days of trial on that issue.

MS. ROBERTSON: For the record, my client was never going to ask for the trial, and when this court asked us at the beginning of the trial why we couldn't submit this on affidavits, my client agreed it should have been something that was submitted on affidavits, and it was Ms. Mason who requested that the court go forward with trial --

THE COURT: This court set the trial itself,

if you'll recall, because I was concerned about the issues that you and your client had raised, and I felt there was no way that I could resolve those issues without a trial with witnesses in person. That trial was unnecessary, and it was raised solely because of the allegations that were made that were baseless.

This is the end of this hearing. Ms. Mason, if you have an order to present, I will sign it this morning after Ms. Robertson takes a look at it.

MS. MASON: Yes, I do.

THE COURT: You need to show it to Ms. Robertson first.

--oOo--

CERTIFICATE OF REPORTER

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

I, AURORA J. SHACKELL, CCR, Official Reporter of the Superior Court of the State of Washington in and for the County of Thurston do hereby certify:

1. I received the electronic recording from the trial court conducting the hearing;

2. This transcript is a true and correct record of the proceedings to the best of my ability, except for any changes made by the trial judge reviewing the transcript;

3. I am in no way related to or employed by any party in this matter, nor any counsel in the matter; and

4. I have no financial interest in the litigation.

Dated this 18th day of March, 2017.

AURORA J. SHACKELL, RMR CRR
Official Court Reporter
CCR No. 2439

Арх К.

FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

AYLA ERLER, *Plaintiff-Appellant,* v. YASHAR ERLER, *Defendant-Appellee.*	No. 14-15362 D.C. No. 3:12-cv-02793-CRB OPINION

Appeal from the United States District Court
for the Northern District of California
Charles R. Breyer, District Judge, Presiding

Submitted February 11, 2016*
San Francisco, California

Filed June 8, 2016

Before: Mary M. Schroeder and Jacqueline H. Nguyen, Circuit Judges, and Lynn S. Adelman,** District Judge.

Opinion by Judge Adelman;
Dissent by Judge Schroeder

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* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

** The Honorable Lynn S. Adelman, United States District Judge for the Eastern District of Wisconsin, sitting by designation.

SUMMARY***

Immigration Law

The panel vacated the district court's summary judgment in favor of the defendant in an action to enforce a sponsor's duty to provide financial support to an immigrant under an "I-864 Affidavit of Support."

The defendant, a United States citizen, married the plaintiff, a Turkish citizen, and signed an affidavit of support, making her eligible for admission to the United States. The defendant agreed to provide the plaintiff with any support necessary to maintain her at an income that was at least 125 percent of the Federal Poverty Guidelines for her household size. The affidavit became a contract between the defendant sponsor and the United States government for the benefit of the plaintiff and any entity that administers a means-tested public benefits program. The parties subsequently divorced, and their divorce judgment reflected their premarital agreement that neither would be entitled to alimony or support from the other.

Agreeing with the Seventh Circuit, the panel affirmed the district court's conclusion that despite the divorce, the defendant had a continuing obligation to support the plaintiff. The panel held, however, that the district court erred in treating the plaintiff and the adult son with whom she lived as a combined household for purposes of determining whether the defendant breached that obligation.

*** This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

Dissenting, Judge Schroeder wrote that the defendant was not required to pay support for his former wife, who was living in a household with income above the poverty level for its size.

COUNSEL

David V. Sanker, Corey R. Houmand, and Melinda S. Riechert, Morgan, Lewis & Bockius LLP, Palo Alto, California, for Plaintiff-Appellant.

Yashar Erler, San Carlos, California, pro se Defendant-Appellee.

OPINION

ADELMAN, District Judge:

This is an action to enforce a sponsor's duty to provide financial support to an immigrant under an "I-864 Affidavit of Support." *See* 8 U.S.C. § 1183a.

I.

Ayla Erler is a Turkish citizen who immigrated to the United States in November 2008 to marry Yashar Erler.[1] Yashar, who is originally from Turkey, is a citizen of the United States. He is a real estate agent and owns several rental properties. His net worth exceeds $4.6 million.

[1] For clarity and simplicity, we will refer to the parties by their first names.

Ayla married Yashar on April 15, 2009. A short time later, the couple began proceedings before the Department of Homeland Security, U.S. Citizenship and Immigration Services ("USCIS") to ensure that Ayla could lawfully remain in the United States. As part of this process, Yashar signed an "I-864 Affidavit of Support," in which he agreed to provide Ayla with "any support necessary to maintain [her] at an income that is at least 125 percent of the Federal Poverty Guidelines for [her] household size." Yashar signed this affidavit because the Immigration and Nationality Act forbids admission to the United States of any alien who "is likely at any time to become a public charge." 8 U.S.C. § 1182(a)(4); 8 C.F.R. § 213a.2(a). Persons who would be inadmissible for this reason may become admissible if a sponsor executes the affidavit of support. 8 U.S.C. § 1183a(a)(1); 8 U.S.C. § 1182(a)(4)(C)(ii); 8 C.F.R. § 213a.2. Once executed, the affidavit becomes a contract between the sponsor and the U.S. Government for the benefit of the sponsored immigrant, and of any Federal, State, or local governmental agency or private entity that administers any "means-tested public benefits program." 8 C.F.R. § 213a.2(d); *see also* 8 U.S.C. § 1183a(a)(1) (providing that affidavit must be "executed by a sponsor of the alien as a contract").

On March 25, 2011, Ayla and Yashar separated. Yashar subsequently initiated divorce proceedings in California state court. The divorce was finalized on May 4, 2012. Prior to their marriage, Ayla and Yashar had entered into a premarital agreement stating that neither party would be entitled to alimony or support from the other. The judgment of divorce reflects this agreement.

Following her separation from Yashar, Ayla moved into an apartment with her adult son, Dogukan Solmaz. Ayla has not been able to find employment, and she contends that she has earned no income since her separation from Yashar. Dogukan earns an income of approximately $3,200 per month and uses his income to pay rent and other living expenses for both himself and Ayla. Dogukan's income exceeds 125% of the Federal poverty guidelines for a household of two.

Since their separation in March 2011, Yashar has refused to provide Ayla with any support. According to Ayla, Yashar made one payment of $3,500 to assist her with moving expenses in April 2011 but otherwise has not made any payments to her since their separation.

On May 31, 2012, Ayla commenced an action in the district court against Yashar to enforce his obligations under the affidavit of support. Yashar, who chose to proceed without counsel (and who appears without counsel on appeal), argued that the premarital agreement and divorce judgment terminated his obligations under the affidavit of support. Yashar also argued that because Dogukan has been supporting Ayla at a level that is not less than 125% of the Federal poverty guidelines for a two-person household, Yashar has not breached any obligation of support that might have survived the divorce.

The district court granted summary judgment to Yashar. *See Erler v. Erler*, No. CV-12-2793-CRB, 2013 WL 6139721 (N.D. Cal. Nov. 21, 2013). The court first determined that the premarital agreement and divorce judgment did not terminate Yashar's obligation under the affidavit of support. However, the court then determined that Yashar had not breached his continuing obligation to support Ayla because,

since the time of the separation, Dogukan had been maintaining Ayla at an annual income of at least 125% of the Federal poverty guidelines for a two-person household. Thus, reasoned the court, Yashar's duty to support Ayla had not been triggered.

Ayla appeals the district court's conclusion that Yashar did not breach the affidavit of support. She contends that the district court erred by including Dogukan and his income when calculating her household size and income. According to Ayla, the district court should have measured Yashar's support obligation based on a household size of one and should not have credited her with Dogukan's income.

On appeal, Yashar does not explicitly challenge the district court's conclusion that his support obligation survives the divorce. However, in his brief, he expresses some disagreement with that conclusion. Because Yashar is not represented by counsel, we will assume that he is seeking review of that conclusion and will briefly address it before turning to the question of whether he has breached the obligation of support.

II.

In the district court, Yashar argued that the parties' premarital agreement and the California divorce judgment terminated his obligation under the affidavit of support. However, the district court correctly rejected these arguments.

Under federal law, an affidavit of support remains enforceable until the sponsored immigrant: (1) becomes a citizen of the United States; (2) has worked or can be credited

with 40 qualifying quarters of work under title II of the Social Security Act; (3) ceases to be a lawful permanent resident and departs the United States; (4) obtains in a removal proceeding a grant of adjustment of status as relief from removal; or (5) dies. 8 C.F.R. § 213a.2(e)(2)(i); *see also* 8 U.S.C. § 1183a(a)(2)–(3). The I-864 Form that Yashar signed reproduces this information in a section entitled "When Will These Obligations End?" as follows:

> Your obligations under a Form I-864 will end if the person who becomes a permanent resident based on a Form I-864 that you signed:
>
> - Becomes a U.S. citizen;
> - Has worked, or can be credited with, 40 quarters of coverage under the Social Security Act;
> - No longer has lawful permanent residence status, and has departed the United States;
> - Becomes subject to removal, but applies for and obtains in removal proceedings a new grant of adjustment of status, based on a new affidavit of support, if one is required; or
> - Dies.

Just after the bullet points, the form states: "Note that divorce *does not* terminate your obligations under this Form I-864."

Thus, under federal law, neither a divorce judgment nor a premarital agreement may terminate an obligation of support. Rather, as the Seventh Circuit has recognized, "[t]he right of support conferred by federal law exists apart from whatever rights [a sponsored immigrant] might or might not have under [state] divorce law." *Liu v. Mund*, 686 F.3d 418, 419–20 (7th Cir. 2012). We therefore hold that the district court correctly determined that Yashar has a continuing obligation to support Ayla.

III.

To determine whether the district court correctly found that Yashar has not breached his continuing obligation of support, we must decide what it means for a sponsor of an intending immigrant to provide the immigrant "with any support necessary to maintain him or her at an income that is at least 125 percent of the Federal Poverty Guidelines for his or her household size" when the sponsored immigrant no longer resides in the sponsor's household. More specifically, the appeal requires us to decide how to measure the immigrant's post-separation household size and the immigrant's post-separation income.

Certain provisions of the Immigration and Nationality Act and the implementing regulations touch on these questions, but they do not clearly answer them. For example, the Act defines "Federal poverty line" as "the level of income equal to the official poverty line [as published by the Department of Health and Human Services] that is applicable to a family of the size involved." 8 U.S.C. § 1183a(h). However, the Act does not explain how to identify the "family of the size involved" when the sponsored immigrant no longer lives in the same household as the sponsor. Moreover, although

several provisions of the statutes and the regulations contain instructions for calculating the sponsor's income and household size for purposes of determining whether the sponsor has the means to support the intending immigrant, *see* 11 U.S.C. § 1183a(f)(6)(A)(iii); 8 C.F.R. § 213a.1 (defining "household income," "household size," and "income"); 8 C.F.R. § 213a.2(c)(2), there are no similar provisions for calculating the sponsored immigrant's income and household size for purposes of determining whether the sponsor has breached his or her duty to support the immigrant.

The district court recognized that the applicable statutes and regulations do not clearly explain how to determine a sponsored immigrant's post-separation household size and income. The court then looked to the purposes of the affidavit-of-support requirement and found that it must strike a balance between ensuring that the immigrant's income is sufficient to prevent her from becoming a public charge and preventing unjust enrichment to the immigrant. The court concluded that the proper balance under the facts of this case was to find that Dogukan and Ayla constituted a two-person household for purposes of the affidavit of support, and that their combined income must be used to determine whether Ayla's income was at least 125% of the poverty guidelines. The court reached this result by reasoning that because Dogukan was already providing Ayla with the support necessary to sustain her at 125% of the poverty guidelines, she would not become a public charge even if Yashar did not contribute any support. The court also reasoned that requiring Yashar to provide additional support under these circumstances would lead to Ayla's receiving "windfall benefits." *Erler*, 2013 WL 6139721, at *6.

The district court's approach is not without appeal. However, in our view, it leads to an untenable result. If a sponsor's duty under the affidavit of support is measured by the immigrant's post-separation household size and household income, then the sponsor would have to support all members of the immigrant's post-separation household in the event that the household's income fell below 125% of the poverty guidelines for a household of that size. For example, in this case, the district court determined that Yashar's duty of support must be based on a two-person household and that Ayla must be credited with Dogukan's income. But what if Dogukan lost his job and was unable to maintain the household at 125% of the poverty guidelines for a two-person household? Under the district court's approach, if Ayla continued to live in the same household as Dogukan but earned no income, then Yashar would be obligated to support both Ayla and Dogukan. That is, Yashar would be obligated to make enough payments to Ayla to bring her income above 125% of the poverty guidelines for a two-person household. Alternatively, assume that Ayla earned enough income to support herself at 125% of the poverty guidelines for a one-person household. In this circumstance, Yashar would not be obligated to provide Ayla with any support. But then assume that Ayla allows a family member who has no income to join her household. If Ayla's income were not sufficient to support a two-person household at 125% of the poverty guidelines, then under the district court's approach, Yashar would be required to make up the difference.

In our view, these results would be untenable because, in signing the affidavit of support, Yashar agreed to support only Ayla, not Ayla and anyone else with whom she might choose to live. The affidavit of support is a contract, *see* 8 U.S.C. § 1183a(a)(1); 8 C.F.R. § 213a.2(d), and contracts

are interpreted to give effect to the reasonable expectations of the parties, *see, e.g.*, 11 Williston on Contracts § 31:11 (4th ed. 2012). At the time a sponsor signs an affidavit of support for a single intending immigrant, he or she would reasonably expect that, if the immigrant separates from the sponsor's household, the obligation of support would be based on a household size of one. Or, if the sponsor agreed to sponsor multiple immigrants, such as a parent and child, then the sponsor would reasonably expect that, in the event of a separation, the obligation of support would be based on a household size that includes the total number of sponsored immigrants living in the household. The sponsor would not reasonably expect the obligation of support to be based on a household that includes the sponsored immigrant or immigrants *plus* anyone else with whom the immigrant might choose to live. Thus, in the event of a separation, the sponsor's duty of support must be based on a household size that is equivalent to the number of sponsored immigrants living in the household, not on the total number of people living in the household.

We recognize that our approach will sometimes lead to imperfect outcomes. As the district court noted, ignoring the income of others with whom the immigrant chooses to live will occasionally allow the immigrant to receive more support than required to prevent him or her from falling below 125% of the poverty line. However, while the immigrant may receive more support than required, the sponsor pays no more than what he or she should have expected to pay when signing the affidavit of support, *i.e.*, the amount required to support the immigrant in a one-person household. Thus, in this situation, the sponsor has no cause to complain about the immigrant's receiving a windfall.

In any event, relieving the sponsor of his duty of support when the immigrant is fortunate enough to find another person willing to provide the necessary support could itself be considered a windfall to the sponsor. Because the sponsor is not an intended beneficiary of the affidavit-of-support requirement, *Liu v. Mund*, 686 F.3d 418, 422 (7th Cir. 2012), we see no reason why the sponsor, rather than the immigrant, should receive the windfall. To the contrary, allowing the sponsor to receive the windfall would undermine the purpose of the affidavit of support, which is to "prevent the admission to the United States of any alien who 'is likely at any time to become a public charge.'" *Id.* (quoting 8 U.S.C. § 1182(a)(4)(A)). As the Seventh Circuit has recognized, that purpose is best served by interpreting the affidavit in a way that makes prospective sponsors more cautious about sponsoring immigrants. *Id.* Here, Yashar asks the court to adopt a rule allowing sponsors to escape their support obligations by withholding payments and waiting for charitable third parties to pick up the slack. Such a rule would make sponsors less cautious about sponsoring immigrants, and thus it would undermine the very purpose of the support requirement.[2]

We also recognize that, under our approach, there will be cases in which the immigrant will be left living in a

[2] The district court expressed concern that if an immigrant who received adequate support from others could nonetheless turn to the sponsor for support, then *the sponsor* might unnecessarily become a public charge. However, before admitting the immigrant based on the sponsor's affidavit of support, USCIS would have reviewed the sponsor's income to make sure that it was sufficient to support the immigrant. *See* 8 U.S.C. § 1183a(f)(1)(E); 8 C.F.R. § 213a.2(c)(2). So in most cases, enforcing the sponsor's support obligation will not result in the sponsor's becoming a public charge.

household that makes less than 125% of the poverty guidelines, even after the sponsor satisfies his or her support obligation. For example, if the immigrant chooses to live in a two-person household, measuring the sponsor's duty of support by a one-person household could result in the immigrant's total household income falling below 125% of the poverty guidelines. However, we conclude that this result coincides with the reasonable expectations of the parties to the affidavit of support. The sponsor would not reasonably expect to have to support the immigrant *and* any others with whom she chooses to live, and the immigrant would not reasonably expect to be entitled to such support. Likewise, the U.S. Government, who is also a party to the contract created by the affidavit, would not reasonably expect the sponsor to support any others with whom the immigrant might choose to live following her separation from the sponsor.

Accordingly, we hold that when a sponsored immigrant separates from the sponsor's household, the sponsor's obligation under the affidavit of support is to provide the immigrant with whatever support is necessary to maintain him or her at an annual income of at least 125% of the poverty guidelines for a one-person household. If the sponsor agreed to support more than one immigrant, and those immigrants separate from the sponsor's household and continue to live together, then the sponsor must provide them with whatever support is necessary to maintain them at an annual income of at least 125% of the poverty guidelines for a household of a size that includes all the sponsored immigrants. When measuring the immigrant's income, the court must disregard the income of anyone in the household

who is not a sponsored immigrant.[3] Applying this rule to the present case, we conclude that Yashar has a continuing obligation to provide Ayla with whatever support is necessary to maintain her at an income that is at least 125% of the poverty guidelines for a one-person household. For purposes of determining whether Yashar has fulfilled this obligation, the court must not consider Dogukan's income.

Before concluding, we note that Yashar argues in his brief that, even if Ayla is not credited with Dogukan's income, her annual income would exceed 125% of the poverty guidelines for a one-person household. In calculating Ayla's income, Yashar includes Ayla's food-stamp benefits that she receives from the State of California, and benefits that she receives under a Turkish pension. The pension benefits are deposited into a Turkish bank account, and Ayla contends that she cannot access the funds from within the United States. Because the district court concluded that Dogukan's income, on its own, was sufficient to provide Ayla with the necessary support, it did not address whether the food stamps and pension benefits should be treated as Ayla's income. Nor did the district court address the ultimate question of whether, for the years since her separation from Yashar, Ayla's income was at least 125% of the poverty guidelines for a one-person household. Rather than address these questions for the first time on appeal, we leave them for the district court to address on remand.

[3] We do not, however, consider a case where the sponsored immigrant has remarried. In such a case, it may be appropriate to impute all or part of the spouse's income to the sponsored immigrant.

IV.

For the foregoing reasons, we agree with the district court to the extent it found that, despite the divorce, Yashar has a continuing obligation to support Ayla. However, we hold that court erred in treating Ayla and Dogukan as a combined household for purposes of determining whether Yashar breached that obligation. We therefore **VACATE** the court's grant of summary judgment to Yashar and **REMAND** for further proceedings consistent with this opinion. Costs shall be assessed against the defendant.

SCHROEDER, Circuit Judge, dissenting:

In my view, the district court got this difficult case right. My colleagues have held that Mr. Erler must pay support for his former wife, even though she is living in a household with income above the poverty level for its size. I do not agree.

The majority's fear is that taking into account the income of other persons in her household, though relieving Mr. Erler of any present obligation, could create a burden for Mr. Erler in the future, if his former wife were to live in a household with income below the poverty level. Thus, Mr. Erler is required to pay now, when her household is not in need, so that he will not have to pay later, when her household may be in need. Mr. Erler has not asked for this speculative future beneficence.

The district court correctly recognized that requiring him to pay now creates windfall benefits for Mrs. Erler, and depletes the sponsor's income, thereby putting him and others

at risk of becoming public charges in the future. Since the purpose of the Affidavit of Support is to prevent an immigrant from becoming a public charge, *see* 8 U.S.C. § 1183a(a), the majority's holding is counterproductive. Hence this respectful dissent.

Apx.4.

U.S. Department of Justice
Immigration and Naturalization Service

OMB #1115-0214

Affidavit of Support under Section 213A of the Act

START HERE - Please Type or Print

Part 1. Information on Sponsor (You)

Last Name	First Name	Middle Name
MASON	JOHN	ARTHUR

Mailing Address (Street Number and Name): 9640 MULLEN RD SE
Apt/Suite Number:
City: OLYMPIA
State or Province: WA
Country: USA
Zip/Postal Code: 98513
Telephone Number: (360)491-5279

Place of Residence if different from above (Street Number and Name):
Apt/Suite Number:
City:
State or Province:
Country:
Zip/Postal Code:
Telephone Number:

Date of Birth (Month, Day, Year): [redacted]59
Place of Birth (City, State, Country): SEATTLE WA USA
Are you a U.S. Citizen? ☒ Yes ☐ No

Social Security Number: [redacted]
A-Number (If any):

FOR AGENCY USE ONLY

This Affidavit [✓] Meets [ ] Does not meet Requirements of Section 213A

Receipt

Officer's Signature: Hezekiah Orji
District Adjudications Officer
Location: Seattle, Washington
28 OCT 1995
Date

Part 2. Basis for Filing Affidavit of Support

I am filing this affidavit of support because (check one):

a. ☐ I filed/am filing the alien relative petition.

b. ☐ I filed/am filing an alien worker petition on behalf of the intending immigrant, who is related to me as my _____ (relationship).

c. ☐ I have ownership interest of at least 5% of _____ (name of entity which filed visa petition) which filed an alien worker petition on behalf of the intending immigrant, who is related to me as my _____ (relationship).

d. ☐ I am a joint sponsor willing to accept the legal obligations with any other sponsor(s).

Part 3. Information on the Immigrant(s) You Are Sponsoring

Last Name	First Name	Middle Name
MASON (PARKHOMENKO)	TATYANA	IVANOVNA

Date of Birth (Month, Day, Year): [redacted]67
Sex: ☐ Male ☒ Female
Social Security Number (If any):
Country of Citizenship: MOLDOVA
A-Number (If any): A [redacted]
Current Address (Street Number and Name): 9640 MULLEN RD SE
Apt/Suite Number:
City: OLYMPIA
State/Province: WA
Country: USA
Zip/Postal Code: 98513
Telephone Number: (360) 491-5279

List any spouse and/or children immigrating with the immigrant named above in this Part: (Use additional sheet of paper if necessary.)

Name	Relationship to Sponsored Immigrant: Spouse	Son	Daughter	Date of Birth: Mo.	Day	Yr.	A-Number (If any)	Social Security Number (If any)
NONE								

Form I-864 (1/21/98)Y

EXHIBIT A

Part 4. Eligibility to Sponsor

To be a sponsor you must be U.S. citizen or national or lawful permanent resident. If you are not the petitioning relative, you must provide proof of status. To prove status, U.S. citizens or nationals must attach a copy of a document proving status, such as a U.S. passport, birth certificate, or certificate of naturalization, and lawful permanent residents must attach a copy of both sides of their Alien Registration Card (Form I-551).

The determination of your eligibility to sponsor an immigrant will be based on an evaluation of your demonstrated ability to maintain an annual income at or above 125 percent of the Federal poverty line (100 percent if you are a petitioner sponsoring your spouse or child and you are on active duty in the U.S. Armed Forces). The assessment of your ability to maintain an adequate income will include your current employment, household size, and household income as shown on the Federal income tax returns for the 3 most recent tax years. Assets that are readily converted to cash and that can be made available for the support of sponsored immigrants if necessary, including any such assets of the immigrant(s) you are sponsoring, may also be considered.

The greatest weight in determining eligibility will be placed on current employment and household income. If a petitioner is unable to demonstrate ability to meet the stated income and asset requirements, a joint sponsor who *can* meet the income and asset requirements is needed. Failure to provide adequate evidence of income and/or assets or an affidavit of support completed by a joint sponsor will result in denial of the immigrant's application for an immigrant visa or adjustment to permanent resident status.

A. Sponsor's Employment

I am: 1. ☒ Employed by WA ST HOUSE OF REPRESENTATIVES *(provide evidence of employment)*
Annual salary $ 39,864.00 *or* hourly wage $ _____ *(for _____ hours per week)*

2. ☐ Self employed _____ *(Name of business)*
Nature of employment or business _____

3. ☐ Unemployed or retired since _____

B. Use of Benefits

Have you or anyone related to you by birth, marriage, or adoption living in your household or listed as a dependent on your most recent income tax return received any type of means-tested public benefit in the past 3 years?

☐ Yes ☒ No *(If yes, provide details, including programs and dates, on a separate sheet of paper)*

C. Sponsor's Household Size

		Number
1.	Number of persons (related to you by birth, marriage, or adoption) living in your residence, including yourself. *(Do NOT include persons being sponsored in this affidavit.)*	1
2.	Number of immigrants being sponsored in this affidavit *(Include all persons in Part 3.)*	1
3.	Number of immigrants **NOT** living in your household whom you are still obligated to support under a previously signed affidavit of support using Form I-864.	0
4.	Number of persons who are otherwise dependent on you, as claimed in your tax return for the most recent tax year.	0
5.	Total household size. ***(Add lines 1 through 4.)*** **Total**	2

List persons below who are included in lines 1 or 3 for whom you previously have submitted INS Form I-864, *if your support obligation has not terminated.*

(If additional space is needed, use additional paper)

Name	A-Number	Date Affidavit of Support Signed	Relationship
NONE			

Part 4. Eligibility to Sponsor *(Continued)*

D. Sponsor's Annual Household Income

Enter total unadjusted income from your Federal income tax return for the most recent tax year below. If you last filed a joint income tax return but are using only your *own* income to qualify, list total earnings from your W-2 Forms, or, *if* necessary to reach the required income for your household size, include income from other sources listed on your tax return. If your *individual* income does not meet the income requirement for your household size, you may also list total income for anyone related to you by birth, marriage, or adoption currently living with you in your residence if they have lived in your residence for the previous 6 months, or any person shown as a dependent on your Federal income tax return for the most recent tax year, even if not living in the household. For their income to be considered, household members or dependents must be willing to make their income available for support of the sponsored immigrant(s) and to complete and sign Form I-864A, Contract Between Sponsor and Household Member. A sponsored immigrant/household member only need complete Form I-864A if his or her income will be used to determine your ability to support a spouse and/or children immigrating with him or her.

You must attach evidence of current employment and copies of income tax returns as filed with the IRS for the most recent 3 tax years for yourself and all persons whose income is listed below. See "Required Evidence" in Instructions. Income from all 3 years will be considered in determining your ability to support the immigrant(s) you are sponsoring.

- ☒ I filed a single/separate tax return for the most recent tax year.
- ☐ I filed a joint return for the most recent tax year which includes only my own income.
- ☐ I filed a joint return for the most recent tax year which includes income for my spouse and myself.
  - ☐ I am submitting documentation of my individual income (Form W-2 and 1099).
  - ☐ I am qualifying using my spouse's income; my spouse is submitting a Form I-864A.

Indicate most recent tax year	1998 *(tax year)*
Sponsor's individual income	$ 36,681.23
or	
Sponsor and spouse's combined income *(If joint tax return filed; spouse must submit Form I-864A.)*	$
Income of other qualifying persons. *(List names; include spouse if applicable. Each person must complete Form I-864A.)*	
_____	$
_____	$
_____	$
Total Household Income	$ 36,681.23

Explain on separate sheet of paper if you or any of the above listed individuals are submitting Federal income tax returns for fewer than 3 years, or if other explanation of income, employment, or evidence is necessary.

E. Determination of Eligibility Based on Income

1. ☒ I am subject to the 125 percent of poverty line requirement for sponsors.
   ☐ I am subject to the 100 percent of poverty line requirement for sponsors on active duty in the U.S. Armed Forces sponsoring their spouse or child.
2. Sponsor's total household size, from Part 4.C., line 5 2
3. Minimum income requirement from the Poverty Guidelines chart for the year of 1998 *(year)* for this household size. is $ 13,562.00

If you are currently employed and your household income for your household size is equal to or greater than the applicable poverty line requirement (from line E.3.), you do not need to list assets (Part 4.F. and 5) or have a joint sponsor (Part 6) unless you are requested to do so by a Consular or Immigration Officer. You may skip to Part 7, Use of the Affidavit of Support to Overcome Public Charge Ground of Admissibility. **Otherwise, you should continue with Part 4.F.**

Part 4. Eligibility to Sponsor *(Continued)*

F. Sponsor's Assets and Liabilities

Your assets and those of your qualifying household members and dependents may be used to demonstrate ability to maintain an income at or above 125 percent (or 100 percent, if applicable) of the poverty line *if* they are available for the support of the sponsored immigrant(s) and can readily be converted into cash within 1 year. The household member, other than the immigrant(s) you are sponsoring, must complete and sign Form I-864A, Contract Between Sponsor and Household Member. List the cash value of each asset *after* any debts or liens are subtracted. Supporting evidence must be attached to establish location, ownership, date of acquisition, and value of each asset listed, including any liens and liabilities related to each asset listed. See "Evidence of Assets" in Instructions.

Type of Asset	Cash Value of Assets *(Subtract any debts)*
Saving deposits	$
Stocks, bonds, certificates of deposit	$
Life insurance cash value	$
Real estate	$
Other *(specify)*	$
Total Cash Value of Assets	$_____

Part 5. Immigrant's Assets and Offsetting Liabilities

The sponsored immigrant's assets may also be used in support of your ability to maintain income at or above 125 percent of the poverty line *if* the assets are or will be available in the United States for the support of the sponsored immigrant(s) and can readily be converted into cash within 1 year.

The sponsored immigrant should provide information on his or her assets in a format similar to part 4.F. above. Supporting evidence must be attached to establish location, ownership, and value of each asset listed, including any liens and liabilities for each asset listed. See "Evidence of Assets" in Instructions.

Part 6. Joint Sponsors

If household income and assets do not meet the appropriate poverty line for your household size, a joint sponsor is required. There may be more than one joint sponsor, but each joint sponsor must individually meet the 125 percent of poverty line requirement based on his or her household income and/or assets, including any assets of the sponsored immigrant. By submitting a separate Affidavit of Support under Section 213A of the Act (Form I-864), a joint sponsor accepts joint responsibility with the petitioner for the sponsored immigrant(s) until they become U.S. citizens, can be credited with 40 quarters of work, leave the United States permanently, or die.

Part 7. Use of the Affidavit of Support to Overcome Public Charge Ground of Inadmissibility

Section 212(a)(4)(C) of the Immigration and Nationality Act provides that an alien seeking permanent residence as an immediate relative (including an orphan), as a family-sponsored immigrant, or as an alien who will accompany or follow to join another alien is considered to be likely to become a public charge and is inadmissible to the United States unless a sponsor submits a legally enforceable affidavit of support on behalf of the alien. Section 212(a)(4)(D) imposes the same requirement on employment-based immigrant, and those aliens who accompany or follow to join the employment-based immigrant, if the employment-based immigrant will be employed by a relative, or by a firm in which a relative owns a significant interest. Separate affidavits of support are required for family members at the time they immigrate if they are not included on this affidavit of support or do not apply for an immigrant visa or adjustment of status within 6 months of the date this affidavit of support is originally signed. The sponsor must provide the sponsored immigrant(s) whatever support is necessary to maintain them at an income that is at least 125 percent of the Federal poverty guidelines.

I submit this affidavit of support in consideration of the sponsored immigrant(s) not being found inadmissible to the United States under section 212(a)(4)(C) (or 212(a)(4)(D) for an employment-based immigrant) and to enable the sponsored immigrant(s) to overcome this ground of inadmissibility. I agree to provide the sponsored immigrant(s) whatever support is necessary to maintain the sponsored immigrant(s) at an income that is at least 125 percent of the Federal poverty guidelines. I understand that my obligation will continue until my death or the sponsored immigrant(s) have become U.S. citizens, can be credited with 40 quarters of work, depart the United States permanently, or die.

Part 7. Use of the Affidavit of Support to Overcome Public Charge Grounds *(Continued)*

Notice of Change of Address.

Sponsors are required to provide written notice of any change of address within 30 days of the change in address until the sponsored immigrant(s) have become U.S. citizens, can be credited with 40 quarters of work, depart the United States permanently, or die. To comply with this requirement, the sponsor must complete INS Form I-865. Failure to give this notice may subject the sponsor to the civil penalty established under section 213A(d)(2) which ranges from $250 to $2,000, unless the failure to report occurred with the knowledge that the sponsored immigrant(s) had received means-tested public benefits, in which case the penalty ranges from $2,000 to $5,000.

If my address changes for any reason before my obligations under this affidavit of support terminate, I will complete and file INS Form I-865, Sponsor's Notice of Change of Address, Within 30 days of the change of address. I understand that failure to give this notice may subject me to civil penalties.

Means-tested Public Benefit Prohibitions and Exceptions.

Under section 403(a) of Public Law 104-193 (Welfare Reform Act), aliens lawfully admitted for permanent residence in the United States, with certain exceptions, are ineligible for most Federally-funded means-tested public benefits during their first 5 years in the United States. This provision does not apply to public benefits specified in section 403(c) of the Welfare Reform Act or to State public benefits, including emergency Medicaid; short-term, non-cash emergency relief; services provided under the National School Lunch and Child Nutrition Acts; immunizations and testing and treatment for communicable diseases; student assistance under the Higher Education Act and the Public Health Service Act; certain forms of foster-care or adoption assistance under the Social Security Act; Head Start programs; means-tested programs under the Elementary and Secondary Education Act; and Job Training Partnership Act programs.

Consideration of Sponsor's Income in Determining Eligibility for Benefits.

If a permanent resident alien is no longer statutorily barred from a Federally-funded means-tested public benefit program and applies for such a benefit, the income and resources of the sponsor and the sponsor's spouse will be considered (or deemed) to be the income and resources of the sponsored immigrant in determining the immigrant's eligibility for Federal means-tested public benefits. Any State or local government may also choose to consider (or deem) the income and resources of the sponsor and the sponsor's spouse to be the income and resources of the immigrant for the purposes of determining eligibility for their means-tested public benefits. The attribution of the income and resources of the sponsor and the sponsor's spouse to the immigrant will continue until the immigrant becomes a U.S. citizen or has worked or can be credited with 40 qualifying quarters of work, provided that the immigrant or the worker crediting the quarters to the immigrant has not received any Federal means-tested public benefit during any creditable quarter for any period after December 31, 1996.

I understand that, under section 213A of the Immigration and Nationality Act (the Act), as amended, this affidavit of support constitutes a contract between me and the U.S. Government. This contract is designed to protect the United States Government, and State and local government agencies or private entities that provide means-tested public benefits, from having to pay benefits to or on behalf of the sponsored immigrant(s), for as long as I am obligated to support them under this affidavit of support. I understand that the sponsored immigrants, or any Federal, State, local, or private entity that pays any means-tested benefit to or on behalf of the sponsored immigrant(s), are entitled to sue me if I fail to meet my obligations under this affidavit of support, as defined by section 213A and INS regulations.

Civil Action to Enforce.

If the immigrant on whose behalf this affidavit of support is executed receives any Federal, State, or local means-tested public benefit before this obligation terminates, the Federal, State, or local agency or private entity may request reimbursement from the sponsor who signed this affidavit. If the sponsor fails to honor the request for reimbursement, the agency may sue the sponsor in any U.S. District Court or any State court with jurisdiction of civil actions for breach of contract. INS will provide names, addresses, and Social Security account numbers of sponsors to benefit-providing agencies for this purpose. Sponsors may also be liable for paying the costs of collection, including legal fees.

Part 7. Use of the Affidavit of Support to Overcome Public Charge Grounds *(Continued)*

I acknowledge that section 213A(a)(1)(B) of the Act grants the sponsored immigrant(s) and any Federal, State, local, or private agency that pays any means-tested public benefit to or on behalf of the sponsored immigrant(s) standing to sue me for failing to meet my obligations under this affidavit of support. I agree to submit to the personal jurisdiction of any court of the United States or of any State, territory, or possession of the United States if the court has subject matter jurisdiction of a civil lawsuit to enforce this affidavit of support. I agree that no lawsuit to enforce this affidavit of support shall be barred by any statute of limitations that might otherwise apply, so long as the plaintiff initiates the civil lawsuit no later than ten (10) years after the date on which a sponsored immigrant last received any means-tested public benefits.

Collection of Judgment.

I acknowledge that a plaintiff may seek specific performance of my support obligation. Furthermore, any money judgment against me based on this affidavit of support may be collected through the use of a judgment lien under 28 U.S.C. 3201, a writ of execution under 28 U.S.C. 3203, a judicial installment payment order under 28 U.S.C. 3204, garnishment under 28 U.S.C. 3205, or through the use of any corresponding remedy under State law. I may also be held liable for costs of collection, including attorney fees.

Concluding Provisions.

I, JOHN A MASON *, certify under penalty of perjury under the laws of the United States that:*

(a) I know the contents of this affidavit of support signed by me;
(b) All the statements in this affidavit of support are true and correct;
(c) I make this affidavit of support for the consideration stated in Part 7, freely, and without any mental reservation or purpose of evasion;
(d) Income tax returns submitted in support of this affidavit are true copies of the returns filed with the Internal Revenue Service; and
(e) Any other evidence submitted is true and correct.

John A Mason
John A Mason
(Sponsor's Signature)

9-2-99
(Date)

Subscribed and sworn to *(or affirmed)* before me this
3RD day of SEPTEMBER, 1999
(Month) *(Year)*
at Olympia WASHINGTON,
My commission expires on OCTOBER 1 2000

Notary Public
State of Washington
DENNIS W. SCHLENZ
My Appointment Expires Oct. 1, 2000

Dennis W Schlenz
(Signature of Notary Public or Officer Administering Oath)
Notary Public
(Title)

Part 8. If someone other than the sponsor prepared this affidavit of support, that person must complete the following:

I certify under penalty of perjury under the laws of the United States that I prepared this affidavit of support at the sponsor's request, and that this affidavit of support is based on all information of which I have knowledge.

Signature	Print Your Name	Date	Daytime Telephone Number

Firm Name and Address

No. _____

In The
Supreme Court of the United States

Tatyana I. Mason

Applicant (pro-se)

vs.

John A. Mason

Respondent

APPLICANT'S AFFIDAVIT OF SERVICE

Applicant *pro-se* Tatyana Mason declares under penalty of perjury under the United States of America that she served the opposite party with the Emergency Application to Stay the Mandate Pending Resolution of Direct Appeal to the US Supreme Court though Defendant' attorney Mr. Masters and M. Robertson electronically as is was previously agreed to be served in this case on April 17, 2019

The Applicant served the Washington State court of appeals division II and the Washington state Supreme Court with the Application to Stay the Mandate Pending Resolution of Direct Appeal to the US Supreme Court through the Court of appeals' portal website on April 17, 2019.

Re: WA State's COA case No. 49839-1-II; The WA State's Supreme Court 96438-6

Mr. Masters
Masters Law Group PLLC
241 Madison Ave. N.
Bainbridge Island, WA 98110-1811
ken@appeal-law.com

Washington State Court of Appeals
950 Broadway 300,
Tacoma, WA 98402

The WA State's Supreme Court
415 12th Ave., SW.
Olympia, WA 98501-2314

Dated April 17, 2019

Tatyana Mason
Applicant pro-se
Po.Box 6441
Olympia, WA 98507
Tatyanam377@gmail.com