

SUP. CT. No. 90431-6
COA No. 69837-1-I

SUPREME COURT
OF THE STATE OF WASHINGTON

LANE POWELL, P.C., an Oregon professional
corporation,

Respondent,

v.

MARK DeCOURSEY and CAROL DeCOURSEY,
individually and the marital community composed thereof,

Petitioners.

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STATE OF WASHINGTON
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PETITION FOR REVIEW

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A. IDENTITY OF PETITIONERS

Mark and Carol DeCoursey, seek the relief designated below.

B. DECISION BELOW

Petitioners seek review of the unpublished decision issued below on April 21, 2014. (Appendix A). The Court of Appeals denied a timely motion to publish on May 19, 2014. (Appendix B).

C. ISSUES PRESENTED

1. Is judicial recusal required in a case when one of the parties previously brought suit against the employer of the judge's spouse and won a total judgment of over \$1 million against that employer?
2. Is judicial recusal required in a case where one of the parties is continuing to publicly campaign to persuade government agencies to bring civil enforcement actions against the employer of the judge's spouse, based on allegations that the employer routinely engages in illegal, unethical and deceptive acts?
3. Is judicial recusal required in a case where one of the parties is continuing to run a publicity campaign to warn potential customers against doing business with the employer of the judge's spouse, and the judge has a community property interest in the spouse's income and pension plan?
4. After a judge responds to a party's expression of doubts about the judge's ability to be impartial with the statement, "I don't think I have a conflict but I respect your concern," is judicial recusal required because the judge has acknowledged the reasonableness of the party's doubt?

D. INTRODUCTION

Because more and more judges have spouses who are active in professions and in politics, judges' marital relationships are giving rise to difficult questions regarding judicial disqualification due to an appearance of fairness or a due process concern. And yet there is a remarkable lack of precedent to guide judges and litigants grappling with these questions.

Although many reported Washington decisions address judicial recusal, until this year there was no published opinion addressing a recusal motion based upon the conduct or interests of a judge's spouse. Initially the opinion in that case was unpublished, but then Division II *granted* a motion to publish it. *Kok v. Tacoma Sch. District*, 179 Wn. App. 10, 317 P.3d 481 (2014). In the present case, Division I affirmed a trial court's refusal to grant a recusal motion in an unpublished decision, and they *denied* Petitioners' motion to publish. Precedent from other jurisdictions is equally rare.

Judges have been grappling with the issue of the appearance of bias for millennia. Under early Jewish law a judge was not allowed to hear any case in which a litigant was a kinsman, a friend, or someone whom the judge personally disliked. *Code of Maimonides*, Bk 14, ch. 23, 68-70 (trans. A. Hershman, 1949). Roman law was even stricter. The Code of Justinian provided: "Although a judge has been appointed by imperial power, yet because it is our pleasure that all litigations should proceed without suspicion, let it be permitted to him who thinks the judge under suspicion, to recuse him before issue is joined." *Corpus Juris Civilis*, Codex, lib. 3, tit. 1, no. 16. But despite centuries of dealing with the appearance of bias problem, there is little case law to guide a judge as to when disqualification is required:

[B]ecause reported cases in which appellate courts have ordered lower court judges to recuse themselves are, if not hen's teeth rare, very few and far between – the published opinions on this subject, far from accurately portraying the full spectrum of judicial thinking as to when a judge should recuse herself from hearing a

particular case or type of case, have been said to reflect little more than “an accumulating mound” of reasons for denying disqualification motions.

R. Flamm, *The History of Judicial Disqualification in America*, 52 JUDGES JOURNAL 12, 16 (2013).

It is well-settled that judges must recuse themselves “in a proceeding in which their impartiality might reasonably be questioned.” *State v. Gamble*, 168 Wn.2d 161, 187, 225 P.3d 973 (2010), quoting Code of Judicial Conduct, Canon 2.11(A). But while there is consensus that this is the test, there is a remarkable lack of consensus as to how to apply it, and in this case the Court of Appeals ultimately did *not* apply it.

This case poses questions as to how the test should be applied when one of the parties before a trial court has previously and successfully sued the company that employs the judge’s spouse, recovering a large money judgment, and thereafter has continued to wage a publicity campaign warning the public not to do business with the company. The party’s campaign against the employer can be expected to alienate the company’s employees, which includes the judge’s spouse, and is also likely to have a negative economic impact on the company’s business. Thus the litigants’ past and current conduct may also negatively impact the income of the judge’s spouse, and thus reduce the judge’s marital income.

In this case, the judge’s wife had been employed for years by Windermere Real Estate; she had earned hundreds of thousands of dollars as a Windermere employee, and she and the judge are beneficiaries of the Windermere Retirement Plan. The Petitioners had successfully sued

Windermere and had won a damages award of \$522,200 against it. CP 1420-22.¹ Moreover, for years the Petitioners had been making public statements that many of Windermere's agents engaged in dishonest and criminal acts, and that Windermere protects them from liability. Nevertheless, the Court of Appeals held that there was no need for the judge to recuse himself because the Petitioners had not personally accused the judge's wife of being one of those unscrupulous Windermere agents.² *Slip Opinion*, at 8.

Moreover, the Court of Appeals (1) denied Petitioners the opportunity to present oral argument; (2) denied their request to file a supplemental brief to address a Division Two opinion (*Kok*) which was published after regular briefing had been completed; and (3) denied Petitioners' motion to publish. Thus, the Court of Appeals greatly increased the perception that the courts are biased against litigants who raise appearance of fairness and due process claims against Washington trial judges.³

This Court has consistently "recognized the importance of appearances in preserving the integrity of our judicial system . . ." *Chic. & Milwaukee*

¹ When the award of attorneys' fees is added to the damages award, the total award was almost \$1 million. CP 1420-22.

² "No reasonable person knowing and understanding all the relevant facts would draw from the DeCourseys' hostility towards Windermere a personalized inference that the DeCourseys were accusing every single Windermere agent, including those such as Judge Eadie's wife who had no involvement in the previous litigation, of being an unscrupulous, unethical lawbreaker." *Slip Opinion*, at 8.

³ The appearance of fairness was also damaged by the law firm's repeated misrepresentation of material fact and the judge's incorporation of those misrepresentations into his rulings over the Decourseys' objections. CP 2712, 5105-06. Observers at a hearing also noted the appearance of prejudice. CP 5376, 5499, 5501, 5528.

RR Co. v. Human Rights Comm'n, 87 Wn.2d 802, 808, 557 P.2d 307 (1977). Judicial officers must conduct themselves “in such a manner as will beget no suspicion of the fairness and integrity of the judge.” *State ex rel. Barnard v. Bd of Educ.*, 19 Wash. 8, 18, 52 P. 317 (1898).

In this case, when Petitioners learned that the trial judge’s wife was employed by Windermere, and realized that the judge might take offense at the fact that they had devoted several years to publicizing Windermere’s misdeeds and unethical business practices, they immediately brought a recusal motion. At a subsequent hearing, the Petitioners explained why they doubted the judge’s ability to treat them fairly and impartially, and the judge responded, “I respect your concern.” RP 11/16/12 at 59. Despite this acknowledgment, the Court of Appeals held that the trial judge did not err in denying the recusal motion.

E. STATEMENT OF THE CASE

1. Petitioners’ Anti-Windermere Websites, Literature and Public Testimony.

Roughly one month after they were served, Petitioners filed two motions, one seeking “discovery protection” and the other asking for a discovery plan. CP 35-56, 5917-5996. Unaware of the fact that their trial judge was married to a Windermere broker, in these initial pleadings Petitioners described in detail their ongoing efforts to publicize the illegal and abusive practices of Windermere agents. They referenced their web page, <http://windermere-victims.com>, chronicling Windermere’s “habitual legal abuse of its customers.” CP 50. In their motion for a discovery plan,

Petitioners stated that they were outspoken opponents of Windermere and that they were campaigning to persuade governmental agencies to sanction Windermere for repeated violations of the licensing laws:

*In the course of researching for the [previous Windermere] suit, DeCourseys discovered that **Windermere agents had preyed on many other consumers**. Multiple courts recently have ruled that **Windermere was in violation of fiduciary, licensing, consumer protection, and other laws**. Yet despite many customer complaints and court decisions, **the Department of Licensing (“DOL”) typically refuses to discipline the offending agencies, brokers, and agents**.*

*DeCourseys have spoken and written about Windermere’s predatory business practices and the DOL’s refusal to enforce the licensing laws. DeCourseys have spoken before the Redmond City Council and testified before the Washington Legislature. DeCourseys have distributed flyers at public events and on the street, and have displayed signage in public areas, in the back window of their car, and on their front lawn. DeCourseys have appeared in the MSNBC special *Undercover Homewreckers*, which has been shown nationally at least ten (10) times and as recently as September 2011. DeCourseys’ Windermere case has been mentioned in various levels of detail on a number of web pages, and analyzed in the *Washington Free Press* and *Seattle Weekly*. For a number of years, DeCourseys have hosted two web sites dedicated to the subject. (*RenovationTrap.com* and *Windermere-Victims.com*). . . .*

DeCourseys had lengthy correspondence with Attorney General Rob McKenna’s office (“AGO”), asking him to take action to protect Washington’s citizens . . .

DeCourseys were instrumental in sparking a State Auditor’s investigation of the Department of Licensing. On information and belief, the Auditor’s report was completed in May 2011 but was blocked from publication by the AGO.

CP 5918-19 (emphasis added).

In support of their motion for a discovery plan Petitioners included an article they wrote entitled “Wide Open Government – for Big Business.”

CP 5951. In that article Petitioners asserted that “DOL refuses to enforce

the law on Windermere Real Estate, Washington's largest real estate company," and referred the reader to their two websites, including <http://Windermere-Victims.com>. CP 5951. The article asserted that "Windermere agents and brokers have done the following wrongful acts" and cited a list of misdeeds including forging signatures, exploiting a confused widow, defrauding a single mother of her home, and selling a house by concealing its history as an illegal methamphetamine factory. CP 5951-93. 5955-56.

In addition to the Windermere agent who had sold them their home (Paul Stickney), Petitioners' pamphlet named Windermere real estate agents and brokers Cheryl Jonet, Samantha Saul, Linda Gabelein, Sonya Eppig, George Rudiger and Lance Miller as the perpetrators of various unethical acts. CP 5951-5953, 5955-5956. Their pamphlet contained references to specific court cases (including their own) documenting the wrongful acts of these Windermere agents. CP 5952-5953.⁴ In another anti-Windermere pamphlet attached to their motion for a discovery plan, Petitioners described the conduct of the Department of Licensing and the Washington Attorney General as "Legalizing Crime in Washington" by declining to take enforcement action against Windermere. CP 5955. This pamphlet referred to still more court cases where Windermere agents had

⁴ The DeCourseys' pamphlet cited to *Kruger v. Windermere*, Cause No. 02-2-28184-2 SEA and 05-2-34433-4 SEA; *Doorish v. Windermere Real Estate*, Cause No. 08-2-42345-0 SEA; and *Bloor v. Fritz*, 143 Wn. App. 718, 180 P.3d 805 (2008).

been found to have engaged in wrongful conduct. CP 5956.⁵ Petitioners noted that the Department of Licensing issued a real estate license to a Spokane Windermere agent with robbery and theft convictions, and to another man who had been convicted of murder. CP 5955. Finally, Petitioners attached copies of letters they had written to the Attorney General, in which they complained that he had failed to act against Windermere. CP 5964.

Without recusing himself or disclosing that he was married to a Windermere broker, the trial court judge denied both of Petitioners' motions. CP 233, 504-05.⁶

2. Petitioners Moved for Recusal As Soon as They Discovered That The Trial Judge's Wife Was A Windermere Broker.

Roughly eight months later, on August 9, 2012, Petitioners filed a *Motion to Vacate and Recuse* in which they noted that they had just discovered that the judge's wife had been a Windermere real estate broker since 2003. CP 2708, 2717. They produced an internet ad they had just found which identified Claire Eadie as a Windermere real estate broker. CP 2723.⁷ They examined the judge's financial affairs statements on file with the Public Disclosure Commission for the years 2004 to 2011. They

⁵ In one case, the Court of Appeals affirmed the judgment that Windermere agents Gabelein and Saul exploited an incapacitated elderly woman by using undue influence to persuade her to sell them her property. *Endicott v. Saul*, 142 Wn. App. 899, 921, 176 P.3d 560 (2008) In *Ruebel v. Eppig*, 140 Wn. App. 1040 (2007), in an unpublished decision the Court affirmed the jury's verdict of breach of fiduciary duty and violation of the Consumer Protection Act by Windermere real estate agent Sonya Eppig.

⁶ Petitioners noted that the trial court permitted a remarkable number of irregularities in Lane Powell's favor. CP 2711.

⁷ A copy of the ad is attached as Appendix C.

learned that the judge's wife had received at least \$289,000 in Windermere commissions. CP 2708, 2717, 2725-2734.⁸ They also discovered that the Judge and his wife had assets in the Windermere Retirement Plan valued between \$40,000 and \$99,000. CP 2708-09, 2717, 2737.⁹ Finally, they learned that the judge and his wife had a family trust engaged in the "ownership and management of real estate." CP 2709, 2717, 2740.¹⁰ Petitioners filed their motion to vacate and recuse "[w]ithin three days of learning of Judge Eadie's apparent conflict of interest." CP 2760. On September 5, 2012, the Superior Court denied the motion for recusal on the ground that Windermere was not a party to the case and no one was making any claim against Windermere. CP 2924-25.¹¹

3. Discussion of the Sensitive Issue of the Judge's Connection to Windermere at the Summary Judgment Motion Hearing.

On November 16, 2012, the parties argued the law firm's motion for summary judgment. The Court of Appeals acknowledged that "Judge Eadie made comments during the hearing in which he recognized that his wife's occupation as a Windermere agent was a sensitive issue and he indicated that he would reevaluate whether deciding Lane Powell's

⁸ Copies of the first pages of these financial statements are attached as Appendix D.

⁹ A copy of the second page of the judge's 2011 financial statement, showing his interest in the "Windermere Retirement Plan and Spousal," is attached as Appendix E.

¹⁰ A copy of the Supplemental Page to the financial statement covering the year 2011 and containing disclosure of the Family Trust is attached as Appendix F.

¹¹ The Court of Appeals correctly held that the mere fact that Windermere was not a party to the case was not controlling. "*Liljeberg [v. Health Services, 486 U.S. 847 (1988)]* shows that a trial judge's connection to a nonparty that stands to benefit financially from the judge's decision may be sufficient to require recusal." *Slip Opinion*, at 8.

entitlement to attorney fees would put him in the position of evaluating the Windermere litigation.” *Slip Opinion*, at 4.

When the law firm’s attorney began to argue, the court interrupted him and directed him not to mention the facts of the prior Windermere case:

THE COURT: Mr. Sulkin, . . . ***I think that the issues of the Windermere lawsuit are sensitive in this case, and I don’t want any suggestion in this record that anything that I am doing here is affected at all by the facts of the Windermere lawsuit.*** So I’m going to ask you to skip over those facts.

RP 11/16/12, at 13-14 (emphasis added). The trial court judge then questioned counsel extensively about the obvious relationship between the law firm’s damages and the prior Windermere suit, and repeatedly mentioned “the Windermere litigation,” “the underlying Windermere case,” the law firm’s “performance in the Windermere case,” and “Windermere litigation fees” for which the law firm was seeking the court’s approval. RP 11/16/12, at 19-21.

Carol DeCoursey argued against the law firm’s summary judgment motion, and she engaged in a colloquy with the court. She politely stated that the fact that the judge’s wife worked for Windermere “doesn’t feel good” and again suggested that the judge should not be hearing the case:

And judge, I really do understand your sympathy with the issue of Windermere. It’s – we have done our very best to expose their unlawful actions and the corruption of the government agencies that allows them to have, you know, an unfair place in the marketplace. ***And I understand your wife works for them and you love her and she loves you and all of that, and we’re very sympathetic to that. But really, sir, it doesn’t look good and it doesn’t feel good and it doesn’t – it doesn’t – it doesn’t – it’s not good.***

RP 11/16/12, at 33-34 (emphasis added).

The trial judge replied that his wife was not involved with Stickney, the Windermere agent who had breached his fiduciary duties to the DeCourseys when they purchased their house. RP 11/16/12, at 34.¹²

Following this exchange the trial judge questioned the law firm's attorney further about the relationship between the fees that it was seeking in the suit before him and the prior Windermere lawsuit:

THE COURT: Excuse me. Just so I'm understanding as we go along. *Are those fees that you're asking me to look at to determine if I see anything wrong with them related to the Windermere litigation –*

MR. SULKIN: *Yes.*

THE COURT: -- *directly?*

MR. SULKIN: *Yes.*

RP 11/16/12, at 37 (emphasis added).

At the close of the hearing, the judge said he was going to do some more research and, depending upon what he found, he might refer the law firm's motion for fees in the Windermere case to another judge. He said if the law required him to evaluate the reasonableness of those fees, then

¹² The judge said his wife was "an independent agent like most are." *Id.* It is not clear what the judge meant to convey by describing his wife as an "independent agent." Every licensed real estate broker, such as Claire Eadie, is by law "a natural person acting on behalf of a real estate firm to perform real estate brokerage services under the supervision of a designated broker or managing broker." RCW 18.85.011(2) (italics added). The term "real estate firm" is also statutorily defined. RCW 18.85.011(17). Claire Eadie was listed on the "Windermere Real Estate" website as one of Windermere's agents. Her email address was given as ceadie@windermere.com. CP 2723. The asserted "independence" of Windermere franchises and brokers was rejected in *Rodriguez v. Windermere Real Estate*, 142 Wn. App. 833, 840, 175 P.3d 604 (2008), where the appellate court held that the mutually advantageous relationship between Windermere and its franchisees "diminishes the independence of the franchisees."

that's something that I am concerned would bring me into an evaluation of the Windermere litigation and *put me in a position of an appearance that I shouldn't be doing that because of my wife's occupation as an independent agent working out of a Windermere office*, going back and evaluating Windermere.

RP 11/16/12, at 57-58 (emphasis added). He concluded that if the law required him to independently review the Windermere litigation then "I may defer that to another judge." *Id.* at 58.

The trial court judge then announced that he was not biased in favor of Windermere, but he told Carol DeCoursey that he respected her concerns about the fairness of his participation in the case:

THE COURT: . . . I don't think – *I don't have any prejudice or bias in favor of Windermere.* It's a big organization. It's like a lot of others. It didn't have any connection to my family or otherwise with the transactions that caused your lawsuit.

I'm not defensive for Windermere. I have no financial stake in Windermere, my wife doesn't. She earns commission from her sales of houses she's involved with and pays a portion of that to Windermere; the Windermere franchise that she works from which was not the Windermere franchise involved here.

But in any event, *I don't think I have a conflict on that but I respect your concern.* And so I think that if *it comes down to my evaluating the litigation that involved Windermere directly and might involve then some evaluation of Windermere's conduct, then I think I would at that point recuse and leave that issue to another judge*, but I don't know if we have to be there or not. I don't know that we don't have it covered already.

RP 11/16/12, at 58-59 (emphasis added).

The trial court then granted partial summary judgment to LP on liability, and reserved the issues of whether the number of hours worked by LP were reasonable. RP 11/16/12, at 60-62. He again referenced the possibility of recusing himself from making that decision: "If I do have to go through a reasonableness determination on those hours, then it will be

my – *I’m thinking very seriously about assigning that to a different judge.*” RP 11/16/12, at 70 (emphasis added).

Ultimately the judge did *not* recuse himself. He granted the law firm’s claim for \$639,232.26 in fees and costs even though Petitioners recovered only \$522,200 in damages from Windermere. CP 1420-22, 5524.

F. REASONS WHY REVIEW SHOULD BE GRANTED

1. The Appearance of Fairness Issue Is One of Substantial Public Interest That This Court Should Decide (RAP 13.4(b)(4)).

There is almost no Washington case law to guide trial judges and litigants when questions arise regarding recusals based upon the activities of a judge’s spouse. Since the decision in this case is unpublished, it provides no guidance at all. Moreover, the few cases that exist in other jurisdictions tend to show that the Court of Appeals erred in this case. This Court should grant review to settle the law in this area.

The opinion below assumes that the impartiality of a trial court judge can never be reasonably questioned based solely on a litigant’s successful lawsuit and public accusation against the employer of a judge’s spouse. According to the opinion below, only an attack “accusing every single Windermere agent” including the judge’s wife, could support a reasonable doubt about the judge’s ability to be impartial. *Slip Opinion*, at 8. This is untenable reasoning.

People develop loyalties to their employers. For example, imagine that a judge is assigned to hear a case involving a litigant who previously brought a successful suit against the judge’s former law firm where the

judge had worked for many years. Even if the judge hasn't worked at that firm for a decade, and even though that suit did not involve any allegation of wrongdoing or negligence against any attorney that the judge was ever friendly with, it is entirely reasonable to think that the judge will be unfavorably disposed towards the litigant who sued his former firm.¹³

In this case, Petitioners previously sued the business that the judge's wife had worked for since at least 2004, and that she was still working for. It is simply untenable to assume that the judge is indifferent to an attack on a business that has employed his wife for so long, paid her *at least* \$289,000 over seven years, and provided her with a pension.

The Petitioners never explicitly said anything like: "Your wife is one of those lying, unethical Windermere agents like all the others that have been found civilly liable for fraud and breach of fiduciary duty." But it is untenable to assume that the judge could not possibly be annoyed or angered by the fact that Petitioners had named *other* Windermere brokers, such as Cheryl Jonet, Samantha Saul, Linda Gabelein, Sonya Eppig,

¹³ In *United Farm Workers v. Superior Court*, 170 Cal.App.3d 97, 216 Cal.Rptr. 4 (1985), the trial judge presided over the trial of a suit by an employer against a union. After trial had started, the judge disclosed that during a strike his wife had worked *for two or three days* as a replacement worker for the employer. *Id.* at 101. He did not disclose this at the start of the trial because *his wife's temporary employment had occurred six years previously*, and he only recalled it after several weeks of trial. *Id.* at 102. The union brought a motion for disqualification which the judge denied. *The California Court of Appeals called the disqualification issue "a close question,"* but affirmed because the wife only worked for the employer for two days and her employment had ended six years ago. "Here the [union] cannot rely on *any continuing relationship* between [plaintiff] and [his wife] giving rise to *any current personal or financial interest* which would disqualify [the judge]." *Id.* at 105 (emphasis added). The same cannot be said here. The judge's wife had an *ongoing* employment relationship with Windermere, and had worked for Windermere for at least seven years.

George Rudiger and Lance Miller in their anti-Windermere literature.¹⁴

If A and B are friends, and C attacks B, then A is likely to view C as an enemy of A as well. This unremarkable proposition simply reflects the obvious social fact that we tend to support our friends, as ancient Jewish and Roman law recognized. In this case, Petitioners attacked the employer of the judge's wife. If the judge's wife is on friendly terms with her employer, then Petitioners attacked a "friend" of the judge's spouse.

In this type of situation, the Fifth Circuit has held that the judge's recusal is required. In *United States v. Jordan*, 49 F.3d 152 (5th Cir. 1995), Betty Jordan was tried and convicted. The trial judge, the Honorable Melinda Harmon, was married to attorney Francis Harmon. The Harmons were both friends with another judge, the Honorable Sharolyn Wood, and with Judge Wood's husband Michael Wood. The two husbands, Francis Harmon and the Michael Wood, had been law partners for six years. *Id.* at 156. Finally, there was much "animosity, if not blind hatred between Michael Wood and [Betty Jordan]." *Id.* Because the judge's husband, attorney Francis Harmon, was a good friend and former business partner of Michael Wood, and because Wood and Jordan were enemies, this was "enough to cause a reasonable person to doubt the impartiality of Judge Melinda Harmon . . ." *Id.* at 157. The Fifth Circuit held that Judge Harmon erred: "We find that the district court judge

¹⁴ The trial judge did *not* say that he and his wife did not know any of those brokers, and Petitioners have no way of knowing whether or not they are colleagues of Claire Eadie, or even close social friends of both of the Eadies.

abused her discretion for failing to recuse herself . . . as the facts underlying this case create an appearance of impropriety.” *Id.* at 154.

The present case is similar to the *Jordan* case. The reasoning of *Jordan* is that the enemy of my friend is my enemy too. It is not unreasonable to assume that Claire Eadie considers her employer, Windermere, and her Windermere colleagues, to be her friends. And it is reasonable to assume that Judge Eadie considers his wife’s friends to be his friends as well. Since Petitioners are the enemies of the Eadies’ “friends” it is logical to assume that the judge and his wife would be negatively disposed towards Petitioners. As Judge Eadie admitted, the issues of the Windermere lawsuit were “sensitive.” RP 11/16/12, at 13-14.

The Court of Appeals did not consider whether either Judge Eadie or Claire Eadie were likely to be negatively disposed towards the enemies of Windermere and the enemies of other Windermere brokers. Thus, the Court below never actually applied the correct test. The correct test was *not* whether a reasonable person would think “that the DeCourseys had attacked the integrity of every single Windermere agent including . . . Judge Eadie’s wife . . .” *Slip Opinion*, at 8. The test was whether a reasonable person would have doubts about the judge’s ability to be impartial in the case because the Petitioners had publicly criticized Windermere and many individual members of the Windermere family.

In this case, the trial judge told Carol DeCoursey that he understood that his marital connection to Windermere was a sensitive issue and he said, “I respect your concern.” RP 11/16/12, at 59. If Petitioners’ doubts

about his ability to be impartial were objectively unreasonable, the trial judge would never have said this. There is no reason to “respect” an objectively unreasonable concern. Petitioners argued below that this amounted to an admission by the trial judge that there was a basis for an objectively reasonable doubt about his ability to be fair. But the Court of Appeals never addressed this argument. The opinion below does not even mention the “I respect your concern” remark.

2. A Significant Question of Constitutional Law Is Involved.

The Court of Appeals also rejected Petitioners’ contention that the judge’s failure to recuse himself violated due process because he had a personal financial interest in the case. By ruling in favor of the law firm and awarding it a judgment of several hundred thousand dollars against Petitioners, the trial judge deprived them of money that they could have used to finance their anti-Windermere campaign, and this benefited Windermere. Reducing the financial resources available for the anti-Windermere campaign means that fewer potential Windermere clients will be dissuaded from doing business with Windermere. That, in turn benefits Windermere agents, such as Claire Eadie, who will not lose as many commissions. By benefiting them, it also benefits their spouses, such as the trial judge. The Court below rejected this argument on the grounds that “the possible benefit [to the Eadies] is too speculative and attenuated to constitute a personal pecuniary interest requiring recusal.” *Slip Opinion*, at 10. The Court did not cite any case law in support of this conclusion.

Petitioners cited cases supporting their position that recusal is required

if a ruling in favor of one party has the *potential* to benefit the judge or the judge's spouse. For example, *Mitchell v. Teck Cominco Alaska Inc.*, 193 P.2d 751 (Alaska 2008) demonstrates that under some circumstances, even a tiny amount of income can be sufficient to disqualify the trial judge. In *Mitchell* the judge's wife owned stock in NANA, a company that was *not* a party in the case before the court. But defendant Teck operated a mine on land that NANA owned and leased to Teck. NANA's economic fortunes were indirectly affected by Teck's fortunes because the two companies had a profit sharing agreement. *Id.* at 763 n. 40. If Teck lost the case, or even if it won but incurred significant litigation costs, that would indirectly affect NANA's economic fortunes under their profit sharing agreement. *Id.* In preceding years the trial judge's wife had received dividends varying between \$200 and \$300 a year. The trial judge denied the plaintiff's motion that he disqualify himself reasoning that this was a "de minimis" amount. The Alaska Supreme Court agreed that it was, but considered the possibility that the judge's wife stood to earn a higher amount of dividends in the future. *Id.* at 764. Noting that mine royalties to NANA for the coming year were projected to be four times the amount they had been for the previous year, the Court "remand[ed] for renewed consideration of the plaintiff's request that [the trial judge] disqualify himself. . . . On remand [the judge] should consider and indicate whether his wife's ownership of NANA stock has a financial or other impact on the [judge's] household, *de minimis* or not, that would reasonably call into question his ability to serve as the trial judge in this

case.” *Id.* at 764-75. The *Mitchell* case conflicts with the decision below, since it recognizes that a trial judge should recuse himself whenever a ruling for one party has the potential to benefit the judge’s spouse economically. This is consistent with Washington law that recognizes that a judicial decision maker is disqualified if a ruling for one party has the potential to benefit someone with whom the judge is associated. *See, e.g., Swift v. Island County*, 87 Wn.2d 348, 552 P.2d 175 (1976).¹⁵

In the present case, Claire Eadie’s income stream from commissions on Windermere sales over the preceding seven years is roughly 100 times the amount of dividends that the judge’s spouse in *Mitchell* had been receiving. This Court should decide whether the potential benefit of crippling a publicity campaign that threatens the income of the judge’s wife is the type of potential pecuniary interest that requires judicial recusal to avoid violating either due process or the appearance of fairness.

3. There Is A Split Between the Divisions of the Court of Appeals as to the Proper Appellate Review Standard.

This Court has held: “Questions as to whether undisputed facts violate due process or the appearance of fairness doctrine are legal and are reviewed de novo.” *In re King*, 168 Wn.2d 888, 899, 232 P.3d 1095 (2010). But Divisions II and III continue to apply the abuse of discretion

¹⁵ There a Commissioner voted to approve a preliminary plat for a shoreline development project. The indirect effect of his vote was to increase the value of neighboring real estate lots, making them more marketable. The Commissioner was the chairman of a bank that was financing the neighboring lots. This indirect “enhancement” of the value of his bank’s project was held “sufficient to bring the doctrine of appearance of fairness into play.” *Id.* at 362. This Court concluded that the plat approval was “void for lacking an appearance of fairness.”

review standard to denials of recusal motions. *Kok v. Tacoma School District*, 179 Wn. App. at 23-24; *Tatham v. Rogers*, 170 Wn. App. 76, 87, 283 P.3d 583 (2012). In this case, Division I said: “We will apply the de novo standard here.” *Slip Opinion*, at 6. (It is somewhat unclear whether this means that it will apply the de novo standard in all recusal cases.)

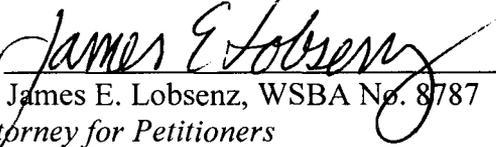
The decision below conflicts with the published decisions of Divisions II and III on this point. The *Kok* and *Tatham* decisions are in conflict with this Court’s decision in *King*. This Court should grant review to resolve this split between the divisions of the Court of Appeals, and the conflict between Divisions II and III and this Court’s decision in *King*.

G. CONCLUSION

If past patterns predict future conduct, the Respondent will respond to this petition primarily by attacking the character of Petitioners. But such ad hominem attacks have no bearing on the legal questions at issue in this case, and the answers to these questions will shape the law of this State for years to come. Petitioners ask this Court to grant review in order to resolve these important issues regarding judicial disqualification motions based upon the employment and the economic interests of a judge, the judge’s spouse, and their marital community.

Respectfully submitted this 16th day of June, 2014.

CARNEY BADLEY SPELLMAN, P.S.

By 
James E. Lobsenz, WSBA No. 8787
Attorney for Petitioners

CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that I am over the age of 18 years, and competent to be a witness herein. On June 17, 2014, I served a true and correct copy of the following document: **PETITION FOR REVIEW**

on the following attorneys of record via U.S. MAIL AND E-Mail:

ROBERT M. SULKIN (rsulkin@mcnaul.com)
MALAIKA M. EATON (meaton@mcnaul.com)
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Deborah A. Groth
Legal Assistant

APPENDIX A

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

LANE POWELL PC, an Oregon professional corporation,)	No. 69837-1-I
)	
Respondent,)	DIVISION ONE
)	
v.)	
)	
MARK DeCOURSEY and CAROL DeCOURSEY, individually and the marital community composed thereof,)	UNPUBLISHED OPINION
)	FILED: April 21, 2014
Appellants.)	
_____)	

BECKER, J.— Judges must recuse themselves when their impartiality may reasonably be questioned. Where an allegation of partiality rests on speculation and illogical assumptions, it is not reasonable. The appellants in this matter have not established either an appearance of unfairness or a violation of their due process right to an impartial decision maker. We therefore hold that their motion for recusal was properly denied and affirm the judgment.

The law firm of Lane Powell PC agreed to represent appellants Mark and Carol DeCoursey in their case against Windermere Real Estate S.C.A. Inc. and its agent Paul Stickney. On September 19, 2007, the DeCourseys signed a fee agreement whereby they agreed to pay Lane Powell on an hourly basis. A jury

trial took place in 2008, Judge Michael Fox presiding. On October 30, 2008, the jury returned a verdict for the DeCourseys, awarding \$522,200 in damages.

The DeCourseys at this time had a large outstanding balance on fees owed to Lane Powell. On December 30, 2008, Lane Powell and the DeCourseys entered into a revised fee agreement. Lane Powell agreed to continue to represent the DeCourseys in efforts to collect on the judgment and to assist with possible appeals. The DeCourseys agreed to release \$200,000 to be paid on account to Lane Powell from the \$275,000 currently in their Lane Powell trust account. The remaining \$75,000 was disbursed to the DeCourseys. They agreed that Lane Powell would be paid first out of any settlement proceeds or payment of any judgment. Lane Powell agreed to forbear for a "reasonable time" the collection of the balance of fees owed by the DeCourseys.

On February 27, 2009, Judge Fox entered judgment for the DeCourseys for \$522,200 in damages and \$463,427 in reasonable attorney fees, including a multiplier of 30 percent.

Windermere appealed. On November 28, 2010, this court affirmed. V&E Med. Imaging Servs., Inc. v. Birgh, noted at 158 Wn. App. 1027 (2010), review denied, 171 Wn.2d 1019 (2011).

Windermere filed a petition for review. On April 27, 2011, Windermere's petition for review was denied. Ultimately, the DeCourseys were awarded reasonable attorney fees on appeal at the Court of Appeals and the Supreme Court.

On August 2, 2011, Lane Powell e-mailed the DeCourseys to inform them that Windermere was contemplating making a payment “to cut off post-judgment interest on the amount paid while we wait for the Supreme Court to rule on the fees award, the mandate to issue, and the parties to resolve the remaining issues on remand.”

On August 3, 2011, the DeCourseys fired Lane Powell and retained new counsel. That day, Lane Powell filed an attorney fee lien for \$384,881.66.

On October 5, 2011, Lane Powell filed a complaint for breach of contract, quantum meruit, and foreclosure of an attorney fee lien against the DeCourseys. Lane Powell's complaint claimed \$389,042.68 in fees owed as of September 10, 2011.

The case was assigned to Judge Richard D. Eadie in October 2011. The DeCourseys asserted a number of affirmative defenses and counterclaims. As the litigation progressed, the DeCourseys refused to comply with various court orders. Eventually, the court struck their affirmative defenses and counterclaims as a sanction for contempt and discovery violations.

On November 10, 2011, the DeCourseys filed a satisfaction of judgment, acknowledging receipt of \$1,211,038.18 from Windermere. They arranged for Windermere to deposit into the registry of the court the sum of \$384,881.66, the face amount of Lane Powell's lien, without provision for interest and without notice to Lane Powell.

On August 9, 2012, the DeCourseys moved for Judge Eadie's recusal after discovering he is married to a Windermere agent. On September 5, 2012,

Judge Eadie issued a written order denying the recusal motion on the ground that Windermere was not a party to Lane Powell's action against the DeCourseys for attorney fees:

This case, Lane Powell v. DeCoursey, involves Plaintiff law firm's claim that Defendants have not paid the fees due Plaintiff for legal services rendered in a lawsuit involving Windermere Real Estate Company. Defendants, while they were being represented by Plaintiff, prevailed in that lawsuit and received a judgment in their favor that has now been satisfied as between Windermere and the parties to this action and concerning which all appellate remedies have been exhausted. As Plaintiff points out, both the Plaintiff and Defendants in this case were adverse to Windermere in the previous action.

Plaintiff's complaint in the case before this court makes no claims for relief from Windermere, nor does the Defendants' comprehensive and detailed Answer, Affirmative Defenses and Counterclaims. The present case was when filed, and remains today, an action brought by a law firm against a former client that it contends is obligated to it for unpaid fees. Windermere is not now, and never has been a party to this action.

Defendants' Motion to Vacate and Recuse is DENIED.

On October 19, 2012, Lane Powell filed a motion for summary judgment.

On November 16, 2012, Judge Eadie held a hearing on Lane Powell's motion. Judge Eadie made comments during the hearing in which he recognized that his wife's occupation as a Windermere agent was a sensitive issue and he indicated that he would re-evaluate whether deciding Lane Powell's entitlement to attorney fees would put him in a position of evaluating the Windermere litigation.¹

Judge Eadie asked the parties to submit supplemental briefing on the reasonableness of fees that had not already been determined reasonable by either Judge Fox, the Court of Appeals, or the Supreme Court.

¹ Report of Proceedings (Nov. 16, 2012) at 57-58.

On November 30, 2012, Lane Powell filed its supplemental brief.

On December 4, 2012, the DeCourseys filed a second motion for recusal.

On December 6, 2012, the DeCourseys submitted their response to Lane Powell's supplemental brief.

On December 12, 2012, Judge Eadie denied the second motion to recuse.

On December 14, 2012, Judge Eadie entered an order granting Lane Powell's motion for summary judgment. The judgment was for breach of contract in the amount of \$422,675.45. The judge noted on the order his finding that "Windermere Real Estate has no interest, direct or indirect, in the determination of the reasonableness of these fees or of the hourly rates charged."²

The DeCourseys appeal. Their primary argument is that Judge Eadie erred by denying their motions for recusal. They ask this court to reverse the judgment, vacate all orders, and remand for a new trial before a different judge.

The parties dispute the standard of review applicable to the recusal issue. The DeCourseys assert that we review the recusal issue de novo, citing In re Disciplinary Proceeding Against King, 168 Wn.2d 888, 899, 232 P.3d 1095 (2010) ("Questions as to whether undisputed facts violate due process or the appearance of fairness doctrine are legal and reviewed de novo."). Lane Powell asserts that we review the recusal issue for an abuse of discretion under Tatham v. Rogers, 170 Wn. App. 76, 87, 283 P.3d 583 (2012) ("Recusal decisions lie

² Clerk's Papers at 5526, 5527.

within the sound discretion of the trial court.”) We will apply the de novo standard here.

The Code of Judicial Conduct provides that a judge must disqualify him or herself “in any proceeding in which the judge’s impartiality* might reasonably be questioned.” CJC 2.11(A) (The asterisk refers to the Code’s definition of “impartiality.”) The law goes further than requiring an impartial judge; it also requires that the judge appear to be impartial. State v. Madry, 8 Wn. App. 61, 70, 504 P.2d 1156 (1972). In determining whether recusal is warranted, actual prejudice need not be proven—a mere suspicion of partiality may be enough. Sherman v. State, 128 Wn.2d 164, 205, 905 P.2d 355 (1995). The question is whether a reasonably prudent, disinterested observer would conclude that the parties received a fair, impartial, and neutral hearing. State v. Gamble, 168 Wn.2d 161, 187, 225 P.3d 973 (2010); In re Disciplinary Proceeding Against Sanders, 159 Wn.2d 517, 524-25, 145 P.3d 1208 (2006), cert. denied, 552 U.S. 821 (2007). This test assumes that the reasonably prudent disinterested observer knows and understands all relevant facts. Sherman, 128 Wn.2d at 206.

The DeCourseys contend that a reasonably prudent, disinterested observer would conclude that Judge Eadie’s marriage to a Windermere agent biased him against them because of their history of hostility to Windermere.

They list the following circumstances as determinative:

- The defendants had conducted a continuing negative publicity campaign against the company that employed the trial judge’s wife, and the employees of that company;
- For many years the defendants had operated, and they continued to operate during the proceedings, websites

- which conveyed the message that company employees routinely committed illegal, unethical and deceptive acts;
- The defendants testified against the judge's wife's employer before the state legislature;
 - The defendants campaigned to persuade government agencies to bring civil enforcement actions against the company; and
 - The defendants themselves had successfully sued the judge's wife's employer and had obtained a judgment against it for over \$1 million.^[3]

The DeCourseys argue that a judge is naturally going to be biased against a party appearing before him when the judge knows the party is an antagonist of the judge's wife's employer:

It is obviously reasonable to think that the judge will react in this fashion:

- You have accused my spouse's co-workers of being crooks, cheats, felons, and unscrupulous law breakers;
- You have accused the people—such as my wife—who work for Windermere as regularly and routinely engaging in such misconduct;
- Thus you have accused my wife of being an unscrupulous, unethical, lawbreaker.

A judge who thinks a party has defamed his spouse in such a manner is going to be hard pressed to be impartial toward such a party.

Every objectively reasonable observer would doubt such a judge's ability to be impartial in such a case. Even putting aside the judge's reason to be economically concerned about the effect that the party's negative publicity campaign is likely to have on his wife's employer, on his wife's income, and thus on his own community property share of his wife's income—the natural human tendency to be biased against people who attack one's close family members makes it impossible for such a judge to act with the requisite appearance of impartiality.^[4]

This argument assumes too much. Windermere had no interest in the litigation between the DeCourseys and Lane Powell. No reasonable person

³ Br. of Appellant at 5.

⁴ Br. of Appellant at 39-40.

knowing and understanding all the relevant facts would draw from the DeCourseys' hostility toward Windermere a personalized inference that the DeCourseys were accusing every single Windermere agent, including those such as Judge Eadie's wife who had no involvement in the previous litigation, of being an unscrupulous, unethical lawbreaker.

The DeCourseys further argue that the judge's failure to recuse himself violated due process because he had a personal pecuniary interest in the outcome of the case:

Windermere employees such as the judge's wife, benefitted from a decision in favor of [Lane Powell] because it took money out of the DeCourseys' pockets, thereby reducing the funds available for their anti-Windermere campaign, which would cause Windermere to suffer a loss of customers and revenue. Thus, indirectly, the trial judge's decision caused benefits to flow to Windermere real estate brokers, such as the judge's wife, and thus to himself as well.⁵

Judges must recuse themselves when they have a direct, personal, and substantial pecuniary interest in a case. Tatham, 170 Wn. App. at 90; Tumey v. Ohio, 273 U.S. 510, 523, 47 S. Ct. 437, 71 L. Ed. 749 (1927). Even where judges have financial interests falling short of what would be considered personal or direct, due process may still require recusal. Tatham, 170 Wn. App. at 90-91; accord Liljeberg v. Health Servs. Acquisition Corp., 486 U.S. 847, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988).

Liljeberg shows that a trial judge's connection to a nonparty that stands to benefit financially from the judge's decision may be sufficient to require recusal. In Liljeberg, Loyola University was in talks to sell a parcel of land to Liljeberg.

⁵ Br. of Appellant at 47.

Liljeberg intended to build a hospital on the land. To build a hospital, he needed a certificate of need from the State of Louisiana. He claimed he had a certificate of need, but Health Services Corporation filed suit for declaratory judgment against Liljeberg, asking the trial judge to find that it was the owner of the certificate, not Liljeberg. The trial judge entered judgment for Liljeberg. Several months later, Health Services Corporation discovered that the trial judge was a member of the Loyola University Board of Trustees. Health Services filed a motion to vacate under FRCP 60(B)(6). The trial judge denied the motion. The Fifth Circuit reversed, holding that the motion to vacate should have been granted. Because the success and benefit to Loyola of their negotiation with Liljeberg turned, in large part, on Liljeberg prevailing in the litigation at issue, the Supreme Court found that the judge had an obvious conflict of interest and affirmed the Court of Appeals. Liljeberg, 486 U.S. at 867-69, citing 28 U.S.C. § 455(a) ("Any justice, judge, or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.")

This case is not like Liljeberg. The conflict there was directly connected to the trial judge's ruling, in that the university with which he was allied as a trustee derived a concrete financial benefit from the judge's ruling in favor of Liljeberg. Here, the alleged conflict is speculative. The Windermere agent with whom Judge Eadie is allied through marriage did not derive any concrete benefit from Judge Eadie's ruling in favor of Lane Powell.

To establish that Judge Eadie had a pecuniary interest in the outcome of this case, the DeCourseys ask this court to assume that (1) if the DeCourseys prevailed against Lane Powell and did not have to pay a judgment for attorney fees, they would have more money with which to finance their anti-Windermere campaign and (2) their expenditures in that regard would necessarily result in a loss of business by Mrs. Eadie, a Windermere agent.

The record simply does not support the existence of a chain of causation by which an order requiring the DeCourseys to pay their bill to Lane Powell ends up benefitting the Eadies financially. The possible benefit is too speculative and attenuated to constitute a personal pecuniary interest requiring recusal.

We conclude that the trial judge did not violate the DeCourseys' due process right to a trial before an impartial decision maker.

As an alternative basis for seeking reversal of the summary judgment for attorney fees, the DeCourseys contend that they did not breach their contract with Lane Powell. They claim their nonperformance of the contract to pay attorney fees was excused because Lane Powell repudiated it. It is not clear that this issue is properly before us because the trial court struck the DeCourseys' defenses as a sanction and they have not appealed that order. The argument also fails when considered on the merits.

In December 2008, Lane Powell negotiated with the DeCourseys the terms by which the firm would forbear collecting the attorney fees due under the hourly fee agreement. In a letter dated December 5, 2008, attorney Brent Nourse proposed that Lane Powell would forbear collection until Windermere

paid the judgment. According to the DeCourseys, the letter of December 5 was the contract, and Lane Powell repudiated it by filing suit on October 11, 2011, one month before Windermere paid the judgment. However, the record reflects that the actual contract revising the fee agreement was a subsequent letter from Lane Powell to the DeCoursey dated December 31, 2008, that was signed by both the DeCourseys. That agreement required Lane Powell to forbear for “a reasonable time.” Lane Powell filed suit four years after winning the case for the DeCourseys and two years after being fired by the DeCourseys. This was a reasonable time to forbear collection efforts, and the DeCourseys do not argue otherwise. In their reply brief, they contend the December 31 letter was too vague to be a contract. We decline to address this argument. Cowiche Canyon Conservancy v. Bosley, 118 Wn.2d 801, 809, 828 P.2d 549 (1992).

The trial court did not err in concluding there were no material issues of fact warranting trial on Lane Powell's claim of breach of contract.

Affirmed.

WE CONCUR:



FILED
COURT OF APPEALS DIV I
STATE OF WASHINGTON
2014 APR 21 AM 9:50

APPENDIX B

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

LANE POWELL PC, an Oregon)
professional corporation,)
)
Respondent,)
)
v.)
)
MARK DeCOURSEY and CAROL)
DeCOURSEY, individually and the)
marital community composed thereof,)
)
Appellants.)
_____)

No. 69837-1-1

ORDER DENYING MOTION
TO PUBLISH OPINION

Appellants, Mark and Carol DeCoursey, have filed a motion to publish the opinion filed on April 21, 2014. Respondent, Lane Powell, has filed a response to appellants' motion to publish. The court has determined that said motion should be denied. Now, therefore, it is hereby

ORDERED that appellants' motion to publish the opinion is denied.

DONE this 19th day of May, 2014.

FOR THE COURT:



Judge

FILED
COURT OF APPEALS DIVISION ONE
STATE OF WASHINGTON
2014 MAY 19 PM 3:45

APPENDIX C



Properties listed by

Claire Eadie

Edmonds

- Email: ceadie@windermere.com
- Website:
- Cell/Direct: (206) 714-2920

1 listings found

Price: High to Low



North City Area Condo/Townhouse
\$199,950

17900 23rd Lane Ne 204 Shoreline, WA 98155

[View Details](#)

-
-
-

- Year Built: 1976
- MLS#: 285638
- Status: Pending
- Bedrooms: 3
- Bathrooms: 1.75
- Square Feet: 1393
- Lot Size: 2.27 acres

APPENDIX D

 PUBLIC DISCLOSURE COMMISSION 711 CAPITOL WAY RM 206 PO BOX 40908 OLYMPIA WA 98504-0908 (360) 753-1111 TOLL FREE 1-877-601-2828	PDC FORM F-1 (1/12)	PERSONAL FINANCIAL AFFAIRS STATEMENT	PDC OFFICE USE 100446662
	Refer to instruction manual for detailed assistance and examples. Deadlines: Incumbent elected and appointed officials -- by April 15. Candidates and others -- within two weeks of becoming a candidate or being newly appointed to a position.		DOLLAR CODE A \$1 to \$3,999 B \$4,000 to \$19,999 C \$20,000 to \$39,999 D \$40,000 to \$99,999 E \$100,000 or more

SEND REPORT TO PUBLIC DISCLOSURE COMMISSION

Covers: 2011
Received: 03-24-2012

Last Name: EADIE First: RICHARD Middle Initial: D	Names of immediate family members, including registered domestic partner. If there is no reportable information to disclose for dependent children, or other dependents living in your household, do not identify them. Do identify your spouse or registered domestic partner. See F-1 manual for details. CLAIRE EADIE SP
Mailing Address (Use PO Box or Work Address): 516 THIRD AVENUE, C-203	
City: SEATTLE County: KING Zip + 4: 98104	

Filing Status (Check only one box.)

An elected or state appointed official filing annual report

Final report as an elected official. Term expired: _____

Candidate running in an election: month _____ year _____

Newly appointed to an elective office

Newly appointed to a state appointive office

Professional staff of the Governor's Office and the Legislature

Office Held or Sought
Office title: SUPERIOR COURT JUDGE

County, city, district or agency of the office,
name and number: KING CO SUPERIOR COURT

Position number: 33

Term begins: 01-01-2009 ends: 12-31-2012

1 INCOME List each employer, or other source of income (pension, social security, legal judgment, etc.) from which you or a family member, including registered domestic partner, received \$2,000 or more during the period. (Report interest and dividends in Item 3 on reverse)

Show Self (S) Spouse (SP/DP) Dependent (D)	Name and Address of Employer or Source of Compensation	Occupation or How Compensation Was Earned	Amount: (Use Code)
S	KING COUNTY SUPERIOR COURT 516 3RD AVE. C-203 SEATTLE WA 98104-2381	SUPERIOR COURT JUDGE	E
SP	WINDERMERE REAL ESTATE - EDMONDS 210 5TH AVE. SOUTH EDMONDS 98 WA	REAL ESTATE AGENT COMMISSIONS	B

Check Here if continued on attached sheet

2 REAL ESTATE List street address, assessor's parcel number, or legal description AND county for each parcel of Washington real estate with value of over \$10,000 in which you or a family member, including registered domestic partner, held a personal financial interest during the reporting period. (Show partnership, company, etc. real estate on F-1 supplement.)

Property Sold or Interest Divested	Assessed Value (Use Code)	Name and Address of Purchaser	Nature and Amount (Use Code) of Payment or Consideration Received			
King County 2534 N.W. 194th Pl. Shoreline, WA 98177	E	Berthold E. Breitling 2520 N.W. 194th Pl. Shoreline WA 98177	E			
Property Purchased or Interest Acquired		Creditor's Name/Address	Payment Terms	Security Given	Mortgage Amount - (Use Code) Original Current	
All Other Property Entirely or Partially Owned 1455 N. W. 188TH ST. , SHORELINE, KING COUNTY, WA Check here <input checked="" type="checkbox"/> if continued on attached sheet	E	Chase Bank 1401 5TH AVE. SEATTLE WA 98101	30 YRS. @ 6. 75%	D. O. T.	E	E

Refer to instruction manual for detailed assistance and examples. Deadlines: Incumbent elected and appointed officials -- by April 15. Candidates and others -- within two weeks of becoming a candidate or being newly appointed to a position. SEND REPORT TO PUBLIC DISCLOSURE COMMISSION	DOLLAR CODE A \$1 to \$3,999 B \$4,000 to \$19,999 C \$20,000 to \$39,999 D \$40,000 to \$99,999 E \$100,000 or more	Covers: 2010 Received: 04-10-2011
---	--	--

Last Name	First	Middle Initial	Names of immediate family members, including registered domestic partner. If there is no reportable information to disclose for dependent children, or other dependents living in your household, do not identify them. Do identify your spouse or registered domestic partner. See F-1 manual for details.
EADIE	RICHARD	D	
Mailing Address (Use PO Box or Work Address)			
516 THIRD AVENUE, C-203			
City	County	Zip + 4	CLAIRE EADIE SP
SEATTLE	KING	98104	

Filing Status (Check only one box.) <input checked="" type="checkbox"/> An elected or state appointed official filing annual report <input type="checkbox"/> Final report as an elected official. Term expired: _____ <input type="checkbox"/> Candidate running in an election: month _____ year _____ <input type="checkbox"/> Newly appointed to an elective office <input type="checkbox"/> Newly appointed to a state appointive office <input type="checkbox"/> Professional staff of the Governor's Office and the Legislature	Office Held or Sought Office title: SUPERIOR COURT JUDGE _____ County, city, district or agency of the office, name and number: KING CO SUPERIOR COURT Position number: 33 Term begins: 01-01-2009 ends: 12-31-2012
---	---

1	INCOME	List each employer, or other source of income (pension, social security, legal judgment, etc.) from which you or a family member, including registered domestic partner, received \$2,000 or more during the period. (Report interest and dividends in Item 3 on reverse)		
Show Self (S) Spouse (SP/DP) Dependent (D)	Name and Address of Employer or Source of Compensation	Occupation or How Compensation Was Earned	Amount: (Use Code)	
S	KING COUNTY SUPERIOR COURT 516 3RD AVE. C-203 SEATTLE WA 98104-2381	SUPERIOR COURT JUDGE	E	
SP	WINDERMERE REAL ESTATE - EDMONDS 210 5TH AVE. SOUTH EDMONDS WA 98020	REAL ESTATE AGENT COMMISSIONS	D	
Check Here <input checked="" type="checkbox"/> if continued on attached sheet				

2 REAL ESTATE List street address, assessor's parcel number, or legal description AND county for each parcel of Washington real estate with value of over \$10,000 in which you or a family member, including registered domestic partner, held a personal financial interest during the reporting period. (Show partnership, company, etc. real estate on F-1 supplement.)

Property Sold or Interest Divested	Assessed Value (Use Code)	Name and Address of Purchaser	Nature and Amount (Use Code) of Payment or Consideration Received			
Property Purchased or Interest Acquired		Creditor's Name/Address	Payment Terms	Security Given	Mortgage Amount - (Use Code) Original Current	
All Other Property Entirely or Partially Owned 1455 N. W. 188TH ST., SHORELINE, KING COUNTY, WA Check here <input checked="" type="checkbox"/> if continued on attached sheet	E	Chase Bank 1401 5TH AVE. SEATTLE WA 98101	30 YRS. @ 6.75%	D. O. T.	E	E

PUBLIC DISCLOSURE COMMISSION 711 CAPITOL WAY RM 206 PO BOX 40908 OLYMPIA WA 98504-0908 (360) 753-1111 TOLL FREE 1-877-601-2828	PDC FORM F-1 (11/08)	PERSONAL FINANCIAL AFFAIRS STATEMENT	PDC OFFICE USE 100342812
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Refer to instruction manual for detailed assistance and examples. Deadlines: Incumbent elected and appointed officials -- by April 15. Candidates and others -- within two weeks of becoming a candidate or being newly appointed to a position. SEND REPORT TO PUBLIC DISCLOSURE COMMISSION	DOLLAR CODE A \$1 to \$3,999 B \$4,000 to \$19,999 C \$20,000 to \$39,999 D \$40,000 to \$99,999 E \$100,000 or more	Covers: 2009 Received: 04-15-2010
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Last Name	First	Middle Initial	Names of immediate family members, including registered domestic partner. If there is no reportable information to disclose for dependent children, or other dependents living in your household, do not identify them. Do identify your spouse or registered domestic partner. See F-1 manual for details.
EADIE	RICHARD	D	

Mailing Address (Use PO Box or Work Address)	CLAIRE EADIE SP	
516 THIRD AVENUE, C-203		
City	County	Zip + 4
SEATTLE	KING	98104

Filing Status (Check only one box.) <input checked="" type="checkbox"/> An elected or state appointed official filing annual report <input type="checkbox"/> Final report as an elected official. Term expired: _____ <input type="checkbox"/> Candidate running in an election: month _____ year _____ <input type="checkbox"/> Newly appointed to an elective office <input type="checkbox"/> Newly appointed to a state appointive office <input type="checkbox"/> Professional staff of the Governor's Office and the Legislature	Office Held or Sought Office title: SUPERIOR COURT JUDGE _____ County, city, district or agency of the office, name and number: KING CO SUPERIOR COURT Position number: 33 Term begins: 01-01-2009 ends: 12-31-2012
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1 INCOME List each employer, or other source of income (pension, social security, legal judgment, etc.) from which you or a family member, including registered domestic partner, received \$2,000 or more during the period. (Report interest and dividends in Item 3 on reverse)

	Show Self (S) Spouse (SP/DP) Dependent (D)	Name and Address of Employer or Source of Compensation	Occupation or How Compensation Was Earned	Amount: (Use Code)
	S	KING COUNTY SUPERIOR COURT 516 3RD AVE. C-203 SEATTLE WA 98104-2381	SUPERIOR COURT JUDGE	E
	SP	WINDERMERE REAL ESTATE - EDMONDS 210 5TH AVE. SOUTH EDMONDS WA 98020	REAL ESTATE AGENT COMMISSIONS	D

Check Here if continued on attached sheet

2 REAL ESTATE List street address, assessor's parcel number, or legal description AND county for each parcel of Washington real estate with value of over \$10,000 in which you or a family member, including registered domestic partner, held a personal financial interest during the reporting period. (Show partnership, company, etc. real estate on F-1 supplement.)

Property Sold or Interest Divested	Assessed Value (Use Code)	Name and Address of Purchaser	Nature and Amount (Use Code) of Payment or Consideration Received			
Property Purchased or Interest Acquired		Creditor's Name/Address	Payment Terms	Security Given	Mortgage Amount - (Use Code) Original	Current
All Other Property Entirely or Partially Owned 1455 N. W. 188TH ST. , SHORELINE, KING COUNTY, WA Check here <input checked="" type="checkbox"/> if continued on attached sheet	E	Chase Bank 1401 5TH AVE. SEATTLE WA 98101	30 YRS. @ 6. 75%	D. O. T.	E	E

PUBLIC DISCLOSURE COMMISSION 711 CAPITOL WAY RM 206 PO BOX 40908 OLYMPIA WA 98504-0908 (360) 753-1111 TOLL FREE 1-877-601-2828	PDC FORM F-1 (11/08)	PERSONAL FINANCIAL AFFAIRS STATEMENT	PDC OFFICE USE 100293280
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Refer to instruction manual for detailed assistance and examples. Deadlines: Incumbent elected and appointed officials -- by April 15. Candidates and others -- within two weeks of becoming a candidate or being newly appointed to a position. SEND REPORT TO PUBLIC DISCLOSURE COMMISSION	DOLLAR CODE AMOUNT A \$1 to \$3,999 B \$4,000 to \$19,999 C \$20,000 to \$39,999 D \$40,000 to \$99,999 E \$100,000 or more	Covers: 2008 Received: 04-03-2009
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<table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;">Last Name</td> <td style="width:30%;">First</td> <td style="width:20%;">Middle Initial</td> </tr> <tr> <td>EADIE</td> <td>RICHARD</td> <td>D</td> </tr> </table>	Last Name	First	Middle Initial	EADIE	RICHARD	D	Names of immediate family members, including registered domestic partner. If there is no reportable information to disclose for dependent children, or other dependents living in your household, do not identify them. Do identify your spouse or registered domestic partner. See F-1 manual for details. CLAIRE EADIE SP
Last Name	First	Middle Initial					
EADIE	RICHARD	D					
Mailing Address (Use PO Box or Work Address) 516 THIRD AVENUE, C-203							
City	County	Zip + 4					
SEATTLE	KING	98104					

Filing Status (Check only one box.) <input checked="" type="checkbox"/> An elected or state appointed official filing annual report <input type="checkbox"/> Final report as an elected official. Term expired: _____ <input type="checkbox"/> Candidate running in an election: month _____ year _____ <input type="checkbox"/> Newly appointed to an elective office <input type="checkbox"/> Newly appointed to a state appointive office <input type="checkbox"/> Professional staff of the Governor's Office and the Legislature	Office Held or Sought Office title: SUPERIOR COURT JUDGE _____ County, city, district or agency of the office, name and number: KING CO SUPERIOR COURT Position number: 33 Term begins: 01-01-2009 ends: 12-31-2012
---	---

1	INCOME	List each employer, or other source of income (pension, social security, legal judgment, etc.) from which you or a family member, including registered domestic partner, received \$2,000 or more during the period. (Report interest and dividends in Item 3 on reverse)		
Show Self (S) Spouse (SP/DP) Dependent (D)	Name and Address of Employer or Source of Compensation KING COUNTY SUPERIOR COURT 516 3RD AVE. C-203 SEATTLE WA 98104-2381 WINDERMERE REAL ESTATE - EDMONDS 210 5TH AVE. SOUTH EDMONDS WA 98020	Occupation or How Compensation Was Earned SUPERIOR COURT JUDGE REAL ESTATE AGENT COMMISSIONS	Amount: (Use Code) E D	
Check Here <input checked="" type="checkbox"/> if continued on attached sheet				

2	REAL ESTATE	List street address, assessor's parcel number, or legal description AND county for each parcel of Washington real estate with value of over \$10,000 in which you or a family member, including registered domestic partner, held a personal financial interest during the reporting period. (Show partnership, company, etc. real estate on F-1 supplement.)				
Property Sold or Interest Divested	Assessed Value (Use Code)	Name and Address of Purchaser	Nature and Amount (Use Code) of Payment or Consideration Received			
Property Purchased or Interest Acquired		Creditor's Name/Address	Payment Terms	Security Given	Mortgage Amount - (Use Code) Original Current	
All Other Property Entirely or Partially Owned 1455 N. W. 188TH ST., SHORELINE, KING COUNTY, WA Check here <input checked="" type="checkbox"/> if continued on attached sheet	E	WASHINGTON 1401 5TH AVE. SEATTLE WA 98104	30 YRS. @ 6.75%	D. O. T.	E E	

PUBLIC DISCLOSURE COMMISSION 711 CAPITOL WAY RM 206 PO BOX 40908 OLYMPIA WA 98504-0908 (360) 753-1111 TOLL FREE 1-877-601-2828	PDC FORM F-1 (1/08)	PERSONAL FINANCIAL AFFAIRS STATEMENT	PDC OFFICE USE 1001263421
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Refer to instruction manual for detailed assistance and examples. Deadlines: Incumbent elected and appointed officials -- by April 15. Candidates and others -- within two weeks of becoming a candidate or being newly appointed to a position. SEND REPORT TO PUBLIC DISCLOSURE COMMISSION	DOLLAR CODE A \$1 to \$3,999 B \$4,000 to \$19,999 C \$20,000 to \$39,999 D \$40,000 to \$99,999 E \$100,000 or more	Covers: 2007 Received: 04-13-2008
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<table style="width:100%;"> <tr> <td style="width:30%;">Last Name</td> <td style="width:30%;">First</td> <td style="width:40%;">Middle Initial</td> </tr> <tr> <td>EADIE</td> <td>RICHARD</td> <td>D</td> </tr> </table>	Last Name	First	Middle Initial	EADIE	RICHARD	D	Names of immediate family members. If there is no reportable information to disclose for dependent children, or other dependents living in your household, do not identify them. Do identify your spouse. See F-1 manual for details. CLAIRE EADIE SP
Last Name	First	Middle Initial					
EADIE	RICHARD	D					
Mailing Address (Use PO Box or Work Address) 516 THIRD AVENUE, C-203							
City	County	Zip + 4					
SEATTLE	KING	98104					

Filing Status (Check only one box.) <input checked="" type="checkbox"/> An elected or state appointed official filing annual report <input type="checkbox"/> Final report as an elected official. Term expired: _____ <input type="checkbox"/> Candidate running in an election: month _____ year _____ <input type="checkbox"/> Newly appointed to an elective office <input type="checkbox"/> Newly appointed to a state appointive office <input type="checkbox"/> Professional staff of the Governor's Office and the Legislature	Office Held or Sought Office title: SUPERIOR COURT JUDGE County, city, district or agency of the office, name and number: KING CO SUPERIOR COURT Position number: 33 Term begins: 01-01-2009 ends: 12-31-2012
--	--

1 INCOME List each employer, or other source of income (pension, social security, legal judgment, etc.) from which you or a family member received \$2,000 or more during the period. (Report interest and dividends in Item 3 on reverse)

	Name and Address of Employer or Source of Compensation	Occupation or How Compensation Was Earned	Amount: (Use Code)
Show Self (S) Spouse (SP) Dependent (D)	KING COUNTY SUPERIOR COURT 516 3RD AVE. C-203 SEATTLE WA 98104-2381	SUPERIOR COURT JUDGE	E
S	WINDERMERE REAL ESTATE - EDMONDS 210 5TH AVE. SOUTH EDMONDS WA 98020	REAL ESTATE AGENT COMMISSIONS	D
Check Here <input checked="" type="checkbox"/> if continued on attached sheet			

2 REAL ESTATE List street address, assessor's parcel number, or legal description AND county for each parcel of Washington real estate with value of over \$10,000 in which you or a family member held a personal financial interest during the reporting period. (Show partnership, company, etc. real estate on F-1 supplement.)

Property Sold or Interest Divested	Assessed Value (Use Code)	Name and Address of Purchaser	Nature and Amount (Use Code) of Payment or Consideration Received		
Property Purchased or Interest Acquired		Creditor's Name/Address	Payment Terms	Security Given	Mortgage Amount - (Use Code) Original Current
All Other Property Entirely or Partially Owned 1455 N. W. 188TH ST. , SHORELINE, KING COUNTY, WA Check here <input checked="" type="checkbox"/> if continued on attached sheet	E	WASHINGTON 1401 5TH AVE. SEATTLE WA 98101	30 YRS. @ 6.75%	D. O. T.	E E

CONTINUE ON NEXT PAGE

Refer to instruction manual for detailed assistance and examples.

Deadlines: Incumbent elected and appointed officials – by April 15.
 Candidates and others – within two weeks of becoming a candidate or being newly appointed to a position.

SEND REPORT TO PUBLIC DISCLOSURE COMMISSION

DOLLAR CODE	AMOUNT
A	\$1 to \$2,999
B	\$3,000 to \$14,999
C	\$15,000 to \$29,999
D	\$30,000 to \$74,999
E	\$75,000 or more

Last Name: **EADIE** First: **RICHARD** Middle Initial: **D**

Names of immediate family members. If there is no reportable information to disclose for dependent children, or other dependents living in your household, do not identify them. Do identify your spouse. See F-1 manual for details.

Mailing Address (Use PO Box or Work Address):
516 THIRD AVE. C-203

City: **SEATTLE** County: **KING** Zip + 4: **98104**

Filing Status (Check only one box.)

An elected or state appointed official filing annual report

Final report as an elected official. Term expired: _____

Candidate running in an election: month _____ year _____

Newly appointed to an elective office

Newly appointed to a state appointive office

Professional staff of the Governor's Office and the Legislature

Office Held or Sought

Office title: **JUDGE, SUPERIOR COURT**

County, city, district or agency of the office, name and number: **KING**

Position number: **33**

Term begins: **1/2005** ends: **1/2009**

1 INCOME List each employer, or other source of income (pension, social security, legal judgment, etc.) from which you or a family member received \$1,500 or more during the period. (Report interest and dividends in item 3 on reverse)

Show Self (S) Spouse (SP) Dependent (D)	Name and Address of Employer or Source of Compensation	Occupation or How Compensation Was Earned	Amount: (Use Code)
(S)	SOCIAL SECURITY	RETIREMENT BENEFITS	C
(SP)	WINDERMERE REAL ESTATE 210 FIFTH AVE. SO. #102 EDMONDS, WA 98020	COMMISSIONS	E

Check Here if continued on attached sheet

2 REAL ESTATE List street address, assessor's parcel number, or legal description AND county for each parcel of Washington real estate with value of over \$7,500 in which you or a family member held a personal financial interest during the reporting period. (Show partnership, company, etc. real estate on F-1 supplement.)

Property Sold or Interest Divested	Assessed Value (Use Code)	Name and Address of Purchaser	Nature and Amount (Use Code) of Payment or Consideration Received			
Property Purchased or Interest Acquired		Creditor's Name/Address	Payment Terms	Security Given	Mortgage Amount - (Use Code) Original Current	
Other Property Entirely or Partially Owned OT 17 HOOD CANAL SHORES HANSVILLE, KITSAP CO.	E	NONE	N/A	N/A	N/A	N/A

Check here if continued on attached sheet

CONTINUE ON NEXT PAGE

APPENDIX E

COMPANY, ASSOC., GOVERNMENT AGENCY CONTINUED

F-1

Name EADIE, RICHARD D

Page 6

3 ASSETS / INVESTMENTS - INTEREST / DIVIDENDS

C. Name and address of each company, association, government agency	Type of Account or Description of Asset	Asset Value (Use Code)	Income Amount (Use Code)
WASHINGTON MUTUAL BANK 1401 5TH AVE. SEATTLE WA 98101	IRA/COMMON STOCK	A	0
BOEING INC. 100 N. RIVERSIDE PLAZA CHICAGO, ILL. 6060	COMMON STOCK	A	0
WINDERMERE RETIREMENT PLAN AND SPOUSAL 5446 CALIFORNIA AVENUE SW, SUITE 200 SEATTLE WA 98136	MUTUAL FUND & COMMON STOCK	D	0

Check here if continued on attached sheet.

APPENDIX F



PUBLIC DISCLOSURE COMMISSION
 711 CAPITOL WAY RM 206
 PO BOX 40908
 OLYMPIA WA 98504-0908
 (360) 753-1111
 TOLL FREE 1-877-601-2828
 EMAIL: pdc@pdc.wa.gov

PDC FORM
F-1
 SUPPLEMENT
 (1/12)

100446662

SUPPLEMENT PAGE
 PERSONAL FINANCIAL AFFAIRS STATEMENT

03-24-2012

PROVIDE INFORMATION FOR YOURSELF, SPOUSE, REGISTERED DOMESTIC PARTNER, DEPENDENT CHILDREN AND OTHER DEPENDENTS IN YOUR HOUSEHOLD

Last Name EADIE	First RICHARD	Middle Initial D	DATE 2012-03-24
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A

OFFICE HELD, BUSINESS INTERESTS:

Provide the following information if, during the reporting period, you, your spouse, registered domestic partner or dependents

- (1) were an officer, director, general partner, trustee, or 10 percent or more owner of a corporation, non-profit organization, union, partnership, joint venture or other entity; and/or
- (2) were a partner or member of a limited partnership, limited liability partnership, limited liability company or similar entity, including but not limited to a professional limited liability company.

- Legal Name: Report name used on legal documents establishing the entity.
- Trade or Operating Name: Report name used for business purposes if different from the legal name.
- Position or Percent of Ownership: The office, title and/or percent of ownership held.
- Brief Description of the Business/Organization: Report the purpose, product(s), and/or the service(s) rendered.
- Payments from Governmental Unit: If the governmental unit in which you hold or seek office made payments to the business entity concerning which you're reporting, show the purpose of each payment and the actual amount received.
- Payments from Business Customers and Other Government Agencies: List each corporation, partnership, joint venture, sole proprietorship, union, association, business or other commercial entity and each government agency (other than the one you seek/hold office) which paid compensation of \$10,000 or more during the period to the entity. Briefly say what property, goods, services or other consideration was given or performed for the compensation.
- Washington Real Estate: Identify real estate owned by the business entity if the qualifications referenced below are met.

ENTITY NO. 1

Reporting For: Self Spouse

Registered Domestic Partner Dependent

LEGAL NAME:

Eadie Family Trust

POSITION OR PERCENT OF OWNERSHIP

Trustee

TRADE OR OPERATING NAME:

Eadie Family Trust

ADDRESS:

1455 NW 188th St

Shoreline

WA 98177

BRIEF DESCRIPTION OF THE BUSINESS/ORGANIZATION:

Ownership and management of real estate

PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE:

Purpose of payments

Amount (actual dollars)
\$

PAYMENTS ENTITY RECEIVED FROM OTHER GOVERNMENT AGENCIES OF \$10,000 OR MORE:

Agency name:

Purpose of payment (amount not required)

PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS OF \$10,000 OR MORE

Customer name:

Purpose of payment (amount not required)

WASHINGTON REAL ESTATE IN WHICH ENTITY HELD A DIRECT FINANCIAL INTEREST (Complete only if ownership in the ENTITY is 10% or more and assessed value of property is over \$20,000. List street address, assessor parcel number, or legal description and county for each parcel):

Check here if continued on attached sheet

CONTINUE PARTS B AND C ON NEXT PAGES