

<p><b>COURT OF APPEALS, STATE OF COLORADO</b>  2 E. 14<sup>th</sup> Ave., Denver CO 80203</p> <hr/> <p>on appeal from the Jefferson County District Court  Case No. 99 DR 3717  Div. 3 of the First Judicial District</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <hr/> <p style="text-align: center;"><b>Case No. 07 CA 0379</b></p>
<p><b>In re the Marriage of:</b></p> <p>CHRISTY RYAN, <b>Petitioner-Appellee</b>  and  SEAN HARRINGTON, <b>Respondent-Appellant.</b></p>	
<p>Sean L. Harrington  P.O. Box 351855  Westminster, CO 80035  (508) 361-2018  e-mail: esoxlucios@hotmail.com</p>	
<p style="text-align: center;"><b>APPELLANT’S RESPONSE TO COURT ORDER DATED MARCH 05, 2007 AND  MOTION TO DOCKET THE APPEAL</b></p>	

COMES NOW the appellant and responds to the above-captioned Order:

1. On or about February 26, 2007, Appellant filed a Motion in case N<sup>o</sup> 04CA1986 for recertification of both 04CA1161 and 04CA1986, because the trial court had not substantially complied with the mandates of either 04CA1161 or 04CA1986. *See Powell v. Hart*, 854 P.2d 1266, 1267 (Colo. 1993) (trial court must comply with mandate of appellate court); *Colo. State Bd. of Med. Exam’rs v. McCroskey*, 940 P.2d 1044, 1046 (Colo. App. 1996) (trial court must comply with specific directions of mandate on remand).

2. Appellant, uncertain if the Court would recertify the appeal under such circumstances, requested that, in the alternative, his Motion be construed as a new Notice of Appeal.<sup>1</sup>

3. The Court denied Appellant's "Motion to Recertify," but accepted the pleading as a new Notice of Appeal. The Court, however, finding that no docket fee was on file, issued an Order to Show Cause why the appeal should not be dismissed for failure to pay a docket fee.

4. Now that the court has construed the pleading as a Notice of Appeal, Appellant herewith provides payment of the docket fee. *See Gonzales v. Petriken*, 31 Colo. App. 415, 502 P.2d 1110 (1972) (motion to docket appeal out of time denied, where appellant failed to pay docket fee within time fixed for transmission of record and failed to show good cause for noncompliance). Appelleant respectfully requests that the clerk of the Court docket the appeal under the relation back doctrine to the date of the Notice of Appeal.

WHEREFORE, appellant respectfully requests that the clerk of the Court docket the appeal, upon receipt of the enclosed docket fee.

Respectfully submitted this 9<sup>th</sup> day of March, 2007.

  
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Sean L Harrington

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<sup>1</sup> Because Appellant's Motion was primarily a Motion to Recertify and only alternatively, a Notice of Appeal, he did not supply a docket fee, because it would have been premature to do so before learning how the Court would construe the pleading.

**CERTIFICATE OF MAILING**

I hereby certify that on the 9<sup>th</sup> day of March 2007, I mailed a true and accurate copy of the foregoing **RESPONSE TO COURT ORDER DATED MARCH 05, 2007**, *via* pre-paid first class mail to the clerk of the Appeals Court and also as addressed hereto:

**Jefferson County District Court**  
100 Jefferson County Parkway  
Golden, CO 80401

and:

by facsimile, with recipient's express consent, to:

Law Office of Madeline Wilson at: 303-321-3196

