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STATE OF WASHINGTON
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COURT OF APPEALS NO. 38790-9-III
SUPREME COURT NO. 1024011

SUPREME COURT OF THE
STATE OF WASHINGTON

MATTHEW E. WILCOX

Plaintiff / Appellant

v.

MARINA PALOMAREZ
(fka Wilcox)

Defendant / Respondent

ANSWER TO PETITION FOR REVIEW

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I. IDENTITY OF RESPONDENT

Marina Palomarez (Palomarez) submits this Answer to the Petition for Review filed by Matthew Wilcox (Wilcox).

II. INTRODUCTION

The unpublished decision of Division III of the Court of Appeals in Cause No. 38790-9-III is not in conflict with a decision of the Supreme Court or a published decision of the Court of Appeals. Nor does the Petition for Review involve an issue of substantial public interest that should be determined by the Supreme Court. The 1973 Dissolution of Marriage Act required a divorce court to consider multiple factors when considering maintenance. No similar statute existed prior to 1973. Contrary to the claim of Petitioner, even though need was shown, financial need is not a prerequisite to awarding maintenance. *In re Marriage of Wright*, 179 Wn. App. 257,269, 319 P.3d 45 (2013) *review denied*, 180 Wn.2d 1016, *review denied*, 186 Wn.2d 1017 (2013); *In re Marriage of Kaplan*, 4 Wn. App. 2d 466, 482, 421 P.3d 1046 (2018); *In re Marriage of Bulicek*, 59 Wn. App. 630, 800 P.2d 394 (1990);

In re Marriage of Washburn, 101 Wn.2d 168, 178, 677 P.2d 152 (1984). Under RCW 26.09.090, “the only limitation placed upon the trial court’s ability to award maintenance is that the amount and duration, considering all relevant factors, be just.” *Id.* at 178.

“...[U]nder the extremely flexible provisions of RCW 26.09.090, a demonstrated capacity of self-support does not automatically preclude an award of maintenance. Indeed, the ability of the spouse seeking maintenance to meet needs independently is only one factor to be considered. RCW 26.09.090(1)(a). The duration of the marriage and the standard of living established during the marriage must also be considered, making it clear that maintenance is not just a means of providing bare necessities, but rather a flexible tool by which the parties’ standard of living may be equalized for an appropriate period of time.” *Id.*, at 178-179.¹ (cleaned up).

¹ This petition aims for gender neutral terms when quoting from case law. No deception is intended.

Division III did not state the six non-exclusive factors listed in RCW 26.09.090 constituted a vague standard, but what a “just award” was after considering all relevant factors. Amended op. at 14. Nor did Division III base its decision on any single factor as Petitioner wants this court to do. It was the Petitioner, not Division III, who hyper-focused on one criterion when multiple criteria are required to be considered when evaluating maintenance under a manifest abuse of discretion standard. Respondent Marina Palomarez respectfully requests this court to deny review.

III. COUNTER STATEMENT OF ISSUE PRESENTED

Is a court required to consider all relevant factors, including but not limited to, the six (6) factors specified in RCW 26.09.090 before making a maintenance award it deems just?

IV. COUNTER STATEMENT OF THE CASE

This case involves a long-term marriage. Not only did the parties agree it was a long-term marriage, but it was also an unchallenged factual finding of the trial court. CP 66-67, 80. The parties were married over 24 years at the time of trial, and almost 21 years at separation on July 4, 2015. CP 63, 66. As a family, they lived a secure, modest middle-class lifestyle in which they owned a comfortable home and drove reliable vehicles. They acquired household furnishings, tools, and sport vehicles, and enjoyed occasional out-of-town leisure trips and dining out. They were able to maintain this lifestyle for the most part without debt as they used the business's social and financial capital to cover out-of-ordinary expenses, such as repairing vehicles and paying for travel for children's sports. CP 869.

By way of background, Palomarez grew up working in the fields, and had one year of college at Heritage and no degrees. CP 334. Palomarez held primarily non-skilled receptionist type jobs and/or data entry. (CP 334-338). The

jobs held by Palomarez paid minimum wage or within a couple dollars thereof. Ex. 53.17. Palomarez did not work for nearly the entire marriage. Palomarez stayed home for about eight years by agreement to take care of their daughter Victoria (1997-2004), and then part time for another three years after that (2005-2007). Ex. 53.18 (Social Security Statement), CP 336-37. It was not until 2008, the same year the parties purchased Premier Power Sports, that Palomarez substantially increased her work hours to the level that existed prior to the birth of their child. It was also the same year (2008) the Great Recession hit causing their business to struggle immensely for the first six years. CP 186. The trial court on remand found given her age and experience, Palomarez's income earning potential is not expected to increase substantially from historical levels. CP 855.

Wilcox has a four-year Bachelor of Science Degree in Psychology with a minor in Business from WSU. CP 182. Wilcox was the primary bread winner for the family. Prior to the parties purchasing the business in 2008, Wilcox was

employed as the Production Manager at Graham Packaging earning an annual salary of approximately \$75,000 plus benefits and a modest bonus. CP 67. In 2008, the parties purchased Premier Power Sports for \$400,000.00. CP 186. Wilcox quit his job at Graham Packaging to run their new business. Unfortunately, the Great Recession began the same year they purchased the business. CP 188-89. According to Wilcox, the business struggled immensely from the time it was purchased in 2008 through September 2014 due to the economic downturn. CP 186-87. Due to this economic downturn, the secondary lending market dried up for the non-essential recreational equipment sold by Premier Power Sports. CP 188-89. Although the parties' business struggled immensely during the Great Recession, it grew appreciably as the economy rebounded. The parties' business did "excellent" in 2015 with Wilcox making \$195,522 that year. CP 194, Ex. 53.7. The addition of a new Husqvarna franchise in 2015 was immaterial to the success of the parties' business. Total gross sales of the

new Husqvarna franchise in 2015 were only \$36,339 out of total sales of almost \$3 million (\$2,995,095), or just over one percent of gross business sales. CP 318, Ex. 53.9. The original trial court found the financial impact of the new franchise on the second half of 2015 was likely nominal. CP 750.

As stated by Division III in *In re Marriage of Palomarez*, 15 Wn. App.187, 192, 475 P. 3rd 512 (2020):

“Here, the couple’s business grew appreciably as the economy rebounded from the Great Recession. Corporate income in tax year 2011 was \$6,329 and was \$75,787 in 2013. Exs. 1, 3. The corporate tax returns for the years 2014-2017 when the business elected to be an S corporation showed the business making between \$52,917 (2014) and \$192,760 (2016). Exs. 6, 12.”

Business income tripled from 2014 to 2015. The business made \$52,917 in 2014 and tripled to \$158,761 in 2015. CP 780. Although the parties’ business did “excellent” in 2015, that is also the same year the parties separated (July 4, 2015). With the business valued as of June 30, 2015,

Palomarez did not share in the standard of living their community business would now generate after the effects of the Great Recession finally ceased.

Wilcox's income from the community business averaged \$210,000 a year from 2015 through 2017. (\$195,522 in 2015, \$227,454 in 2016, and \$208,863 in 2017). Ex. 53.7, 53.11 and 53.14. Palomarez made \$32,735 in 2015, \$31,782 in 2016, and \$21,744 in 2017, from employment (not including alimony) during those same years. Ex. 53.7, 53.10, 53.13. Wilcox's income was \$545,578 more than that of Palomarez in just three years, or seven times that of Palomarez as shown on the tax returns.

In the first appeal, Palomarez appealed several matters, the most pertinent of which for this appeal were the trial court's finding that Wilcox's annual income for maintenance purposes was \$40,000 gross, as well as the property division and maintenance awards. Palomarez did not appeal any of the property valuations, nor the trial court's finding of her annual

income at \$30,000 gross at the time of trial. CP 68. Wilcox did not cross appeal any issues.

As far as Wilcox's income, he did not provide any evidence of how the business did in 2018, so 2017 is the last year evidencing the business's income. CP 329. This was true even though Wilcox's accounting practices gave him the ability to provide sales, and profit and loss type statements to this court, even if tax returns were not available. CP 668. Nor did Wilcox submit a Financial Declaration at trial so the trial court could evaluate his ability to pay. CP 666. After learning at trial that Wilcox did not prepare a Financial Declaration for purposes of trial, Palomarez made the last Financial Declaration Wilcox had filed for purposes of a temporary spousal maintenance motion in August 2018 an exhibit at trial. Ex. 53.57. When questioned at trial about how that Financial Declaration had been put together, Wilcox testified:

“This was a last minute last ditch effort right before this—the proceedings before the Court at that time to try and provide some sort of a financial declaration because **it's always been**

an issue that I don't provide one." (Emphasis added).

CP 329. So, knowing it has always been an issue during his pending divorce, Wilcox chose not to provide a Financial Declaration at trial either. The Financial Declaration he filed six months prior to the original trial showed a gross monthly income for Wilcox in the amount of \$15,901 and normal business expenses of \$2,920 for an adjusted gross income of \$12,981 per month or \$155,772 annually. Ex. 53.57. While this divorce was pending, the business paid Wilcox's temporary spousal maintenance payments, his individual Federal Income taxes, all his divorce attorney's fees and all his divorce expert witness fees. CP 209-11, Ex. 53.39, 53.57.

Wilcox also paid for other personal expenses through the business. Even though the 2011 Dodge Ram pickup was the only source of transportation for Wilcox up until 2017, business or personal, the business paid for 100% of its original cost (\$53,696), and all subsequent maintenance, insurance, and gas. Ex. 53.1, Schedule C, Ex. 53.39; CP 198. Wilcox would

also barter with other businesses he knew to pay for their services through the business as well. This included car accident repairs and dental work. CP 204, 674. The business also paid for the gas, vehicle maintenance and repairs of the vehicles for the other family members as well as their cell phones. CP 198-99. At the time of trial, Wilcox had no outstanding personal debt, not even for attorney's fees. CP 197, 321-22. Wilcox plans to continue running this business for another 15 to 20 years which would have him working up to six years after his wife turns age 65. CP 80.

Even though Wilcox's gross income averaged over \$210,000 and his business paid a significant amount of his personal expenses, the original trial court found Wilcox's gross annual income was only \$40,000 for purposes of spousal maintenance. As far as the parties' assets, the trial court decided to value all assets, unless stated otherwise, as of the date of separation. CP 66. In the end, the primary asset the trial court awarded Wilcox was the parties' business which was worth more than all the parties' other assets combined. CP 783.

The primary assets awarded to Palomarez were the family home, some retirement/investment accounts and a car. The assets awarded to Palomarez totaled \$459,750, the vast majority of which were non-liquid assets. CP 783. Besides the house, the next largest asset was the Graham Packaging 401k account worth \$114,307, which is subject to a 10% penalty for early withdrawal before age 59 ½ (26 USC § 72(t)).

The original trial court awarded lifetime maintenance. The trial court awarded Palomarez spousal maintenance of \$1,000 per month for 47 months, followed by spousal support corresponding to the gross amount Wilcox is entitled to receive from his Graham Packaging pension (excluding any death benefits) beginning December 1, 2022 unless Palomarez elected to begin receiving this spousal support at a later date to receive a larger amount. This spousal support was to continue until such time as either spouse dies, or Palomarez remarries. CP 87. The Graham Packaging pension could begin as early as December 2022 in an unknown amount. At normal retirement in December 2032, the Graham Packaging pension would start

paying a monthly benefit of \$734.45 for the rest of Wilcox's life. Ex. 53.21.

On appeal, Division III determined the trial court's finding of Wilcox's gross annual income of \$40,000 for spousal maintenance purposes to be erroneous. *In re Marriage of Palomarez*, 15 Wn. App.187, 192, 475 P. 3rd 512 (2020). Division III then went on to reverse the spousal maintenance award and property division. CP 901.

On remand, the trial court left the values of all assets as previously established since neither party challenged the values of any assets on appeal. CP 160-61. The original trial court found Palomarez's income to be \$30,000 gross (or \$2,500 per month). This finding was not challenged and is therefore a verity on appeal. CP 68.

Based on a careful review of over 500 pages of transcript, hundreds of pages of exhibits admitted at trial, the original trial court's findings, conclusions and final orders, and the Mandate from Division III, Judge Elisabeth Tutsch found Wilcox had an annual gross income of \$156,000 for spousal

maintenance purposes or \$13,000 per month. CP 779-81, 784, 838, 855.

The trial court then revisited the property division and equalized the division between the parties. CP 860.

Having determined that Wilcox was making almost \$10,000 more per month than found by the original trial court and after equally dividing the assets between the parties, the trial court on remand then addressed spousal maintenance. The remand court took into account all the statutory factors (non-exclusive) of RCW 26.09.090, as well as Wilcox's ability to access capital to cover extra or unexpected expenses and awarded spousal maintenance of \$4,000 per month until Palomarez turned age 65 (11 years), remarries or either spouse dies, whichever occurs earlier. CP 833, 854-855, 862. Given Wilcox's plans to continue running this business for another 15 to 20 years, this would have Wilcox working up to six years after his maintenance obligation ceases. CP 80.

V. **ARGUMENT WHY REVIEW SHOULD BE DENIED**

(1) **Citation to Unpublished Court of Appeals Decisions Do Not Fall within any Applicable Standard for Review.**

Wilcox cites four unpublished Court of Appeals decisions on pages 17, 18 and 24 of his Petition for Review. *Lodwig & Lodwig*, 8 Wn. App. 2d 1017, 2019 WL 1423678 (2019); *Matter of Marriage of McMaster*, 21 Wn. App. 2d 1016, 2022 WL 683112 (2022); *Matter of Marriage of Rookard*, 20 Wn. App. 2d 1031, 2021 WL 5902900 (2021); and *Matter of Marriage of Skidmore*, 26 Wn. App. 2d 1009, 2023 WL 2768982 (2023). Since these unpublished decisions do not fall within any applicable standard for review under RAP 13.4(b), they should not be considered.

(2) **The Decision of Division III is not in Conflict with a Decision of the Supreme Court or a Published Decision of the Court of Appeals.**

Once a court makes a finding on the income of each party, the court is required to consider all relevant factors, including but not limited to, the six (6) factors specified in RCW 26.09.090(1) before making a maintenance award it

deems just. *In re Marriage of Anthony*, 9 Wn. App. 2d 555, 563, 446 P.3d 635 (2019). RCW 26.09.090 does not assign additional importance to one statutory factor as opposed to another. *In re Marriage of Marzetta*, 129 Wn. App. 607,625, 120 P.3d 75 (2005). As stated in RCW 26.09.090(1), if a court orders maintenance, the maintenance “shall be in such amounts and for such periods of time as the court deems just, without regard to misconduct, *after considering all relevant factors including but not limited to*” the six non-exclusive factors listed in RCW 26.09.090(1)(a)-(f).

Further, *In re Marriage of Washburn*, 101 Wn. 2d 168, 179, 677 P.2d 152 (1984) reiterated that when “making an equitable property division or awarding maintenance, a trial court exercises broad discretionary powers. Its disposition will not be overturned on appeal absent a showing of manifest abuse of discretion.” “While the trial court must consider the factors listed in RCW 26.09.090(1), it is not required to make specific factual findings on all of the factors. *In re Marriage of Anthony*, Id. at 564, citing *In re Marriage of Mansour*, 126 Wn.

App. 1, 16, 106 P.3d 768 (2004). Nor is a court limited to assessing a minimum amount of maintenance to pay monthly expenses. *In re Marriage of Barnett*, 63, Wn. App. 385,388,818 P2d 1382 (1991).

Instead, “under the extremely flexible provisions of RCW 26.09.090, a demonstrated capacity of self-support does not automatically preclude an award of maintenance. Indeed, the ability of the spouse seeking maintenance to meet needs independently is only *one* factor to be considered. RCW 26.09.090(1)(a). The duration of the marriage and the standard of living established during the marriage must also be considered, making it clear that maintenance is not just a means of providing bare necessities, but rather a flexible tool by which the parties’ standard of living may be equalized for an appropriate period of time. RCW 26.09.090(1)(c), (d).” *In re Marriage of Washburn, Id.* at 178-179.

“The future earning capabilities of the wife, if that spouse has no other means of support, represent one of the

important concerns of the courts in divorce cases, and must be considered in comparison to those of her husband.” *Stacy v. Stacy*, 68 Wn. 2d 573, 576, 414 P.2d 791 (1966). Where there is great disparity regarding the earning power and potential between spouses in a long-term marriage, maintenance may be used to counter the post-dissolution economic disparity between them, which is a paramount concern of the court. *In re Marriage of Sheffer*, 60 Wn. App. 51, 56, 802 P.2d 817 (1990). *In re Marriage of Bulicek*, 59 Wn. App. 630, 635, 800 P.2d 394 (1990).

Wilcox challenges the trial court’s spousal maintenance award on the non-exclusive factor of need. (Keep in mind Wilcox did not challenge the original trial court’s findings on need). While financial need is one of several non-exclusive factors to be considered, financial need is not a prerequisite to awarding maintenance. *In re Marriage of Wright*, 179 Wn. App. 257,269, 319 P.3d 45 (2013) *review denied*, 180 Wn.2d 1016, *review denied*, 186 Wn.2d 1017 (2013); *In re Marriage of Kaplan*, 4 Wn. App. 2d 466, 482, 421 P.3d 1046 (2018); *In*

re Marriage of Bulicek, 59 Wn. App. 630, 800 P.2d 394 (1990). Need is only one of six non-exclusive factors a court is required to consider in deciding to award maintenance under the 1973 Marriage Dissolution Act. RCW 29.09.090. Appellant cites several cases in support of his position, like *Hogberg v. Hogberg*, 64 Wn.2d 617, 393 P.2d 291 (1964), and *Dakin v. Dakin*, 62 Wn.2d 687, 384 P.2d 639 (1963). However, those cases were decided prior to the 1973 Marriage Dissolution Act which broadened the factors a court was required to consider.

Wilcox cites *In re Marriage of Valente*, 179 Wn. App. 817, 320 P.3d 115 (2014) where the wife was awarded \$3.7 million in assets. On appeal, even though Husband argued there was no need, the court upheld 17 years of spousal maintenance reversing only what it found to be an impermissible \$100 per month lifetime placeholder maintenance award the trial court was using to retain jurisdiction. *Id.* at 827.

Wilcox repeatedly cites *In re Marriage of Rouleau*, 36 Wn. App. 129, 672 P.2d 756 (1983). The only issue before the

Rouleau court involved a lifetime placeholder maintenance award. But instead of the impermissible placeholder award being \$100 per month as in *Valenti*, it was only \$1 per year. *In re Marriage of Rouleau, Id.* at 131.

Kelso v. Kelso, 75 Wn. 2d 24, 448 P.2d 499 (1968) is a decision by this Court prior to the enactment of the 1973 Marriage Dissolution Act. However, this Court made it clear after enactment of the 1973 Marriage Dissolution Act, that a demonstrated capacity of self-support does not preclude an award of maintenance. *In re Marriage of Washburn, Id.* at 178. Rather, maintenance is “a flexible tool by which the parties standard of living may be equalized for an appropriate period of time.” *Id.* at 179.

Wilcox argues on page 9 of his Petition for Review that Palomarez documented little to no need claiming she made around \$2,700 and had monthly expenses of \$3,000. As discussed above, need is not a prerequisite to awarding maintenance. Further, Palomarez’s income was found to be \$2,500 per month gross, not \$2,700 net as Wilcox appears to

imply. CP 68. Wilcox's attempt to use her slightly increased income almost three years later when Palomarez was requesting fees on appeal is not appropriate. Nor did Wilcox provide any income information on the business after 2017. CP 329, 668. Further, unlike Wilcox, Palomarez filed a Financial Declaration as an exhibit in the original trial to show the need she had which was reviewed by the trial court. Exs. 43, 53.49. Palomarez also filed her 2018 W-2, current paystubs and her Social Security Statement, all of which were before the original trial court. Ex. 53.49, 53.16-18.

On the other hand, Wilcox did not provide a Financial Declaration at trial in January of 2019, nor any evidence on how the business was doing at any time after 2017. Nor did Wilcox file a Social Security Statement of his estimated benefits upon retirement so they could be compared with those of Palomarez.

Wilcox cites *In re Marriage of Mathews*, 70 Wn. App, 116, 124, 853 P.2d 462 (1973) in footnote 7 on page 16 of his Petition for Review claiming that court reversed long-term

maintenance after a 24-year marriage because the requesting spouse had enough property and income “to help meet her needs.” That is not an accurate representation of the decision. The *Mathews* court reversed the maintenance award and remanded it back because the maintenance award did not evidence a fair consideration of the statutory factors. *Id.* at 123. The trial court awarded the requesting spouse maintenance of \$1,400 per month payable until death, remarriage, or upon obtaining full-time gainful employment. This amount was already half of the payor spouse’s net income of \$2,800 a month. The trial court also required payment of the requesting spouse’s medical insurance premiums and education expenses which left the payor spouse with only \$1,000 a month and the requesting spouse with \$1,855 a month. *Id.* at 123. Further, the trial court’s award did not take into consideration a reduction in maintenance when the payor spouse retires. And since the trial court already awarded the requesting spouse one-half of the payor spouse’s retirement income by QDRO, the maintenance order would require payment from the payor

spouse's already equally divided retirement (or disability income) which was held to be clear error. *Id.* at 124-125.

Contrary to Wilcox's claim on page 4 of his Petition for Review, Palomarez did not work "for nearly the entire marriage". Palomarez stayed home for basically eight years by agreement to take care of their daughter Victoria (1997-2004), and then part time for another three years after that (2005-2007). Ex. 53.18 (Social Security Statement), CP 336-37. It was not until 2008, the same year the parties purchased Premier Power Sports, that Palomarez substantially increased her work hours to the level that existed prior to the birth of their child. It was for this reason among others, that Social Security will likely pay Palomarez less than \$1,000 per month extrapolated at age 65 (when maintenance ends), because age 65 is two years earlier than her full retirement age of 67 for Social Security purposes. Ex. 53.18. At age 67, Palomarez will receive about \$1,095 per month from Social Security, but if she chooses age 62, it will only be about \$751 a month. And contrary to the claim of Wilcox, the spousal maintenance

award is not perpetual and will not put Palomarez on any similar financial position as Wilcox for the rest of their lives. At age 65, if not terminated earlier by marriage, all maintenance will cease for Palomarez, and her Social Security will likely pay her less than \$1,000 per month at age 65. On the other hand, Wilcox's plans to continue running this business for another 15 to 20 years would have Wilcox working up to six years after his maintenance obligation ceases. CP 80. Further, Wilcox will without question receive Social Security several times larger than Palomarez given his reported earnings as shown on the tax returns, the specific amount of which we don't know because he did not provide such information to the trial court.

Contrary to the claim of Wilcox on footnote 3 at the bottom of page 5 of his Petition for Review, his acquiring a new franchise was not what led to a significant jump in his business and personal revenue in 2015. The significant jump in revenue was because the business was rebounding from the Great Recession of 2008. Wilcox testified about the

devastating effect of the recession on their business. According to Wilcox, the business struggled immensely from the time it was purchased in 2008 through September 2014 due to the economic downturn. CP 186-87. Wilcox described the economic downturn as causing the secondary lending market to dry up for non-essential recreational equipment like that sold by Premier Power Sports. CP 188-89. Division III described the growth of the parties' business completely contrary to Wilcox's assertion:

“Here, the couple's business grew appreciably as the economy rebounded from the Great Recession. Corporate income in tax year 2011 was \$6,329 and was \$75,787 in 2013. Exs. 1, 3. The corporate tax returns for the years 2014-2017 when the business elected to be an S corporation showed the business making between \$52,917 (2014) and \$192,760 (2016). Exs. 6, 12.”

In re Marriage of Palomarez, 15 Wn. App.187, 192, 475 P. 3rd 512 (2020).

The addition of the new Husqvarna franchise in 2015 was immaterial to the success of the parties' business that year. Total gross sales of the new Husqvarna franchise in 2015 were

only \$36,339 out of total sales of almost \$3 million (\$2,995,095) or just over one percent of gross sales. CP 318, Ex. 53.9. The original trial court found the financial impact of the new franchise on the second half of 2015 was likely nominal. CP 750. Yet, 2015 was a great year for the parties' business as Wilcox admitted. CP 194, Ex. 53.7. Business income tripled from 2014 to 2015. The business made \$52,917 in 2014 and tripled to \$158,761 in 2015. CP 780. With the business valued as of June 30, 2015, Palomarez is not going to share in the standard of living their community business would finally generate after the effects of the Great Recession ceased.

Wilcox claims the decision of Division III is in conflict with *In re Marriage of Anglin*, 52, Wn. App. 317, 759 P.2d 1224 (1998). *Marriage of Anglin* has nothing to do with maintenance and is not in conflict with Division III. *Id.* at 317.

When you consider the post-dissolution economic positions of the parties in this long-term marriage, there is no comparison between them. Wilcox makes 5.2 times the income of Palomarez. (\$156,000 divided by \$30,000 = 5.2). Wilcox

will be earning \$10,500 more each month than Palomarez. (\$13,000 - \$2,500 = \$10,500). Palomarez will never enjoy the same or similar standard of living to that of Wilcox when he is making \$10,500 more each month than Palomarez from their community business. It must also be kept in mind that when the business pays Wilcox's personal expenses as a business expense like his truck, or barter to trade goods/services of the business as Wilcox does for personal debts he owes, Wilcox is not taxed on that income. Ex. 53.1, Schedule C, Ex. 53.39; CP 198. It is also important to note Wilcox does not argue or complain once he is not able to pay the support ordered. To the contrary, Wilcox is financially set with the community business he was awarded, and his silence on his own financial situation is clear proof of that fact.

The decision of Division III is not in conflict with established precedent.

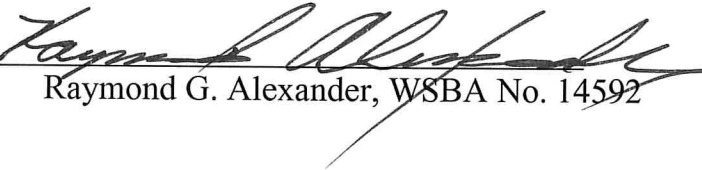
V. **CONCLUSION**

Marina Palomarez respectfully requests this Court to deny review.

This document contains 4,744 words, excluding parts of
the document exempted from the word court by RAP 18.17.

DATED this 19 day of October 2023

HALVERSON | NORTHWEST Law Group P.C.
Attorneys for Respondent Marina Palomarez


By: 
Raymond G. Alexander, WSBA No. 14592

CERTIFICATE OF SERVICE

I hereby declare under penalty of perjury under the laws of the State of Washington that on the date stated below I served a copy of this document in the manner indicated:

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Erin Schwabauer, Legal Assistant
Halverson | Northwest Law Group P.C.

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