

90379-4

No. 69747-1-I

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

ANH-THU THI VU,

Petitioner,

v.

VINH QUOC DANG

Respondent.

**FILED**

JUN 16 2014

CLERK OF THE SUPREME COURT  
STATE OF WASHINGTON

CRF

PETITION FOR REVIEW BY  
THE WASHINGTON SUPREME COURT

Anh-Thu Thi Vu  
Petitioner *Pro Se*

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**ORIGINAL**

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## **I. INTRODUCTION**

Review should be accepted. This case is about a restraining order against my former husband, Vinh Quoc Dang. The case is about how he physically abused me. The case is about a prenuptial agreement that I was made to agree to when I was sick and shaky, intimidated and frightened by the judge. The case is about protection of my rights from the year I married, 2006, until 2011 and the divorce. This case is about five years of maintenance for my doctor visits, medication, counseling, and transportation to doctor.

This case is about my marital dissolution trial and what is right and fair. At the trial, I was very sick and shaky. I was threatened and intimidated by both the judge and by my own attorney. They would not let me testify about my own health and made me agree to whatever they wanted. Also, they made decisions and entered orders affecting me when I was not even present in the courtroom due to my poor health.

## **II. PETITIONER'S IDENTITY**

Petitioner Anh-Thu Thi Vu is the Appellant at the Court of Appeals and the Respondent at the trial.

## **III. CITATION TO APPELLATE DECISION TO BE REVIEWED**

Petitioner requests the Washington Supreme Court review the Washington State Court of Appeals unpublished Opinion in *In re Marriage of Vinh Quoc Dang and Anh-Thu Thi Vu*, Cause No. 69747-1-I, Washington Court of

Appeals, Division One (April 28, 2014), herein the “Opinion.”

#### **IV. ISSUES PRESENTED FOR REVIEW**

##### **A. Substantial Public Interest.**

My dissolution trial turned out the way it did for three reasons. **First**, Judge Erlick was biased and always favored and listened to the other side. **Second**, I was so sick, shaky, and numb during the entire trial that I could not understand what was happening. **Third**, my attorney Sharon Friedrich did not advocate for me and controlled me and my case, nor did she discuss with me about the case.

This is of substantial public interest because it affects access to justice in the state of Washington. Other parties could easily find themselves in this same unfortunate situation of being controlled by the judge and their attorney and not understanding what is happening in court. That is why these issues should be decided by the Supreme Court. All of the issues considered by the Court of Appeals, listed below, were influenced by the three reasons stated above.

**1. Stipulated in open court to property division contained in prenuptial agreement.** I was very sick at trial—traumatized and shaky—and I did not understand what I was agreeing to. My mind was numb. My attorney controlled me from the beginning of the case. Judge Erlick was very upset during the discussion of the property division. I simply agreed. Because other parties might be in this situation, it is a matter of substantial public interest.

**2. Denial of maintenance.** The Opinion and the trial court are incorrect

that I received \$275,000 in assets.<sup>1</sup> Judge Erlick was biased against me when he did not allow me my monthly expenses.<sup>2</sup> Not receiving spousal maintenance has serious consequences for me. My health declined during the marriage and I have experienced severe anxiety and panic attacks.<sup>3</sup> My income is far less than Mr. Vinh Dang's income, and his assets are greater than mine.<sup>4</sup> It was inequitable for the trial court not to award maintenance to me.

**3. Attorney award for intransigence.** I was not intransigent and I did not conceal assets. My attorney put it in a financial declaration—how would I understand? I was sick and traumatized. Just because a case is highly contested does not mean a party is intransigent. Other parties might find themselves in this same situation, and therefore it is a matter of substantial public interest.

**4. Reimbursement of expenses.** A party should be reimbursed for expenses incurred on behalf of the community. There was a restraining order that required me to maintain Mr. Vinh Dang's house while I was living there. It is unfair that I should pay money to change his locks and install an alarm system to protect Mr. Vinh Dang's house and not be reimbursed. The same is

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<sup>1</sup> Judge Erlick's math was incorrect. He said that I was receiving \$260,000, plus about \$9,500, "for a total of 275." RP 389:20--391:21 (Nov. 15, 2012). However, \$260,000 plus \$9,500 is actually \$269,500. Also, Judge Erlick said that my requested community property award was \$118,000. RP 386:13-15 (Nov. 15, 2012). But Ex. A to my trial brief shows a requested community property award of only \$109,532.

<sup>2</sup> CP 16; RP 395:15-396:1 (November 15, 2012); RP 414:4-14 (Anh-Thu Thi Vu, November 15, 2012).

<sup>3</sup> CP 120 at line 20 ("I was not prepared for such treatment in my marriage. My health began to deteriorate."); CP 117, Declaration of Anh-Thu Thi Vu, September 24, 2012.

<sup>4</sup> RP 428:21-429:1 (Nov. 15, 2012, Oral Ruling).

true of the hotel bill and the medical expenses that I incurred because of him. That a court order a party in a dissolution to be reimbursed for expenses on behalf of the community is a matter of substantial public interest.

**5. Order to vacate home.** It is a matter of substantial public interest that judges not enter orders when court is supposed to be in recess<sup>5</sup> and a party is not present<sup>6</sup> and is represented only by counsel who control and intimidate their clients, especially when I was so sick and ordered to vacate the house within 45 days. My attorney had no authority to agree to entry of such an order; she needed to consult with me. I was controlled by her, and the judge was biased against me and favored the other side.

**6. Vu's Testimony.** The Opinion is incorrect when it states that I testified for most of two days of trial out of four. Judge Erlick disqualified me from testifying about my own health,<sup>7</sup> and I was controlled by my attorney, Sharon Friedrich, who would not call an expert witness for me regarding my health. I could only speak when Judge Erlick allowed me to speak. I was treated unfairly. I did not have a chance to testify about the spousal abuse or the financial issues. The Judge was interested in hearing what Mr. Vinh Dang said, but not what I had to say. The Supreme Court should have a substantial

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<sup>5</sup> The last I heard in court that day was that it was supposed to be in recess: "All right. Let's take a brief recess. Ms. Friedrich, why don't you advise the court whether we can proceed. Take a recess." RP 224:8-11 (Oct. 17, 2012).

<sup>6</sup> RP 224:16 (Oct. 17, 2012): "Ms. Vu is not present."

<sup>7</sup> RP 333:14-24 (November 14, 2012).

concern over this for the benefit of the public in future cases.

**7. Date of separation.** The facts support that Mr. Dang still came home to the house every day after he claims we were separated on April 30, 2011.<sup>8</sup> Here again, Judge Erlick was biased and took Mr. Dang's side and Mr. Vinh Dang's version. It is a matter of substantial public interest that judges not be biased.

**8. Judicial bias.** I do have the letter I sent to Judge McDermott, if the Supreme Court would like to review this. I believe this letter was the reason Judge Erlick was upset with me and consistently favored the other side.

**9. Attorney fees below.** I am asking the Supreme Court to review the attorney fee awards at the trial. Because I was not intransigent, Mr. Vinh Dang should not have been awarded attorney fees at trial. This is another example of Judge Erlick's bias against me. I should have been awarded fees at trial under RCW 26.09.140. Vinh Dang initiated a lot of litigation in this case, which I had to defend, including his motion to revise a Temporary Order. I also had to move for a protective order related to my medical records; my proposed order was adopted by the trial court. I had to defend against his motion to compel me to attend a deposition. I also had to defend against a summary judgment motion and a motion to remove me from the family home, both of which were denied.

**10. Spousal abuse.** Judge Erlick was biased when he would not let me testify about the spousal abuse. It is a matter of substantial public interest that

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<sup>8</sup> He was constantly in and out of the house after that date, at all hours of the day and night. RP 186:19-187:20 (Vinh Dang, October 16, 2012).



spouses in an abusive marriage have a voice and that Washington courts listen.

**11. Attorney fees on appeal.** Fee awards should be fair. When someone seeks justice because a decision was unfair, they should not be penalized by paying opposing party's fees. This matter is of substantial public interest.

## V. CASE STATEMENT

I was born in Viet Nam.<sup>9</sup> English is my second language.<sup>10</sup> I did not meet Mr. Vinh Dang for the first time until in 2004 in California.<sup>11</sup>

I work at the Social Security Administration,<sup>12</sup> where I use standard forms in English and simple English when talking to the public.<sup>13</sup>

On May 15, 2006, in California, before we were married, Mr. Dang had me sign a pre-nuptial agreement.<sup>14</sup> Mr. Dang and I were married in Orange County, California on September 2, 2006.<sup>15</sup> In November of 2006, I moved into Mr. Dang's house in the state of Washington.<sup>16</sup> During the years we were married, I suffered regular physical and emotional abuse at the hands of my husband. I finally had to get a restraining order.<sup>17</sup> This abuse had and continues to have a serious negative effect on my

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<sup>9</sup> RP 320:19-20 (Anh-Thu Thi Vu, November 14, 2012).

<sup>10</sup> RP 320:23-24 (Anh-Thu Thi Vu, November 14, 2012).

<sup>11</sup> RP 320:25-321:1 (Anh-Thu Thi Vu, November 14, 2012).

<sup>12</sup> RP 356:20-21 (Anh-Thu Thi Vu, November 15, 2012).

<sup>13</sup> RP 212:2-17 (Anh-Thu Thi Vu, October 16, 2012).

<sup>14</sup> RP 323:2-325:14 (Anh-Thu Thi Vu, November 14, 2012); RP 47:20-21 (Vinh Dang, October 15, 2012).

<sup>15</sup> CP 14.

<sup>16</sup> RP 327:2-5 (Anh-Thu Thi Vu, November 14, 2012).

<sup>17</sup> CP 112, Temporary Restraining Order entered December 21, 2011.

health following the marriage.<sup>18</sup> He threw hot coffee in my face.<sup>19</sup> He spit into my face.<sup>20</sup> He drove me by a two story vacant building in disrepair and told me that this was where I deserved to live; I was terrified and in fear and I slipped and fell on the stairs bruising my head and back, but my husband did not help me up.<sup>21</sup>

He was also controlling, intimidating, and unfaithful. As an example of the limits he set on me, when I moved in, he forced me to put most of my remaining belongings in the basement where he never let me unpack them.<sup>22</sup> He had already told me that I could not bring any of my furniture from California, and so before I moved I gave away my furniture, my TV, my dishes, and my cookware.<sup>23</sup> I was allowed to have only a few of my personal possessions.<sup>24</sup> No wedding gifts were to be opened, including cashing of checks received.<sup>25</sup> I had to ask permission to pick any fruit from the garden.<sup>26</sup> If we brought food home from a restaurant, I had to eat it out of whatever it came in; I could not transfer it

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<sup>18</sup> RP 326:11-12 (Anh-Thu Thi Vu, November 14, 2012); RP 336:7-19 (Anh-Thu Thi Vu, November 14, 2012).

<sup>19</sup> CP 48, Motion/Declaration of Anh-Thu Thi Vu dated November 15, 2011.

<sup>20</sup> *Id.*

<sup>21</sup> CP 117, Declaration of Anh-Thu Thi Vu dated September 24, 2012.

<sup>22</sup> RP 329:22-330:3 (Anh-Thu Thi Vu, November 14, 2012).

<sup>23</sup> RP 329:9-21 (Anh-Thu Thi Vu, November 14, 2012).

<sup>24</sup> *Id.*

<sup>25</sup> RP 330:8 (Anh-Thu Thi Vu, November 14, 2012).

<sup>26</sup> RP 330:11-13 (Anh-Thu Thi Vu, November 14, 2012).

to a plate.<sup>27</sup> He forbade me from asking about his income and would not show me his paystubs, W-2s, or income tax filings.<sup>28</sup> Around his family, he made sure that they knew he “owns me” and he made sure I acted as “housekeeper” in their presence.<sup>29</sup>

The frequency and intensity of disagreements increased over time; his abuse of pornography and alcohol became daily.<sup>30</sup> He would watch pornography on the computer.<sup>31</sup> When I asked him to stop viewing pornography and get some rest, he would throw furniture.<sup>32</sup> He told me he was going on a business trip when in fact he was meeting another woman, a hair stylist, in Florida.<sup>33</sup> He bought gifts for her.<sup>34</sup> I flew to Florida to confront him and the woman, but he only became more abusive.<sup>35</sup>

Mr. Dang petitioned for dissolution on November 10, 2011.<sup>36</sup> The court entered a series of restraining orders, including one on December 21, 2011; I was to continue living in the house, but Mr. Vinh Dang was restrained.<sup>37</sup> This restraining order stated, “Wife to pay all utilities on the

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<sup>27</sup> RP 330:16-20 (Anh-Thu thi Vu, November 14, 2012).

<sup>28</sup> CP 48, Motion/Declaration of Anh-Thu Thi Vu dated November 15, 2011.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> CP 117, Declaration of Anh-Thu Thi Vu dated September 24, 2012.

<sup>32</sup> CP 48, Motion/Declaration of Anh-Thu Thi Vu dated November 15, 2011.

<sup>33</sup> RP 336:21-22 (Anh-Thu Thi Vu, November 14, 2012).

<sup>34</sup> CP 48, Motion/Declaration of Anh-Thu Thi Vu dated November 15, 2011.

<sup>35</sup> CP 48, Motion/Declaration of Anh-Thu Thi Vu dated November 15, 2011.

<sup>36</sup> CP 1-4.

<sup>37</sup> CP 63, Restraining Order and Order to Show Cause entered November 15, 2011.

home and general upkeep/repair in current condition.”<sup>38</sup> It did not however require me to pay any rent. During the time I lived in the house, I paid for numerous expenses relating to maintaining it, some of which the trial court ordered me to be reimbursed, but some of which it did not, including installing an alarm and changing the locks.<sup>39</sup> The trial court also declined to reimburse me for hotel expenses Mr. Vinh Dang caused me to incur and for my medical expenses he should have paid.<sup>40</sup>

I was deposed on April 30, 2012. I had serious trouble with my health during April 2012 and had been to the emergency room on April 7, 9, 12, 14, 18, 19, and 26.<sup>41</sup> When I was asked about my deposition during trial, I said that during the deposition I was very sick and very shaky.<sup>42</sup>

I had to leave court on October 17, 2012, because I was sick.<sup>43</sup> At the time I left the courtroom, based on what Judge Erlick said, I understood that court was to be in recess for the rest of the day.<sup>44</sup> Later, I found out that Judge Erlick had entered that day, after I left the courtroom, an order.<sup>45</sup> This order required me to leave my husband’s house by

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<sup>38</sup> CP 67, Temporary Restraining Order entered December 21, 2011.

<sup>39</sup> CP 18-19, Findings of Fact ¶ 2.21.

<sup>40</sup> *Id.*

<sup>41</sup> CP 339, sealed medical and health records of Anh-Thu Thi Vu.

<sup>42</sup> RP 262:12-14 (Anh-Thu Thi Vu, November 14, 2012).

<sup>43</sup> RP 223:18-20; 224:4-21; 225:13-19; 226:10-14 (October 17, 2012).

<sup>44</sup> RP 224:7-16 (October 17, 2012) (“THE COURT: All right. Let’s take a brief recess. Ms. Friedrich, why don’t you advise the Court whether we can proceed. Take a recess.”)

<sup>45</sup> CP 174, Order to Vacate Home entered October 17, 2012.

December 1, 2012, even though the temporary restraining order was still in effect.<sup>46</sup> They did this without me being present in the courtroom.<sup>47</sup> I complained to the King County Superior Court Presiding Judge, Judge McDermott, in e-mail dated October 24, 2012, about Judge Erlick entering an order on October 17, 2012, when I thought court was in recess.

On November 14, 2012, my former attorney Ms. Friedrich tried to raise the issue of my testifying as to my health before the court.<sup>48</sup> However, Judge Erlick said that I was not qualified to testify about my own health.<sup>49</sup> Judge Erlick was interested in finishing the trial quickly.<sup>50</sup>

I was also sick when the parties stipulated to the approval of the asset and liability portion of the pre-nuptial agreement. This stipulation occurred during trial on November 15, 2012.<sup>51</sup> Again in November at the

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<sup>46</sup> *Id.*

<sup>47</sup> RP 237:2-238:16 (October 17, 2012).

<sup>48</sup> RP 331:7-334:4 (November 14, 2012).

<sup>49</sup> RP 333:14-24 (November 14, 2012).

<sup>50</sup> *See for example* RP 224:25-225:1 (October 17, 2012) (“Well, we need to complete this case, so we’re going to complete this case.”); RP 404:5-6 (November 15, 2012) (“Counsel, we have until noon today, so how do we want to finish this up?”) RP 251:8-9 (November 14, 2012) (“So it sounds to me as though we can probably get this case finished today, is my expectation.”); RP 408:17-19 (November 15, 2012) (“Counsel, we’re running out of time. I’m giving this case until noon today so I think we need to wrap this up.”); RP 420:6-8 (November 15, 2012) (“Counsel, we’re running out of time. Anything that’s urgent that needs to get before the Court?”); RP 422:4-6 (November 15, 2012) (“I have a 4 o’clock hearing, so we’ll have you out of here. I expect my decision will be extremely brief.”); RP 339:1-4 (November 14, 2012) (“I can give you half a day tomorrow and that is it. So if you want any closing arguments, I would suggest you leave yourself some time for that. We will be concluded by noon tomorrow.”)

<sup>51</sup> RP 389:20-391:21 (November 15, 2012).

time of trial, I was sick and weak.<sup>52</sup> So during trial I said yes to everything.

The trial court entered Findings of Fact and Conclusions of Law, and a Dissolution Decree, on November 30, 2012.<sup>53</sup> I timely appealed.<sup>54</sup> The Court of Appeals, Division I, issued an unpublished Opinion on April 28, 2014. This Opinion repeated what Judge Erlick said at trial.

## **VI. ARGUMENT**

### **Substantial Public Interest.**

#### **1. My attorney would not listen to me and did not explain to me.**

The Opinion states that several issues were raised for the first time on appeal and that I did not bring posttrial motions. These issues include: 1. service of process; 2. that I was sick and traumatized during the entire trial and in particular when I stipulated to the property division in the prenuptial agreement; 3. that Mr. Vinh Dang was the one who was intransigent and concealed assets; 4. that Mr. Vinh Dang should have provided utility billing statements; 5. that Judge Erlick was biased against me; and 6. that my attorney intimidated me, threatened me, controlled me, and did not effectively advocate for me. I am not representing myself in court.

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<sup>52</sup> RP 270:22-24 (Anh-Thu Thi Vu, November 14, 2012) (“Q. Would you agree that your health today is also not perfect? A. Yes.”); RP 336:7-19 (Anh-Thu Thi Vu, November 14, 2012).

<sup>53</sup> CP 8-25.

<sup>54</sup> CP 26-47.

When a person is sick and shaky and intimidated, she cannot raise issues before the court. I could not think or speak. It does not serve the ends of justice for the court to nevertheless go ahead with trial and then enter orders. I was strictly staying quiet in the courtroom. I can only respond by the judge's order. I was relying on my attorney to raise issues before the trial court. I could not do anything. What can a person do if their attorney will not advocate for them? This is not justice. I am sure I am not the only person who was ever in that terrible situation in court, alone. I am therefore asking the Supreme Court to accept review and grant relief on some or all of these issues so that there can be a remedy for persons in such an unjust situation.

**2. Judge Erlick, the trial judge, was biased against me.**

Judge Erlick showed bias against me when he 1. entered the stipulation as to the property division in the prenuptial agreement—I stipulated to it only because I was so sick and not understanding; 2. denied a maintenance award to me; 3. found me to be intransigent and awarded attorney fees to Mr. Vinh Dang on that basis; 4. refused to reimburse me for certain expenses on behalf of the community (hotel bill, alarm installation, changing locks, and medical); 5. ordered me to vacate the home in 45 days without me being present in the courtroom;<sup>55</sup> 6. would not listen to my testimony; and 7. found that Mr. Vinh Dang and I separated on April 30, 2011, rather than November 10, 2011. Erlick

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<sup>55</sup> RP 232:10-12 (Oct. 17, 2012).

was not interested in listening to my testimony.

Judge Erlick was angry at trial, for example when discussing my assets:

MS. FRIEDRICH: Here's what we came up with, Your Honor.

THE COURT: And I don't care about—

MS. FRIEDRICH: How far back do you want me to start or just—

THE COURT: You don't need to start anywhere.

MS. FRIEDRICH: Okay.

THE COURT: I want a direct answer as to whether as of the date of separation Ms. Vu had \$166,000 in assets—

MS. FRIEDRICH: She had—

THE COURT: —from her accounts.<sup>56</sup>

This exchange shows how angry and upset and short-tempered the judge was. He was yelling and shouting so loud in the courtroom.

Another example is Judge Erlick accepting Mr. Vinh Dang's testimony as to April 30, 2011 being the date he and I separated. Once again, Judge Erlick took Mr. Vinh Dang's and his attorney's side over mine.<sup>57</sup> My attorney explained to the Judge that Mr. Vinh Dang was still in and out of the house after April 30, 2011, that we still put money into the joint account, and in my mind the marriage was not irretrievably broken until months later.<sup>58</sup> Despite this, Judge Erlick accepted Mr. Vinh Dang's date of April 30, 2011.<sup>59</sup>

Judge Erlick took Mr. Dang's projected fair rental value for his house of \$1200 at face value.<sup>60</sup> There was no substantial evidence, only Mr. Dang's

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<sup>56</sup> RP 384:8-18 (Nov. 15, 2012).

<sup>57</sup> RP 445:19-447:17 (Nov. 30, 2012).

<sup>58</sup> RP 446:20-447:5 (Nov. 30, 2012).

<sup>59</sup> RP 447 (Nov. 30, 2012).

<sup>60</sup> CP 16.



word. And Judge Erlick favored Mr. Vinh Dang again when he refused to accept the value I gave for the house where we resided during the marriage.<sup>61</sup>

Judge Erlick showed his bias when he ordered me to give the house keys to the neighbor, Herman Gilman.<sup>62</sup> My attorney tried to explain why I did not want to do this, but Erlick used his authority to make me do what he wanted.<sup>63</sup>

Regarding the finding of intransigence, my attorney tried to explain how I disclosed all my assets and that there was not intransigence.<sup>64</sup> But once again, Judge Erlick believed Mr. Vinh Dang's attorney and found me to be intransigent and made an award of attorney fees to Mr. Vinh Dang.<sup>65</sup>

Judge Erlick denied me an award of maintenance, one of his stated reasons being because I had full-time employment.<sup>66</sup> But during 2012, I did not work full time because I had to be out sick so often.<sup>67</sup> If Judge Erlick were not biased against me, he would have awarded spousal maintenance to me. The substantial evidence provided meant nothing to him. I presented information to the court that my projected expenses exceed my income, and the court entered this fact in its findings.<sup>68</sup>

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<sup>61</sup> RP 366:1-16 (Nov. 15, 2012).

<sup>62</sup> RP 456.

<sup>63</sup> RP 454-56.

<sup>64</sup> RP 458:15-461:17 and 465:9-466:18 (Nov. 30, 2012).

<sup>65</sup> RP 466:20-467:21 (Nov. 30, 2012).

<sup>66</sup> RP 393 (Nov. 15, 2012).

<sup>67</sup> For example, I was in the emergency room on April 7, 9, 12, 14, 18, 19, and 26. CP 339, sealed medical and health records of Vu. Also I had to take three days off every week to attend my therapy session and see my doctor. RP 354:3-5 (Vu, Nov. 15, 2012).

<sup>68</sup> CP 16, ¶ 2.12.

The court did not think it was reasonable for me to contribute \$950 each month toward my savings.<sup>69</sup> I am a single woman and it is necessary for me to save for my future and retirement. It is not prudent to rely solely on my FERS pension plan. Right now, I am living paycheck to paycheck. I don't know what will happen to me tomorrow. Rentals are expensive and for apartment and parking I should budget \$1600 a month.<sup>70</sup> My cell phone can run up to \$300 a month; I have only a 200 minute limit.<sup>71</sup> Because of my work schedule, I don't have time to cook at home. A single meal out can cost up to \$30, therefore \$800 a month for food is realistic and reasonable. I had to pay considerable legal fees for my dissolution. My car is in disrepair and I cannot afford a new one. I still have healthcare costs. Going to the emergency room is expensive. I have health insurance, but it is for me. As for my hair, I have it cut and dyed two times a month, and \$200 a month is the actual cost.

Judge Erlick denied my requests to be reimbursed for the hotel bill, changing the locks, installing the alarm system, and the medical bills.<sup>72</sup> For the full tank of heating oil I paid for, he reimbursed me for only half.<sup>73</sup> When I paid for the locks and alarm system, I thought that I was just protecting Mr. Vinh

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<sup>69</sup> *Id.*

<sup>70</sup> *Id.* and RP 395:15-396:1 (November 15, 2012).

<sup>71</sup> RP 414:4-14 (Anh-Thu Thi Vu, November 15, 2012).

<sup>72</sup> RP 425 (Nov. 15, 2012).

<sup>73</sup> RP 425 (Nov. 15, 2012).

Dang's house while I was living there and I had every expectation of being reimbursed. The alarm system was not working, and according to the restraining order I was to pay for all upkeep and repair for the house. I thought when I paid for the locks and alarm system that it was expenditure on behalf of the marital community. Instead, Judge Erlick declined to order that I be reimbursed.<sup>74</sup> Why is he so biased against me and in favor of Mr. Vinh Dang? This sort of judicial bias is a matter of substantial public interest.

Regarding the medical bills, from October, 2010, until November, 2011, I was essentially homeless after work. I had to stay out on the street until midnight to avoid Mr. Vinh Dang so that he would not attack me and abuse me.<sup>75</sup> When I did come home, he would attack me and abuse me, so I had to leave again.<sup>76</sup> I had to keep driving on the road every night to avoid strangers approaching me, from October, 2010 until November of 2011 when he served me the papers. As he testified, he was always at the house after work, every day.<sup>77</sup> In the months after, I was still experiencing stress from what he did during the marriage. This is how I ended up in the emergency room. I could not eat and I could not sleep,<sup>78</sup> and he was responsible for causing my stress. Also, he violated the restraining order

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<sup>74</sup> CP 18-19, Findings of Fact ¶ 2.21.

<sup>75</sup> CP 51.

<sup>76</sup> CP 51.

<sup>77</sup> RP 187:7 (Vinh Dang, October 16, 2012) "Came home every day, take care of whatever needed," and *id.* at lines 13-14, "After work, I stop at home after work."

<sup>78</sup> RP 336:12-15 (Anh-Thu Thi Vu, Nov. 14, 2012).

when he came to the house on Wednesday, November 30, 2011.<sup>79</sup> While the restraining order was in effect, he told his neighbors to watch me and spy on me constantly, and this caused me great anxiety and stress.<sup>80</sup> The neighbors knew my schedule and watched me whenever I came and went. Therefore Vinh Dang is responsible for the medical bills, and I should be reimbursed \$4,681.09.<sup>81</sup> It was because of Judge Erlick's bias that I was not reimbursed. Such judicial bias is a matter of substantial public interest.

As I have shown, on every issue, again and again, Judge Erlick took Vinh Dang's testimony over mine and Dang's side. This shows his bias against me.

Bias is defined as "[i]nclination; prejudice; predilection."<sup>82</sup> Actual bias is the "[g]enuine prejudice that a judge, juror, witness, or other person has against some person or relevant subject."<sup>83</sup> Fairness is fundamental to any proceeding; in an adjudicatory setting, impartiality and lack of bias are required of decision makers.<sup>84</sup> The appearance of fairness doctrine seeks to insure public confidence by preventing a biased or potentially interested judge from ruling on a case.<sup>85</sup> Evidence of a judge's actual or potential bias is required.<sup>86</sup> Under the

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<sup>79</sup> CP 319.

<sup>80</sup> CP 122.

<sup>81</sup> See CP 18.

<sup>82</sup> Black's Law Dictionary (8th Ed. 2004) at 171.

<sup>83</sup> *Id.*

<sup>84</sup> *Fleming v. Tacoma*, 81 Wn.2d 292, 502 P.2d 327 (1972).

<sup>85</sup> *In re Marriage of Meredith*, 148 Wn. App. 887, 903, 201 P.3d 1056 (2009) (citations omitted).

<sup>86</sup> *Id.*

appearance of fairness doctrine, a judicial proceeding is valid only if a reasonably prudent and disinterested person would conclude that all parties obtained a fair, impartial, and neutral hearing.<sup>87</sup>

In this case, as I have shown, Judge Erlick made repeated rulings against me and in favor of Mr. Vinh Dang. As I have shown above, on every single issue, Judge Erlick took Mr. Vinh Dang's side and Mr. Vinh Dang's testimony over mine. Therefore, no disinterested person who watched this trial would conclude that this was a fair, impartial, and neutral hearing. This is a matter of substantial public interest that dissolution trials be fair, impartial, and neutral.

### **3. I was sick all through trial.**

I was very sick and cold and shaky all through trial. I could not think or speak or do anything. My mind was blank. I had lots of anxiety. There was no time for me to think. Trial was even continued because of my illness, from October 17 until November 14. The reason I did not request an additional continuance was because I did not have a voice and my attorney Ms. Friedrich did not advocate for me. Meanwhile, Judge Erlick kept saying that trial had to be done and kept pushing to do things quickly.<sup>88</sup>

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<sup>87</sup> *Id.*

<sup>88</sup> *See for example* RP 224:25-225:1 (October 17, 2012) (“Well, we need to complete this case, so we’re going to complete this case.”); RP 404:5-6 (November 15, 2012) (“Counsel, we have until noon today, so how do we want to finish this up?”) RP 251:8-9 (November 14, 2012) (“So it sounds to me as though we can probably get this case finished today, is my expectation.”); RP 408:17-19 (November 15, 2012) (“Counsel, we’re running out of time. I’m giving this case until noon today so I think we need to

Even Mr. Vinh Dang and his attorney Ms. Emily Tsai admit that I had poor health during trial and that this was caused by anxiety.<sup>89</sup>

One thing I did when I was sick was stipulate to the property division in the prenuptial agreement.<sup>90</sup> I was so alone in the courtroom. I could not raise my voice to object to anything. There was no debate or discussing, only Judge Erlick making rulings and using his authority. This stipulation occurred immediately after the judge was so angry and shouting about the \$166,000 in assets.<sup>91</sup> I was still very frightened and intimidated by the judge being so angry and powerful, that I just said yes to the stipulation he wanted, to satisfy his anger. I could not think, even though he gave me ten minutes to confer with my attorney;<sup>92</sup> my mind was frozen. I did not understand what was happening.

Marital property agreements may be invalidated by fraud, duress, or undue influence or circumstances showing that true consent was not given freely and deliberately.<sup>93</sup> Here, the circumstances show that I was sick, exhausted, suffering from anxiety, and afraid of Judge Erlick. Because of this, my true consent was not given freely. In the interest of fairness and justice to me and

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wrap this up.”); RP 420:6-8 (November 15, 2012) (“Counsel, we’re running out of time. Anything that’s urgent that needs to get before the Court?”); RP 422:4-6 (November 15, 2012 (“I have a 4 o’clock hearing, so we’ll have you out of here. I expect my decision will be extremely brief.”); RP 339:1-4 (November 14, 2012) (“I can give you half a day tomorrow and that is it. So if you want any closing arguments, I would suggest you leave yourself some time for that. We will be concluded by noon tomorrow.”)

<sup>89</sup> Appellate Br. of Resp’t. at 14-15.

<sup>90</sup> RP 389-91 (Nov. 15, 2012).

<sup>91</sup> RP 384-85 (Nov. 15, 2012).

<sup>92</sup> RP 387 (Nov. 15, 2012).

<sup>93</sup> *Peste v. Peste*, 1 Wn. App. 19, 25, 459 P.2d 70 (1969).

other members of the public who might be in this terrible situation in court, the Supreme Court should decide whether it is right to enforce a stipulation made when someone is so sick and tired and intimidated by the judge.

## VII. CONCLUSION

For the reasons stated above, review should be accepted. I should be awarded spousal maintenance and reimbursed for my expenses on behalf of the community, the award of attorney fees for intransigence should be reversed, and the stipulation as to property division should be reversed and the issue of property division should be remanded. The date of separation should be determined to be November 10, 2011. Mr. Vinh Dang's award of attorney fees on appeal should be reversed. I should be awarded attorney fees on appeal and in the trial court below.

I feel as though I am standing at the bottom of the mountain, and the mountain is so tall. I am so alone. What happened in the trial court was very unjust. This entire case was turned upside down. I got denied everything. My hope is for the Supreme Court to accept review of my case and put things right.

RESPECTFULLY SUBMITTED May 23, 2014.

By: A n t h u  
Anh-Thu Thi Vu, Petitioner *Pro Se*  
126 SW 148th St. Ste C100 PMB #459  
Seattle, WA 98166

# APPENDIX



FILED  
COURT OF APPEALS DIVISION ONE  
STATE OF WASHINGTON

2014 APR 28 11:11:54

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

In the Matter of the Marriage of	)	No. 69747-1-1
VINH QUOC DANG,	)	
	)	
Respondent,	)	
	)	
and	)	
	)	
ANH-THU THI VU,	)	UNPUBLISHED OPINION
	)	
Appellant.	)	FILED: April 28, 2014

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VERELLEN, A.C.J. — Appellate review of the trial court’s decision in a dissolution proceeding is highly deferential. Here, Anh-Thu Thi Vu challenges most of the trial court’s findings of fact. Some of the arguments are raised for the first time on appeal and almost none include citation to authority. Because Vu fails to meet her burden on appeal to show that the trial court’s findings were not supported by substantial evidence or that the trial court abused its discretion, we affirm. Additionally, because her appeal is frivolous, we award Vinh Dang attorney fees and costs on appeal.

FACTS

Vu and Dang married in September 2006. More than three months before their marriage, the parties executed a prenuptial agreement. After their marriage, Vu moved into Dang’s home. During the marriage, Vu and Dang retained their separate bank

accounts and opened a joint checking and savings account into which they both contributed equal amounts of money to cover combined household expenses.

In April 2011, Dang moved out of the home and in November 2011, he filed for dissolution. The main issues at trial were whether the prenuptial agreement was enforceable, the division of property, maintenance, and the reimbursement of expenses Vu incurred while living in Dang's home after he moved out. The trial began in October 2012, but was continued for almost a month due to Vu's illness. On the fourth day of trial, the parties stipulated that the prenuptial agreement was enforceable on the issue of division of property, but not maintenance. As a result, the trial court divided the couple's property according to the terms of the prenuptial agreement with Vu receiving property valued at approximately \$275,000. The trial court declined to award maintenance, but did order Dang to reimburse Vu for some of the expenses she incurred to maintain the home. Finally, the trial court found that Vu was intransigent because she needlessly increased the duration of the trial by concealing assets and making misrepresentations to the court about the assets she had available at separation. As a result, the trial court awarded Dang \$8,000 in attorney fees.

Vu appeals. She had an attorney at trial but represents herself on appeal.

#### DISCUSSION

Pro se litigants are held to the same standard as attorneys and must comply with all procedural rules on appeal.<sup>1</sup> Failure to do so may preclude appellate review.<sup>2</sup> An appellant must provide "argument in support of the issues presented for review,

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<sup>1</sup> In re Marriage of Olson, 69 Wn. App. 621, 626, 850 P.2d 527 (1993).

<sup>2</sup> State v. Marintorres, 93 Wn. App. 442, 452, 969 P.2d 501 (1999).

together with citations to legal authority and references to relevant parts of the record.”<sup>3</sup>

Failure to support assignments of error with legal arguments precludes review.<sup>4</sup>

Arguments that are not supported by references to the record, meaningful analysis, or citation to pertinent authority need not be considered.<sup>5</sup>

We review a trial court’s findings of fact for substantial evidence.<sup>6</sup> “Substantial evidence to support a finding of fact exists where there is sufficient evidence in the record ‘to persuade a rational, fair-minded person of the truth of the finding.’”<sup>7</sup>

Unchallenged findings are verities on appeal.<sup>8</sup>

#### *Service of Process*

Vu argues that service was not proper because her brother and sister in law waited for her inside of her home and served her with the summons when she arrived. We disagree.

Because this argument is raised for the first time on appeal, we need not reach it.<sup>9</sup> Even so, Vu fails to demonstrate that service was improper. Pursuant to RCW 4.28.080(15), personal service may be made at a person’s place of usual abode

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<sup>3</sup> RAP 10.3(a)(6).

<sup>4</sup> Howell v. Spokane & Inland Empire Blood Bank, 117 Wn.2d 619, 624, 818 P.2d 1056 (1991).

<sup>5</sup> Cowiche Canyon Conservancy v. Bosley, 118 Wn.2d 801, 809, 828 P.2d 549 (1992); State v. Elliott, 114 Wn.2d 6, 15, 785 P.2d 440 (1990); RAP 10.3(a).

<sup>6</sup> Hegwine v. Longview Fibre Co., Inc., 162 Wn.2d 340, 352-53, 172 P.3d 688 (2007).

<sup>7</sup> Id. at 353 (quoting In re Estate of Jones, 152 Wn.2d 1, 8, 93 P.3d 147 (2004)).

<sup>8</sup> Cowiche Canyon, 118 Wn.2d at 808.

<sup>9</sup> See RAP 2.5(a); State v. McFarland, 127 Wn.2d 322, 332-33, 899 P.2d 1251 (1995) (“As a general rule, appellate courts will not consider issues raised for the first time on appeal.”).

with someone of suitable age and discretion who resides therein.<sup>10</sup> She appears to argue that service was improper solely because the presence of her brother and sister in law in her home frightened her. She cites no authority for this argument. Therefore, she has not met her burden to show that service was improper.

*Prenuptial Agreement and Division of Property*

Vu argues that the prenuptial agreement was not enforceable under California law and the trial court should not have relied upon it when distributing the couple's separate and community property. But because Vu stipulated in open court that the prenuptial agreement was valid, we disagree.

A trial court may enforce the terms of a stipulation under Civil Rule (CR) 2A. "The purpose of CR 2A is to give certainty and finality to settlements."<sup>11</sup> CR 2A requires a stipulation in open court on the record or evidence of the agreement in writing and subscribed by the attorneys denying it.<sup>12</sup> We review a trial court's decision to enforce a stipulation for abuse of discretion.<sup>13</sup>

Here, Vu stipulated in open court on the record that the prenuptial agreement was valid regarding the distribution of separate and community property and debts. In discussing the stipulation, the trial court observed that Vu would receive a larger division of property under the prenuptial agreement than she would receive without the prenuptial agreement. Both Vu's attorney and the trial court separately asked Vu whether she understood the stipulation. She answered "yes" each time. Vu claims that

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<sup>10</sup> Sheldon v. Fettig, 129 Wn.2d 601, 607, 919 P.2d 1209 (1996).

<sup>11</sup> Condon v. Condon, 177 Wn.2d 150, 157, 298 P.3d 86 (2013).

<sup>12</sup> CR 2A; Bryant v. Palmer Coking Coal Co., 67 Wn. App. 176, 178, 858 P.2d 1110 (1992).

<sup>13</sup> Morris v. Maks, 69 Wn. App. 865, 868, 850 P.2d 1357 (1993).

she agreed to the stipulation because she was “sick and traumatized” and agreed to whatever her attorney and the trial court said.<sup>14</sup> But she raises this issue for the first time on appeal and does not explain why she was unable to explore this issue in a posttrial motion. On the record before us, Vu unequivocally agreed to the stipulation in open court. Vu does not establish that the trial court abused its discretion in enforcing the stipulation.

Vu generally argues it would be fair to award her at least half of the property the trial court awarded to Dang. But she presents no persuasive argument why the trial court’s proposed division of assets based upon the prenuptial agreement was an abuse of discretion.

#### *Maintenance*

Vu argues that the trial court abused its discretion in declining to award her maintenance. We disagree.

Maintenance is a flexible tool by which the parties’ standard of living may be equalized for an appropriate period of time.<sup>15</sup> The only limitation on amount and duration of maintenance under RCW 26.09.090 is that, in light of the relevant factors, the award must be just.<sup>16</sup> Those factors include, but are not limited to: (1) the financial resources of the party seeking maintenance; (2) the time needed to acquire education necessary to obtain employment; (3) the standard of living during the marriage; (4) the duration of the marriage; (5) the age, physical and emotional condition, and financial obligations of the spouse seeking maintenance; (6) and the ability of the spouse from

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<sup>14</sup> Appellant’s Opening Br. (Amended) at 23.

<sup>15</sup> In re Marriage of Washburn, 101 Wn.2d 168, 179, 677 P.2d 152 (1984).

<sup>16</sup> Bulicek v. Bulicek, 59 Wn. App. 630, 633, 800 P.2d 394 (1990).

whom maintenance is sought to meet his needs and obligations while providing the other spouse with maintenance.<sup>17</sup> We review a trial court's award of maintenance for abuse of discretion.<sup>18</sup>

Here, the trial court expressly considered the above factors and found that maintenance was not necessary. Vu challenges the trial court's finding on only the first factor: that she had enough financial resources to meet her needs independently. She argues that her monthly personal expenses, including \$1,600 for rent, \$300 for a cell phone, \$800 for food, \$200 for hair treatments, and \$950 for savings, exceed her monthly income and this justifies an award of maintenance. But given that she was awarded assets with a value of approximately \$275,000, exclusive of her pension plan, the trial court did not abuse its broad discretion in finding that this factor did not weigh in favor of maintenance. Furthermore, even if Vu did not have adequate financial resources, she does not explain why the first factor alone outweighs the five other factors to be considered. For these reasons, her argument is not persuasive.

*Award of Attorney Fees at Trial*

Vu assigns error to the trial court's finding that she was intransigent and that Dang was entitled to attorney fees based on her intransigence but cites no compelling authority on this issue. Because substantial evidence supports the trial court's finding, we affirm the award of fees.

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<sup>17</sup> RCW 26.09.090.

<sup>18</sup> In re Marriage of Mueller, 140 Wn. App. 498, 510, 167 P.3d 568 (2007).

A trial court may award a party legal fees caused by the other party's intransigence.<sup>19</sup> Intransigent conduct includes making a trial unduly difficult with increased legal costs.<sup>20</sup> The party's ability to pay the fee is irrelevant.<sup>21</sup>

Here, the trial court made the following finding regarding Vu's intransigence:

The court finds that the wife needlessly increased the husband's attorney's fees by attempting to conceal assets she received, and even during trial, when evidence of her deception became clear, she continued to make misrepresentations to the court as to the assets she had available to her, which caused the trial to drag on for days beyond the time necessary to establish facts known to the wife by her own bank statements, further increasing the husband's attorney's fees for trial preparation, as well as for actual days in trial. The court find[s] the wife's actions in this regard to constitute intransigence and makes an award of attorney's fees to the husband.<sup>[22]</sup>

Vu contends that she did not conceal assets or misrepresent to the court the amount of assets she had available. But the record supports the trial court's finding. Dang presented evidence that, according to Vu's bank records, she withdrew cash of \$140,000 on September 6, 2011, and \$25,506 on October 21, 2011, neither of which were accounted for in her financial declaration, filed in November 2011.<sup>23</sup> On the fourth day of trial, after considerable testimony from Vu tracing the deposits and withdrawals from her various bank accounts, the trial court asked the parties to meet during a recess to determine whether Vu had assets of approximately \$165,000 available at the date of separation. After the recess, Vu confirmed that she had "\$165,806, including her payroll

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<sup>19</sup> In re Marriage of Greenlee, 65 Wn. App. 703, 708, 829 P.2d 1120 (1992).

<sup>20</sup> Id.

<sup>21</sup> In re Marriage of Foley, 84 Wn. App. 839, 846, 930 P.2d 929 (1997).

<sup>22</sup> Clerk's Papers at 17-18.

<sup>23</sup> Vu's financial declaration, filed on November 16, 2011, claimed that her available assets included \$20 cash on hand and \$1,000 on deposit in banks.

income.”<sup>24</sup> Had this amount been previously disclosed, the parties could have avoided spending a large amount of time tracing Vu’s bank account activity to determine the actual amount of assets available to her at separation. As such, the trial court did not abuse its discretion in finding Vu was intransigent by failing to disclose her available assets.

Vu argues that her health was poor and that she needed the money withdrawn to pay for various expenses. Neither of these alleged facts account for her failure to timely disclose the amount of assets she had at the date of separation. Additionally, she argues Dang objected to her withdrawal of \$45,000 in August 2012. But because that withdrawal happened after the date of separation it was not relevant to the finding of intransigence.

Vu also argues that Dang was intransigent because he concealed assets at trial. Because this argument was not presented below, we do not review it on appeal.<sup>25</sup>

#### *Reimbursement of Expenses*

Vu argues that the trial court erred by refusing to reimburse her for expenses she claims benefited the community, by reimbursing her for only half the cost of heating oil, and by failing to order a specific amount of reimbursement for the overpayment of utilities. We disagree.

A dissolution is an equitable proceeding in which the trial court has broad discretion to fashion remedies.<sup>26</sup>

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<sup>24</sup> Report of Proceedings (Nov. 15, 2012) at 384.

<sup>25</sup> See RAP 2.5(a); McFarland, 127 Wn.2d at 332-33.

<sup>26</sup> In re Marriage of White, 105 Wn. App. 545, 549, 20 P.3d 481 (2001).



Here, the trial court exercised its discretion by declining to reimburse Vu for several expenses:

The wife made a claim for various expenses advanced by her during the parties' separation. The court finds the following expenses were not made for the benefit of the community, or of Mr. Dang:

1. The hotel bill in the amount of \$278.75;
2. The alarm installation of \$1,887.66, which will not be used by Mr. Dang;
3. The cost to change locks on Mr. Dang's house in the amount of \$208.05;
4. The wife's medical expenses incurred post separation in the amount of \$4,681.09.<sup>[27]</sup>

While Vu claims that all of these expenses were necessary for her health and safety, she does not present persuasive authority or argument that the trial court was compelled to order Dang to reimburse her for these particular expenses. Therefore, she has not met her burden to show that the trial abused its discretion.

As to the cost of refilling a furnace oil tank at the home, the trial court expressly found the oil was "for the benefit of the community."<sup>28</sup> Vu argues she did not use any oil and should have been reimbursed for the full amount and not just half the cost of the oil. But it was within the broad discretion of the trial court to find that the fuel oil was purchased for the benefit of the community and should be split equally by the parties.

Finally, Vu argues that the trial court should have ordered Dang to provide utility billing statements to show that she was correctly reimbursed for her overpayment of any utilities. But because she does not claim that the reimbursement she received from

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<sup>27</sup> Clerk's Papers at 18.

<sup>28</sup> Id.

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Dang was incorrect and she did not raise the concern in the trial court, she does not establish any basis for relief on appeal.

*Order to Vacate Home*

Vu argues that on a day that she was not present in court due to illness, the trial court improperly entered an order requiring her to vacate Dang's home. When the order was entered, Vu's attorney was present in court and represented her interests. Vu cites no authority that the trial court abused its discretion merely because she was absent but her attorney was present when the trial court made this ruling.

*Vu's Testimony*

Vu argues that she was not given enough time to testify about her spousal abuse, financial issues, or health concerns. Out of the four days of trial, Vu testified for most of two days. Her briefing does not identify any matters that she would have testified to that would have affected the outcome of this case. Vu does not establish she was denied ample time to testify.

Vu argues that the trial court erred by refusing to allow her to testify as to her lay opinion regarding her medical and mental health issues. This claim is not supported by the record. Rather, the trial court excluded any testimony regarding the causation of her medical diagnoses because she was not qualified as a medical expert. Additionally, she cites no persuasive authority in support of this argument.

*Date of Separation*

Vu argues that the trial court erred in finding that the date of separation was April 30, 2011, rather than November 10, 2011, when Dang filed for dissolution. Because substantial evidence supports the trial court's finding, we disagree.

Dang testified that he moved out of the home in April 2011 and began sleeping at his sister's home. He also testified that by April 2011, he had made it clear to Vu that he was not interested in reconciliation. Based upon this testimony, there was substantial evidence that the parties separated in April rather than November.

*Other Matters*

Vu makes various other arguments that are not supported by citation to the record or to persuasive authority. We find none of them persuasive.

Vu argues that the trial court erred by appointing her attorney to take her to the emergency room when she was ill during trial rather than calling 911. It is unclear how this claim affects the legal determinations in this case. Because Vu does not show how this action prejudiced her in any way, this argument is not persuasive.

Vu argues that the trial court should have continued the trial due to her poor health. She ignores the fact that the trial court did continue her trial nearly a month due to her poor health, from October 17 until November 14. Even so, this argument is not persuasive because she does not point to anywhere in the record where she requested such an additional continuance.<sup>29</sup>

Vu argues that her attorney intimidated her, threatened her, controlled her, and did not effectively advocate for her. As a result, she contends that she "just said yes to everything."<sup>30</sup> The record before us does not reflect any such duress, intimidation or abuse. She does not explain why she was unable to raise this before the trial court in a posttrial motion. And Vu cites no authority that she is entitled to relief for alleged ineffective assistance of counsel in a civil trial.

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<sup>29</sup> See RAP 2.5(a); McFarland, 127 Wn.2d at 332-33.

<sup>30</sup> Appellant's Opening Br. (Amended) at 13.

Vu argues that the trial court was biased against her and, as a result, ruled against her on most issues. She claims that the source of that bias was a letter she sent to another judge complaining that the trial court entered the order to vacate the home outside of her presence. This argument was not raised below,<sup>31</sup> and the letter she relies upon is not included in the appellate record.<sup>32</sup> Vu does not establish any bias.

For the first time in her reply brief, Vu argues that she should have been awarded attorney fees below. Arguments raised for the first time in a reply brief generally will not be considered.<sup>33</sup>

Finally, Vu presents extensive argument about alleged abuse she suffered by Dang. Allegations of spousal abuse are always troubling, but Vu does not explain how the alleged abuse had any impact on the legal questions before the trial court during the dissolution.

#### *Attorney Fees on Appeal*

Vu seeks attorney fees under RAP 18.1 and RCW 26.09.140. We may award attorney fees after considering the relative resources of the parties and the merits of the

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<sup>31</sup> See RAP 2.5(a); McFarland, 127 Wn.2d at 332-33.

<sup>32</sup> State v. Vazquez, 66 Wn. App. 573, 583, 832 P.2d 883 (1992) (“party seeking review has the burden of perfecting the record so that the reviewing court has before it all the relevant evidence” to the issues raised on appeal); State v. Wheaton, 121 Wn.2d 347, 365, 850 P.2d 507 (1993) (where the record is inadequate for review of an issue, an appellate court will not reach the issue).

<sup>33</sup> Cowiche Canyon, 118 Wn.2d at 809 (“An issue raised and argued for the first time in a reply brief is too late to warrant consideration.”).

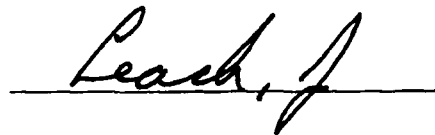
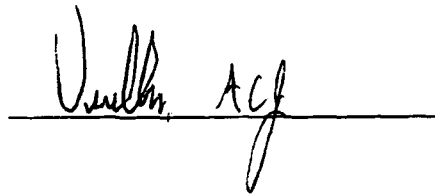
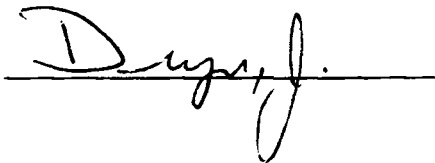
appeal.<sup>34</sup> Because Vu's appeal is meritless and she was awarded substantial property in the dissolution, we decline to award her attorney fees on appeal.

Dang also requests an award of attorney fees under RAP 18.9, claiming that Vu's appeal is frivolous. An appeal is frivolous if there are no debatable issues on which reasonable minds can differ and is so totally devoid of merit that there was no reasonable possibility of reversal.<sup>35</sup> The court considers the record as a whole and resolves all doubts against finding an appeal frivolous.<sup>36</sup>

Here, reviewing the record as a whole, Vu's appeal is frivolous. Her descriptions of the proceedings below are contrary to the record and her arguments are not supported by legal authority. Accordingly, we award Dang attorney fees and costs as sanctions against Vu for this frivolous appeal, subject to Dang's compliance with RAP 18.1.

We affirm the trial court.

WE CONCUR:



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<sup>34</sup> In re Marriage of Valente, \_\_\_ Wn. App. \_\_\_, 320 P.3d 115, 122 (2014).

<sup>35</sup> In re Recall of Charges Against Feetham, 149 Wn.2d 860, 872, 72 P.3d 741 (2003).

<sup>36</sup> Delany v. Canning, 84 Wn. App. 498, 510, 929 P.2d 475 (1997).

**CERTIFICATE OF SERVICE**

The undersigned certifies under penalty of perjury under the laws of the State of Washington that on the below written date, I caused delivery of a true copy of the Petition for Review by the Washington Supreme Court to the following individuals:

Office of the Clerk Court of Appeals – Division I One Union Square 600 University Street Seattle, WA 98101	<input checked="" type="checkbox"/> Hand Delivery <input type="checkbox"/> Messenger <input type="checkbox"/> Certified Mail <input type="checkbox"/> Email
Emily Jennifer Tsai Tsai Law Company PLLC 2101 4th Ave, Suite 1560 Seattle, WA 98121	<input type="checkbox"/> Hand Delivery <input type="checkbox"/> Messenger <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Email

Signed this 28 day of May, 2014 at Seattle, Washington.

Anh-Thi Vu  
Anh-Thu Thi Vu, pro se Petitioner