Court of Appeal Cause No. 70921-6-1
Supreme Court No. 91128-2

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

Kyla M. Estes, Petitioner/Appellant

v.

Jonathan LaVoi, Respondent

PETITION FOR REVIEW

Kyla M. Estes
22045 SE 271st Pl
Maple Valley, WA 98038
206-293-4695

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"The Parental Alienation Syndrome: A Dangerous Aura of Reliability," 27 Loy.L.A.L.Rev. 1367, 1370 (June 1994) (quoting R.A. Gardner, supra, at 60). Thus, PAS occurs when one parent consciously programs the child to disfavor the other parent. In order to prevent a child's relationship with the noncustodial parent from deteriorating, certain provisions should be standard in every custody decree. First, every decree should require each person with a right to custody or visitation to foster the relationship between the child and other persons who have a right to custody or visitation. Second, every decree should state that persons who have custodial or visitation rights should not speak ill of another person who has custodial or visitation rights. Third, practitioners should consider placing restrictions on a custodial parent's right to relocate without informing the court or the noncustodial parent. Otherwise, similarly to the father in In re Marriage of McDole, supra, the noncustodial parent may surprisingly discover that the custodial parent has left the jurisdiction without a forwarding address.
These three provisions will not guarantee that no problems with custody or visitation will occur. Rather, a custodial parent who desires to destroy the relationship of the child with the noncustodial parent will succeed unless stopped. If, however, the above provisions are inserted into the decree, a violation of a specific provision could lead to a contempt citation. While not a panacea, the above three provisions may give the noncustodial parent the extra edge which he or she may need in a post-dissolution custody proceeding. Furthermore, since the provisions encourage a strong relationship between both parents and the child, such provisions are generally in the child's best interests.

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IDENTITY OF PETITIONER

Kyla M. Estes, petitioner in the Superior Court and the appellant in the Court of Appeals, asks this court to accept review of the Court of Appeals decision affirming the trial court's decision terminating review in part II of this petition.

COURT OF APPEALS DECISION

Division I of the Court of Appeals filed its unpublished decision on September 22, 2014, *Appendix 1.* A timely motion for reconsideration and for publication was denied on November 3, 2014, *Appendix 2.*

ISSUES PRESENTED FOR REVIEW

Kyla Estes is seeking a review of every aspect of her parenting plan that was filed in the King county Superior Court of Washington on November 09, 2012 and ruled on and signed off on by the King County Superior Court Judge in a trial on October 31, 2013. Ms. Estes' attempt to appeal the trial court's decision failed due to her inexperience and knowledge of case laws along with judicial rules and laws that pertain to her parenting plan and her legal rights to parent her child without state or government interference without any factual or founded evidence or CPS intervention.

Ms. Estes is filing this petition for review as a ProSe litigant under case law: *Puckett v. Cox United States Court of Appeals (1979) a ProSe litigant's pleadings should not be held to the same high standards of perfection as lawyers. "Significantly, the Haines case involved a pro se complaint – as does the present case – which requires a less stringent reading than one drafted by a lawyer.*

Ms. Estes' pleadings are drafted to the best of her ability as a ProSe litigant as you will see she will try the best of her ability to draft this pleading in a professional manner and identify case laws she was able to identify that properly show that this case clearly needs a review from a higher court to show just cause as to why Ms. Estes has been denied the rights to her minor child without due process of law, without state or government

interference and has never been granted or given any formal steps from any judicial court that need to be taken in order for Ms. Estes to see her son and to regain custody of her minor child back.

The Fourteenth Amendment provides that no State shall "deprive any person of life, liberty, or property, without due process of law." We have long recognized that the Amendment's Due Process Clause, like its Fifth Amendment counterpart, "guarantees more than fair process." Washington v. Glucksberg, 521 U. S. 702, 719 (1997). The Clause also includes a substantive component that "provides heightened protection against government interference with certain fundamental rights and liberty interests." Id., at 720; see also Reno v. Flores, 507 U. S. 292, 301-302 (1993).

The evidence provided to this court will show that Ms. Estes was and continues to be denied due process of law along with denied her life liberty and justice rights to parent her child without interference from a government entity for no justification as to denying these rights. The trial court and COA Div.1 erred in continuing to allow rulings on this parenting plan since it was signed off on October 31, 2013 and filed on November 4, 2013. Since this permanent parenting plan went into effect both trial court and COA Div. 1 erred by not holding the respondent accountable for disobeying the court orders and denying every motion for contempt when viable factual evidence was placed before them. The courts erred in their discretion by allowing the respondent to follow through on his factual threats that was placed before them of his intentions to withhold the minor child involved in this preceding in which the respondent to this day has been enabled by the judicial system to withhold the minor child and not advise the petitioner of L.L's whereabouts. The trial courts and the COA Div. 1 erred in not holding the respondent responsible for his actions of withholding L.L from the petitioner but yet suspended the petitioners visitation without substantiated factual evidence ever presented to the trial court by the respondent, nor was a hearing ever granted. The petitioner filed a motion for review with both the trial court and COA Div. 1 with factual evidence of the respondents unethical withholding of the minor child involved in this case to which this motion for review was denied as every request to see my son continues to be denied even with factual evidence presented to both courts. The

courts erred in their discretion by allowing the respondent to withhold and conceal the minor child in this proceeding without any repercussions to his actions. The trial courts erred in taking custody of L.L from the petitioner without due process of Law and continue to be withheld from the petitioner for a severe protracted period of time without any factual evidence presented to them by the respondent. Since L.L has been in the sole, care and custody of the respondent on October 3, 2013 the petitioner has only seen L.L for a total of 36 hours in a supervised capacity in a public library in which the minor child and mother had no time for being able to continue their bond. The courts erred in their discretion by continuing to reduce the amount of time between L.L and the petitioner for no founded reasoning, all evidence provided to both the trial court and COA Div. 1 provided factual evidence of the respondents' domestic violence towards the petitioner. The courts erred in granting custody to the respondent when evidence provided to the courts was factual evidence of domestic violence in which under *RCW 26.09.191* the respondent was to have restrictions placed upon him due to his abuse towards the petitioner. The courts erred in not reviewing factual documentation and evidence provided to them from medical providers and law enforcement officers showing the domestic violence that continues to this day. The courts erred and abused their discretion by their continued requests for numerous mental evaluations to be performed on the petitioner when in fact more than enough factual evidence has been provided to the courts from numerous mental health providers (including Harborview) that have high credentials showing that the petitioner is of sound mind and mentally capable of performing her maternal duties without continued interference from the courts or the respondent.

Before any meaningful change can take place, a parent must acknowledge and recognize that abuse occurred. In Interest of H.R.K., 433 N.W.2d 46, 50 (Iowa App. 1988); In Interest of T.J.O., 527 N.W.2d 417, 421 (Iowa App. 1994).

The court erred in their facts and findings and conclusions of law by discrediting all medical providers along with police reports and failing to use their own discretion in

writing the facts and findings and conclusion of law. The courts erred in their discretion by allowing the respondent to dictate the mental stability of the petitioner in which was never an issue when the original parenting plan was filed on November 9, 2012, the mental stability of the respondent due to his abuse and alcohol abuse was a high concern along with his lifestyle being around a child. This was all disregarded. The courts erred in allowing the respondents attorneys to write the facts and findings and conclusion of law and place in them that the petitioner was convicted of custodial interference, in which the petitioner has never been convicted of anything in any way shape or form. The petitioner continues to seek out what is requested of her a mental health evaluation, the courts continue to err by not accepting these evaluations and wanting the petitioner to be diagnosed with something she does not have and continue to seek out mental health providers that are of extremely costly and not allowing her to seek out ones that are provided through the court system (ie: Harborview) or the state in which Ms. Estes is unable to afford the high costs of all the required evaluators, even when Ms. Estes contacted the evaluators they advised they would not do the evaluations as there is no direction as to what the courts are requesting (all notes from all providers in court orders have been filed). The petitioner sought counseling well in advance of filing for a parenting plan due to the substantial abuse she received from the respondent. The petitioner continues to seek counseling for the abuse and while L.L was in her sole care and custody took L.L. to some of her appointments as the treating provider helped with parenting along with various other aspects of being a victim of domestic violence, rape and being a single mother. This treating provider holds the appropriate credentials to evaluate one on a parenting evaluation in which was performed well in advance before the courts continued their error in requesting a psychological, mental evaluation, those records were filed with the GAL that was on this case along with the opposing parties counsel and both the trial and COA Div. 1 courts.

Under the case law: The failure of the parents to comply with the case plan is not an independent ground to terminate parental rights. In Interest of J.L.P., 449 N.W.2d 349, 352 (Iowa 1989); In Interest of C.L.H., 500 N.W.2d 449, 453 (Iowa App.. 1993).

The courts continue to error in not allowing any residential time between L.L and the petitioner. The courts continue to error in not taking the appropriate steps to advise the petitioner as to how she may regain custody and visitation of L.L again. The courts suspended visitation for no founded factual evidence provided to them just upon the respondents' request of suspending visitation between L.L and the petitioner and the courts continue to deny the petitioner access to L.L. The courts erred in not requiring the respondent to give any and all information to contact L.L while not in her care. The courts erred and continue to err in not requiring the respondent to abide by the court orders, which the courts erred in issuing conflicting orders that continue to be issued that do not correlate with any factual findings for the respondent. The trial court judicial officer erred in not recusing herself when requested by acting inappropriately and showing extreme biasness violating *Cannon rule 2.3 Bias, Prejudice and Harassment,* against the petitioner who is a prose litigant and single mother. I will try to the best of my ability to identify the parts of the decision of the Court of Appeals which I want reviewed along with the date I filed for the appeal along with the dates the Court of Appeals remanded their decision back to the trial court and the court of appeals denying my motion for reconsideration, in which all requests for an appeal were filed in a timely manner and served upon the opposing party in a timely manner and according to local court rules and RAP rules. Both the trial court and court of appeals both erred in finding that Ms. Estes refused Mr. LaVoi access to L.L. What both the trial court and court of appeals erred in was looking at the order continuing hearing to December 10, 2012 at 9 AM, signed and dated November 26, 2012 by Commissioner Bonney Canada-Thurston, at the bottom of page 1 (Exhibit 1) it states "Between now and next hearing Jonathan LaVoi to have No contact with Kyla or Child, initials BC-T". Within that time the hearing was rescheduled to December 20, 2012 and heard in front of Pro-Tem

Commissioner in which he placed a mutual restraining order against both Mr. LaVoi and Ms. Estes and required Mr. LaVoi to have supervised visitation. Pro-Tem John Curry gave Mr. LaVoi Christmas Eve or day to spend time with L.L in which Mr. LaVoi denied both days and requested his first initial visit be December 26, 2012. Ms. Estes ensured L.L was promptly on-time to all supervised scheduled visitations. Pro-Tem Commissioner placed on record that due to the young age of L.L it is imperative that Mr. LaVoi have visitation twice a week. Mr. LaVoi only abided by the twice a week schedule a few times prior to his birthday of January 22, 2013 at which point Mr. LaVoi took an extended vacation to Montana that year to celebrate his birthday. After coming back from Montana Mr. LaVoi cut his scheduled visitation down to once a week. Moving forward through the process of this parenting plan was and has been very stressful on a new mother that was trying to abide by court orders along with being drug in and out of court when she had scheduled doctors' appointments for either herself or her son. Ms. Estes has not had any of Mr. LaVoi's contact information since November 2012 and continues to this date of not having any contact information. Mr. LaVoi continued/continues to state that Ms. Estes has his contact information which is a complete inaccuracy of his accounts. What both the trial court and COA Div. 1 erred in also was stating that Mr. LaVoi and Ms. Estes had a brief relationship that ended by the time L.L. was born. Ms. Estes and Mr. LaVoi were never in any relationship; rape is not considered a relationship. So to state that there was a relationship this is a very inaccurate statement. *Also, the facts that there was conflict surrounding both Ms. Estes and Mr. LaVoi how is a victim of domestic violence that has been assaulted on more than one occasion and raped by her son's father to act*? Both courts erred in noting that Ms. Estes has been consistent with her statements on the abuse she has endured at the hands of Mr. LaVoi. What the trial courts and court of appeals erred in was not looking at the medical records of L.L. from the hospital when L.L. was hospitalized on February 12, 2013 where the treating provider placed in L.L's records that

the FOB (father of the baby) was extremely combative towards the mother of the baby. In which Mr. LaVoi was requested to leave the premises due to his volatile demeanor, but erred by both courts by stating Ms. Estes make frequent allegations. Those were not allegations; Mr. LaVoi's demeanor was witnessed by hospital staff but those allegations by mandated reporters from a hospital were dismissed and fell upon deafened ears. The allegations of Ms. Estes and her family engaging in some hostile behavior towards Mr. LaVoi, his attorneys, the GAL and supervisors is a complete farce on the respondents' side. Both the trial court and the court of appeals erred in is allowing evidence that was never presented to Ms. Estes before trial, during trial or after trail to rebut any allegations that were falsely placed upon her and her extended family. Those allegations from Mr. LaVoi and his counsel if they'd been a true reflection upon Ms. Estes and her extended family those issues of hostility would have been reported to the local law enforcement agency, those false allegations that were allowed to be admitted without the proper channels of court rules was unethical and did not grant Ms. Estes the right to due process of law, those allegations were never reported to law enforcement agencies either in which both the trial court and court of appeals erred in allowing this to be admitted when it was these allegations presented had and have no impact on how one is capable of parenting their children. Both the trial court and court of appeals erred in their rulings by stating that Ms. Estes requested a recusal (CR60) of the trial court judicial officer. The court of appeals erred in allowing the trial court to show under Canon Rule 2.3 Bias, Prejudice, and Harassment. Both trial court and court of appeals erred by allowing the opposing counsel to engage in harassment, bias and prejudice against Ms. Estes in which they both erred in not allowing Ms. Estes to be granted due process of law under her fourteenth amendment. The court of appeals should have granted Ms. Estes the request for the trial court judicial officer to recuse herself from this case when the trial court judicial officer has continued to deny Ms. Estes access to the judicial system along with allowing Mr. LaVoi the legal right to

continue his abuse towards Ms. Estes. The trial court abused and continues to abuse its discretion by denying Ms. Estes for no founded reasoning access to the courts along with denying her to see L.L. Ms. Estes was discriminated against and continues to be discriminated against due to her financial status, along with her assumed ethnicity, and religious beliefs by Mr. LaVoi, his family and judicial system. The COA Div 1 and trial court abused its discretion when it stated that ***RCW 26.09.187(3)(a)*** was weighed in at great lengths in the findings of facts and conclusion of law from the trial court in which the opposing counsel wrote up. The COA Div. 1 erred in stating Ms. Estes' challenge to the September 26, 2013 order is moot See ***RCW 26.09.060(10)(c)*** as the orders that where being challenged were signed off on October 31, 2013 by the trial court judicial officer stated that Ms. Estes is restrained from L.L and Mr. LaVoi. Ms. Estes' requested a DVPO against Mr. LaVoi in which this was denied by the judicial officer even though all evidence of DV had/have continued to be filed with the trial court. Ms. Estes' does not believe that requesting to have the orders withholding her from her son are moot, as there has never been any factual evidence or any factual proof from Mr. LaVoi showing that her requests would substantiate either court dismissing her requests as moot. Page 6 of the unpublished order from the COA Div. 1 states that Ms. Estes failed to allow regular and consistent contact between Mr. LaVoi and L.L. this is and has been highly documented as an inaccurate finding and has continued to be highly documented since October 3, 2013 till the current date that Mr. LaVoi has continued to deny regular and consistent contact between L.L and Ms. Estes. Mr. LaVoi's continued denial of continued contact has been continuously been enabled by the trial court by not taking any of Mr. LaVoi's threats to withhold L.L. from Ms. Estes and not allow her access to him due to Mr. LaVoi and his extended families inability to allow a bond between mother and child. Mr. LaVoi at this time has continued to prove he is not capable of providing for the emotional needs of L.L nor is he capable of fostering any form of relationship between L.L and Ms. Estes. Mr.

LaVoi has continued to remove L.L from the state of WA without Ms. Estes' knowledge and has continued to withhold L.L. for no founded factual evidence just that he continues to place demands upon the trial court to allow him to withhold L.L. from Ms. Estes. Ms. Estes has proven time and time again that she is capable of fostering a relationship between Mr. LaVoi and L.L and is capable of caring for L.L's emotional and psychological wellbeing. Where Mr. LaVoi continues to show he's unable to place the emotional and psychological wellbeing of L.L before himself. Both the trial court and COA Div. 1 erred by abusing their discretion in stating that Ms. Estes has not obtained a psychological evaluation. These were provided to the courts well in advance of the GAL requesting one to be performed and Ms. Estes has continued to seek counseling due to all the domestic violence she received at the hands of Mr. LaVoi. Ms. Estes' psychological wellbeing has proven time and time again to both courts has been shown to be of sound mind and is capable of performing her maternal duties of caring for her young child. What both courts failed in and abused their discretion on was not looking at the surrounding facts that Ms. Estes is not only a victim of DV and rape by Mr. LaVoi but she is also a first time mother who is grieving for the unethical loss of her child. Being a first time mother and a victim of DV and Rape and then having your child taken from you for no factual evidence is not only traumatic on the mother but also the young child. Page 7 (h). states that due to the emotional needs and developmental level of the child it requires Ms. Estes have supervised visitation pending the psychological evaluation, what both the trial court and COA Div. 1 erred in was not taking any and all psychological evaluations into account but dismissing each and every one of them. Case laws state that: ***Courts are not free to take children from parents simply by deciding another home offers more advantages. In Interest of C. and K., 322 N.W.2d 76, 81 (Iowa 1982); In Interest of T.R., 483 N.W.2d 334, 337 (Iowa App. 1992).***

Before any meaningful change can take place, a parent must acknowledge and recognize that abuse occurred. In Interest of H.R.K., 433 N.W.2d 46, 50 (Iowa App. 1988); In Interest of T.J.O., 527 N.W.2d 417, 421 (Iowa App. 1994).

The failure of the parents to comply with the case plan is not an independent ground to terminate parental rights. In Interest of J.L.P., 449 N.W.2d 349, 352 (Iowa 1989); In Interest of C.L.H., 500 N.W.2d 449, 453 (Iowa App.. 1993).

When custody was taken from Ms. Estes she advised the trial court that Mr. LaVoi will deny her access to L.L in which he has continued to prove he will continue with denying Ms. Estes her maternal rights to her son, Mr. LaVoi not only has proven time and time again since October 3, 2013 that he will withhold L.L for protracted periods of time but he has ensured that Ms. Estes has had difficulty in obtaining medical records concerning L.L.'s health and is unable to access L.L's daycare/pre-school records as Mr. LaVoi has violated : RCW 26.50.135. Residential placement or custody of a child -- Prerequisite Before granting an order under this chapter directing residential placement of a child or restraining or limiting a party's contact with a child, the court shall consult the judicial information system, if available, to determine the pendency of other proceedings involving the residential placement of any child of the parties for whom residential placement has been requested. Jurisdictional issues regarding out-of-state proceedings involving the custody or residential placement of any child of the parties shall be governed by the uniform child custody jurisdiction act, chapter 26.27 RCW. Both trial and COA Div. 1 erred in not requiring Mr. LaVoi to follow Washington State laws of: ***RCW 26.27.281. Information to be submitted to court Subject to laws providing for the confidentiality of procedures, addresses, and other identifying information, in a child custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present address or whereabouts, the places where the child has lived during the last five years, and the names and present addresses of the persons with whom the child has lived during that period. The pleading or affidavit must state whether the party:***

The trial court and COA Div. 1 courts erred in their discretion by not applying the appropriate standards of issuing a permanent parenting plan under: *RCW 26.09.181. Procedure for determining permanent parenting plan:* Both Mr. LaVoi and Ms. Estes entered an initial parenting plan as to what their desires where, the trial court and COA Div. 1 abused its discretion by allowing Mr. LaVoi to deviate away from what he initially wanted and allowing Mr. LaVoi to withhold and harbor L.L's whereabouts are from Ms. Estes. Both the trial court and COA Div. 1 abused its discretion by making it impossible for Ms. Estes to obtain any access to L.L without incurring severe financial hardships (ie:

supervised visitation, continued demands for psychological evaluations, continued demands for Mr. LaVoi's attorney's fees, continued court costs without requiring a state appointed CASA to ensure both parents abide by the parenting plan and requiring state or court evaluators and state, Child Haven to complete supervised visits). Ms. Estes has continued to file factual evidence of custodial interference since October 3, 2013 with the trial court and all factual evidence had/have been dismissed with denials for Ms. Estes to see L.L. without any interference from the courts, the below case laws will provide this court with enough to show that Ms. Estes and L.L have been deprived of their substantial rights to have and endure a loving nurturing relationship between mother and child and continues to have interference from the courts to have any form of relationship with her young child.

The Fourteenth Amendment provides that no State shall "deprive any person of life, liberty, or property, without due process of law." We have long recognized that the Amendment's Due Process Clause, like its Fifth Amendment counterpart, "guarantees more than fair process." Washington v. Glucksberg, 521 U. S. 702, 719 (1997). The Clause also includes a substantive component that "provides heightened protection against government interference with certain fundamental rights and liberty interests." Id., at 720; see also Reno v. Flores, 507 U. S. 292, 301-302 (1993).

The liberty interest at issue in this case -- the interest of parents in the care, custody, and control of their children -- is perhaps the oldest of the fundamental liberty interests recognized by this Court. More than 75 years ago, in Meyer v. Nebraska, 262 U. S. 390, 399, 401 (1923), we held that the "liberty" protected by the Due Process Clause includes the right of parents to "establish a home and bring up children" and "to control the education of their own."

The rights of parents to the care, custody and nurture of their children is of such character that it cannot be denied without violating those fundamental principles of liberty and justice which lie at the base of all our civil and political institutions, and such right is a fundamental right protected by this amendment (First) and Amendments 5, 9, and 14. Doe v. Irwin, 441 F Supp 1247; U.S. D.C. of Michigan, (1985).

The United States Supreme Court has stated: "There is a presumption that fit parents act in their children's best interests, Parham v. J. R., 442 U. S. 584, 602; there is normally no reason or compelling interest for the State to inject itself into the private realm of the family to further question fit parents' ability to make the best decisions regarding their children. Reno v. Flores, 507 U. S. 292, 304. The state may not interfere in child rearing decisions when a fit parent is available. Troxel v. Granville, 530 U.S. 57 (2000).

Loss of First Amendment Freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury. Though First Amendment rights are not absolute, they may be curtailed only by interests of vital importance, the burden of proving which rests on their government. Elrod v. Burns, 96 S Ct 2673; 427 US 347, (1976).

Law and court procedures that are "fair on their faces" but administered "with an evil eye or a heavy hand" was discriminatory and violates the equal protection clause of the Fourteenth Amendment. Yick Wo v. Hopkins, 118 US 356, (1886).

No case authoritative within this circuit, however, had held that the state had a comparable obligation to

protect children from their own parents, and we now know that the obligation does not exist in constitutional law.ï¿½ K.H. Through Murphy v. Morgan, 914 F.2d 846 (C.A.7 (Ill.), 1990.

"Rights to marry, have children and maintain relationship with children are fundamental rights protected by the Fourteenth Amendment and thus, strict scrutiny is required of any statutes that directly and substantially impair those rights." P.O.P.S. v. Gardner, 998 F2d 764 (9th Cir. 1993)

"Parents right to rear children without undue governmental interference is a fundamental component of due process." Nunez by Nunez v. City of San Diego, 114 F3d 935 (9th Cir. 1997)

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Even when blood relationships are strained, parents retain vital interest in preventing irretrievable destruction of their family life; if anything, persons faced with forced dissolution of their parental rights have more critical need for procedural protections than do those resisting state intervention into ongoing family affairs. Santosky v. Kramer, 102 S Ct 1388; 455 US 745, (1982).

Parents have a fundamental constitutionally protected interest in continuity of legal bond with their children. Matter of Delaney, 617 P 2d 886, Oklahoma (1980).

The liberty interest of the family encompasses an interest in retaining custody of one's children and, thus, a state may not interfere with a parent's custodial rights absent due process protections. Langton v. Maloney, 527 F Supp 538, D.C. Conn. (1981).

Parent's interest in custody of her children is a liberty interest which has received considerable constitutional protection; a parent who is deprived of custody of his or her child, even though temporarily, suffers thereby grievous loss and such loss deserves extensive due process protection. In the Interest of Cooper, 621 P 2d 437; 5 Kansas App Div 2d 584, (1980).

The Due Process Clause of the Fourteenth Amendment requires that severance in the parent-child relationship caused by the state occur only with rigorous protections for individual liberty interests at stake. Bell v. City of Milwaukee, 746 F 2d 1205; US Ct App 7th Cir WI, (1984).

A parent's right to care and companionship of his or her children are so fundamental, as to be guaranteed protection under the First, Ninth, and Fourteenth Amendments of the United States Constitution. In re: J.S. and C., 324 A 2d 90; supra 129 NJ Super, at 489.

The Court stressed, "the parent-child relationship is an important interest that undeniably warrants deference and, absent a powerful countervailing interest, protection." A parent's interest in the companionship, care, custody and management of his or her children rises to a constitutionally secured right, given the centrality of family life as the focus for personal meaning and responsibility. Stanley v. Illinois, 405 US 645, 651; 92 S Ct 1208, (1972).

Parent's rights have been recognized as being "essential to the orderly pursuit of happiness by free man." Meyer v. Nebraska, 262 US 390; 43 S Ct 625, (1923).

The U.S. Court of Appeals for the 9th Circuit (California) held that the parent- child relationship is a constitutionally protected liberty interest. (See; Declaration of Independence --life, liberty and the pursuit of happiness and the 14th Amendment of the United States Constitution -- No state can deprive any person of life, liberty or property without due process of law nor deny any person the equal protection of the laws.) Kelson v. Springfield, 767 F 2d 651; US Ct App 9th Cir, (1985).

The parent-child relationship is a liberty interest protected by the Due Process Clause of the 14th Amendment. Bell v. City of Milwaukee, 746 f 2d 1205, 1242^Q45; US Ct App 7th Cir WI, (1985).

No bond is more precious and none should be more zealously protected by the law as the bond between parent and child." Carson v. Elrod, 411 F Supp 645, 649; DC E.D. VA (1976).

A parent's right to the preservation of his relationship with his child derives from the fact that the parent's achievement of a rich and rewarding life is likely to depend significantly on his ability to participate in the rearing of his children. A child's corresponding right to protection from interference in the relationship derives from the psychic importance to him of being raised by a loving, responsible, reliable adult. Franz v. U.S., 707 F 2d 582, 595^Q599; US Ct App (1983).

A parent's right to the custody of his or her children is an element of "liberty" guaranteed by the 5th Amendment and the 14th Amendment of the United States Constitution. Matter of Gentry, 369 NW 2d 889, MI App Div (1983).

Reality of private biases and possible injury they might inflict were impermissible considerations under the Equal Protection Clause of the 14th Amendment. Palmore v. Sidoti, 104 S Ct 1879; 466 US 429.

Both the trial court and COA Div. 1 abused their discretion by not allowing Ms. Estes the right to parent her child without interference from state and government courts. The right to be a parent is to be held to the highest standard at which has been continually denied to Ms. Estes for no founded or factual reasoning. Under the following case laws Ms. Estes will attempt to show this court that both the trial court and COA Div. 1 abused their discretion by not applying these case laws to this parenting plan. Judges must maintain a high standard of judicial performance with particular emphasis upon conducting litigation with scrupulous fairness and impartiality. ***28 USCA ï¿½ 2411; Pfizer v. Lord, 456 F.2d 532; cert denied 92 S Ct 2411; US Ct App MN, (1972).***

State Judges, as well as federal, have the responsibility to respect and protect persons from violations of federal constitutional rights. Gross v. State of Illinois, 312 F 2d 257; (1963).

The right of a parent not to be deprived of parental rights without a showing of fitness, abandonment or substantial neglect is so fundamental and basic as to rank among the rights contained in this Amendment (Ninth) and Utah's Constitution, Article 1 ï¿½ 1. In re U.P., 648 P 2d 1364; Utah, (1982).

The rights of parents to parent-child relationships are recognized and upheld. Fantony v. Fantony, 122 A 2d 593, (1956); Brennan v. Brennan, 454 A 2d 901, (1982).

One of the most precious rights possessed by parents is the right to raise their children free of government interference. That right, "more precious than mere property rights," is a liberty interest, protected by the substantive and procedural Due Process Clauses of the Fourteenth Amendment. Stanley v. Illinois, 405 U.S. 645, 92 S.Ct. 1208, 31 L.Ed.2d 551 (1972). Moreover, the fact that the custodians are grandparents rather

than parents is legally insignificant, because families headed by extended family members are entitled to the same constitutional protections as those headed by parents, Moore v. City of East Cleveland, 431 U.S. 494, 97 S.Ct. 1932, 52 L.Ed.2d 531 (1977) Even relatives who are licensed as foster parents enjoy the same constitutional rights as other custodial relatives. Rivera v. Marcus, 696 F.2d 1016 (2d Cir. 1982).

Because of the magnitude of the liberty interests of parents and adult extended family members in the care and companionship of children, the Fourteenth Amendment protects these substantive due process liberty interests by prohibiting the government from depriving fit parents of custody of their children. See Stanley v. Illinois, 405 U.S. 645, 651, 92 S.Ct. 1208, 31 L.Ed.2d 551 (1972); Santosky v. Kramer, 455 U.S. 745, 760, 102 S.Ct. 1388, 71 L.Ed.2d 599 (1982); Duchesne v. Sugarman, 566 F.2d 817, 824 (2d Cir. 1977); Hurlman v. Rice, 927 F.2d 74, 79 (2d Cir. 1991). In the United States Supreme Courtï¿½s view, the state registers "no gains toward its stated goals [of protecting children] when it separates a fit parent from the custody of his children." Stanley, 405 U.S. at 652.

When applying a parenting plan the financial status of either parent should not have been a determining factor in any way shape or form of deciding upon where the child should reside the majority of the time as this is a violation of Ms. Estes' Amendment rights. The Facts and findings and conclusion of law are not a direct reflection of Ms. Estes' and her extended family, they are an inaccurate reflection as to her parenting and false allegations placed against her and her extended family that do not know Ms. Estes along with her extended family. Mr. LaVoi's allegations against Ms. Estes are a reflection of a man who had victimized a young naive woman he does not know, that became his victim of both rape and domestic violence, he was never with throughout her pregnancy let alone did not help to support L.L after his birth. The witnesses who testified for Mr. LaVoi had no knowledge of Ms. Estes's parenting of L.L or Mr. LaVoi's their testimonies were based on how Mr. LaVoi portrait himself around their children. The Guardian ad Litem testified against Ms. Estes when she was to be unbiased. The GAL in fact withheld factual evidence from the courts of domestic violence. The witnesses that testified on behalf of Ms. Estes had actually met Mr. LaVoi and had factual evidence of his treatment towards Ms. Estes along with her parenting of L.L. The trial court erred and the COA Div. 1 abused its discretion by allowing this parenting plan to not be about the minor child involved in this parenting plan but yet allowed it to be a legalized document to allow domestic violence and to legalize custodial interference. Since the parenting plan was signed and was to have

gone into effect Mr. LaVoi has never abided by the court orders. Ms. Estes has documented the amount of time she has seen her son since he was just barely 13 months old. For both the trial court and the COA Div.1 to err by allowing Mr. LaVoi's continued withholding of L.L for severely protracted periods of time is like giving Ms. Estes the death penalty for no founded reasoning. Not only have my rights as a mother been taken away as being a mother to L.L, but L.L's right to have a mother to love and nurture him has been taken away. I have been affected by this whole traumatic situation of not being able to see my son L.L but L.L is the one who has been affected the most. He deserves two parents that love and nurture him and be with him and free from one parent violating his rights to have a mother. When both the trial court and the COA Div. 1 allowed the imputation of Ms. Estes' wages without taking appropriate financials into account for child support along with Mr. LaVoi's attorney's fees this was an err on their behalf where both courts abused their discretion. Ms. Estes was and is unable to afford Mr. LaVoi's attorney's fees, his judgments along with the imputed wages for child support along with unwarranted supervised visitation where Ms. Estes was forced to pay $75 per hour to see her son. The judicial officer in the trial court signed off on an order of indigence in January 2014 when Ms. Estes had a job. Even though this order was signed off on and Ms. Estes was unable to afford all the court fees, child support along with supervised visitation and another psychological evaluation that continues to be questioned when numerous evaluations have been completed. Both courts erred in enforcing orders allowing Ms. Estes to become farther indigent. The courts are not allowed to use ones' financial status against them but both the trial and COA Div. 1 utilized Ms. Estes' financial status as a reason to withhold L.L from Ms. Estes. Ms. Estes has never been voluntarily unemployed, when she was pregnant she was unable to work due to her pregnancy being high risk, after having her son she was not voluntarily unemployed she'd just had a child and had complications due to delivering her son along with Mr. LaVoi assaulting her on September 29, 2012 one

month after Ms. Estes had her son. The trial court erred in stating Ms. Estes yelled at Mr. LaVoi, when being assaulted and yelling for help since when did that become an abusive use of conflict? The trial court and COA Div.1 erred in finding that Ms. Estes' yelling for help when being assaulted was an abusive use of conflict. Ms. Estes proposed a parenting plan to the courts that even though she did not agree with it the proposal was fair and would include both parents in L.L's life and give the love and nurturing he deserves and needs from both his mother and potential father. The courts abused their discretion by not including a mother in the final parenting plan. It is not in the child's best interest to ever be taken from either parent in any way shape or form. For both the courts to err in that avenue to allow orders to omit a mother is not in any way shape or form of being one bit in the best interest of the child. Ms. Estes asks the Supreme Court if her review is granted to review this case with urgency under case law: ***Cases where children have been out of the home for more than twelve months must be viewed with a sense of urgency. In Interest of A.C., 415 N.W.2d 609, 613-614 (Iowa 1987); In Interest of R.C., 523 N.W.2d 757 (Iowa App. 1994).***

To review all evidence placed before them as was in front of both the trial court and COA Div. 1 courts. Ms. Estes asks that the Supreme Court review her request for a review and if granted to place restraints against Mr. LaVoi from leaving the state of Washington with L.L without properly notifying Ms. Estes. Ms. Estes asks that the Supreme Court if her review is granted to ensure that a parenting plan be put into place where both parents have equal access to L.L and that the parenting plan include the **right of first refusal** so that when Mr. LaVoi is out of the State of Washington on business L.L is not in the care of strangers or in a daycare when Ms. Estes is capable of caring and nurturing her young child. Ms. Estes asks that the Supreme Court if her review is granted to place L.L back in her sole care and custody and have joint decision making between both parents. Ms. Estes asks that if the Supreme Court grants her review for her parenting plan that she have a third party (ie: a family member) take L.L to and from a drop off location for exchanges for Mr. LaVoi's scheduled residential time and Ms. Estes' scheduled residential time as Ms. Estes

fears for her safety around Mr. LaVoi. If the Supreme Court grants Ms. Estes her review on this parenting plan she asks that the courts place a gag order against Mr. LaVoi from disclosing any personal information (ie: social security number, residence, medical records, phone number etc) to anyone including but not limited to his parents Judith and Kevin LaVoi, his sister Rachel LaVoi along with his friends and extended family.

STATEMENT OF THE CASE

The statements surrounding this case are about a parenting plan that included domestic violence and rape against a mother that had been dismissed. Ms. Estes was advised by law enforcement officers to get a parenting plan in place to protect herself along with her child from her assailant. The reality of all this is not an ounce of the domestic violence or rape Ms. Estes endured was once considered when it went in front of the trial court judge. All prior orders that were provided to the trial judge along with the evidence was all discredited and dismissed due to Ms. Estes not being able to defend herself by arguing the appropriate laws as she did not have the knowledge or legal background. This parenting plan was to be about a minor child that was to determine whether Mr. LaVoi was to be granted any residential time and if so how much time he would have received. Instead due to Ms. Estes' inability to afford to continue to be represented by counsel she was forced to proceed in a court of law without representation against not just one attorney but multiple attorney's that had more advance knowledge laws than she did which placed her at a severe disadvantage against the respondent whom had the funds to continue to retain counsel throughout the process. The final parenting plan that was put into place omits the mother from the minor child's life which goes against all state, federal and case laws. As there was no founded factual evidence presented to the trial court for ever taking custody away from a mother and placing her young child in the sole care and custody of Mr. LaVoi. Mr. LaVoi's counsel wrote up the facts and findings and conclusion of law in which the facts and findings and conclusion of law show a severe biasness towards Ms. Estes and place her

in a light that is not whom she is, Mr. LaVoi's witnesses never met Ms. Estes observed her parent L.L whereas Ms. Estes' witnesses were able to testify as to Ms. Estes' ability to parent L.L in an appropriate manner and able to testify as to how Mr. LaVoi treated Ms. Estes as Ms. Estes' witnesses had firsthand knowledge of Mr. LaVoi's treatment of Ms. Estes as they'd met him. The parenting plan that was signed off on October 31, 2013 and filed into the ECR's on November 4, 2013 for the superior court did not focus on the best interest in any way shape or form of the minor child, L.L. Just focused on degrading Ms. Estes along with directly violating state and federal laws and Ms. Estes' constitutional rights to parent her son without interference from the state or courts under the fifth and fourteenth amendment where she is to be protected from such interference without due process of law.

ARGUMENT WHY REVIEW SHOULD BE ACCEPTED

This review should be accepted by the Supreme Court as both the trial court and COA Div.1 erred in their rulings where Ms. Estes and L.L's constitutional rights under the fifth and fourteenth amendment were violated and due process of law was denied to both for failing to allow Ms. Estes the right to parent her son without interference from any state or court. ***Courts are not free to take children from parents simply by deciding another home offers more advantages. In Interest of C. and K., 322 N.W.2d 76, 81 (Iowa 1982); In Interest of T.R., 483 N.W.2d 334, 337 (Iowa App. 1992).*** Ms. Estes has proven and provided factual evidence that she's obtained numerous mental health evaluations but continues to be denied access to her son. There was never any factual evidence provided by Mr. LaVoi showing any abuse, negligence or endangerment towards L.L. by Ms. Estes.

The Fourteenth Amendment provides that no State shall "deprive any person of life, liberty, or property, without due process of law." We have long recognized that the Amendment's Due Process Clause, like its Fifth Amendment counterpart, "guarantees more than fair process." Washington v. Glucksberg, 521 U. S. 702, 719 (1997). The Clause also includes a substantive component that "provides heightened protection against government interference with certain fundamental rights and liberty interests." Id., at 720; see also Reno v. Flores, 507 U. S. 292, 301-302 (1993).

The liberty interest at issue in this case – the interest of parents in the care, custody, and control of their children – is perhaps the oldest of the fundamental liberty interests recognized by this Court. More than 75 years ago, in Meyer v. Nebraska, 262 U. S. 390, 399, 401 (1923), we held that the "liberty" protected by the Due Process Clause includes the right of parents to "establish a home and bring up children" and "to

control the education of their own."

There was never mental health provider that testified on behalf of Mr. LaVoi to dispute Ms. Estes' mental stability, all the mental health issues arose from Mr. LaVoi's fabrications to cover up his domestic violence towards Ms. Estes along with his own alcohol abuse.

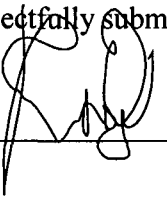
CONCLUSION

I, Kyla Estes am seeking the requested relief if my review is granted: for L.L to be placed back in my sole, care and custody and have restrictions placed upon Mr. LaVoi from taking L.L out of Washington State without properly notifying Ms. Estes of his intentions to do such. Require Mr. LaVoi to have L.L brought back to WA State immediately and allow Ms. Estes unsupervised time immediately with her son. Have Mr. LaVoi obtain counseling through a state certified agency from the courts choosing for a DV assessment along with his substance and alcohol abuse. Have this review granted with a sense of urgency due to L.L being withheld for a severe protracted period of time from Ms. Estes (***where children have been out of the home for more than twelve months must be viewed with a sense of urgency. In Interest of A.C., 415 N.W.2d 609, 613-614 (Iowa 1987); In Interest of R.C., 523 N.W.2d 757 (Iowa App. .1994).).***

Have this case placed in a difference court of Jurisdiction (Snohomish County Superior Court) due to the judicial officer showing a biasness violating: ***CANON RULE 2.3: Bias, Prejudice, and Harassment***. Include right of first refusal in a fair parenting plan that does not omit either parent or their rights to L.L.

December 26, 2014

Respectfully submitted,



Kyla M. Estes

APPENDIX

IA

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

IN RE PARENTAGE AND SUPPORT OF: L.L. Minor child.	)	No. 70921-6-1
KYLA ESTES, Appellant,	)	DIVISION ONE
v.	)	UNPUBLISHED OPINION
JONATHAN LaVOI, Respondent.	)	FILED: Setember 22, 2014

SPEARMAN, C.J. — Kyla Estes appeals orders providing for the custody and support of her child, L.L. Because Estes fails to demonstrate that the trial court erred, we affirm.

FACTS

Kyla Estes and Jonathan LaVoi are the parents of L.L., born August 28, 2012. The parents' brief romantic relationship had ended by the time L.L. was born, and their parenting relationship has been fraught with conflict. After L.L's birth, LaVoi regularly requested visitation with the child. On the occasions that Estes agreed, she would either arrive late, cut the visit short, or cancel the visit altogether. More often than not, however, Estes refused to allow LaVoi to visit.

Estes filed a petition for a residential schedule and a parenting plan, and the trial court entered a temporary order designating Estes as the primary residential parent of LL. and giving LaVoi visitation twice a week. Estes frequently violated this order by failing to bring LL. to scheduled visits.

On the few occasions that LaVoi was able to see L.L., Estes interfered with their relationship by making frequent allegations of abuse or neglect to third parties. For example, Estes told a hospital social worker that LaVoi used drugs while L.L. was in his care. Child Protective Services investigated Estes's claim and determined it to be unfounded. Estes also told L.L.'s pediatrician that L.L. had suffered injuries during a visit with LaVoi. The pediatrician did not observe any of the injuries alleged by Estes. Estes repeatedly contacted the Kitsap County Sheriff's Department to demand they perform welfare checks on L.L. while he was with LaVoi. Officers observed the child and saw no cause for concern.

Estes and her family also engaged in extensive hostile behavior towards LaVoi, his attorneys, the guardian ad litem (GAL) and several visitation supervisors. When LL. was approximately one month old, Estes and her mother showed up unannounced at LaVoi's home at approximately 6:00 a.m. With L.L. in her arms, Estes spent more than ten minutes ringing LaVoi's doorbell, pounding on the door and yelling. Estes screamed obscenities about LaVoi's new girlfriend and told LaVoi he would never see LL. again. Estes's mother also participated in the yelling. Estes contacted law enforcement at least eight times to claim that LaVoi or his friends had abused or harassed her. She and her parents filed multiple bar grievances against both LaVoi's attorney and the GAL and

sought an internal affairs investigation against an officer who performed a welfare check on L.L.

On May 8, 2013, the trial court ordered Estes to participate in a psychological evaluation with a psychologist approved by the GAL. Estes failed to undergo the evaluation.

On September 26, 2013, the trial court ordered that LaVoi be the primary residential parent of L.L. The trial court ordered Estes to bring L.L. to the courthouse by 4:00 p.m. that day. The order informed Estes that if she did not comply, the trial court would issue a bench warrant for her arrest and a writ of habeas corpus to recover the child. The trial court also entered a temporary restraining order restricting Estes from having any contact with LaVoi or L.L. except for supervised visitation. Estes failed to produce L.L. as ordered. The trial court issued a writ of habeas corpus and the King County Sheriff's Office spent seven days attempting to locate L.L. Estes's parents finally produced L.L. after a detective notified them that Estes would face criminal charges. Estes later admitted that she hid at her parents' house with L.L. during that time.

Trial began on October 21, 2013. LaVoi was represented by counsel and Estes, who had previously discharged her attorney, appeared pro se. Following three days of testimony, the trial court entered findings of fact and conclusions of law, a parenting plan and an order of child support. The trial court ordered that LaVoi remain L.L.'s primary residential parent. The trial court found that Estes's contact with L.L. should be restricted to a total of eight hours of supervised visitation a week because Estes

engaged in abusive use of conflict during the duration of L.L.'s life and had withheld access to LL. from LaVoi for a protracted period of time without good cause. CP 1183. The trial court ordered Estes to pay LaVoi $10,000 in attorney fees due to her "intransigence and filing of frivolous motions." Clerk's Papers (CP) at 1181. The trial court also ordered Estes to pay LaVoi $296.23 per month in child support. In doing so, the trial court found Estes to be voluntarily unemployed and imputed her income at $1,345.00 per month based on her work history.

Proceeding pro se, Estes appeals the September 27, 2013 order designating LaVoi as the primary residential parent and the November 4, 2013 findings of fact and conclusions of law, parenting plan and order of child support.

DECISION

In determining a parenting plan, the trial court exercises broad discretion. In re Marriage of Kovacs, 121 Wn.2d 795, 801, 854 P.2d 629 (1993). A trial court's decision regarding custody or visitation will not be overturned absent abuse of that discretion. In re Marriage of Rich, 80 Wn. App. 252, 258, 907 P.2d 1234 (1996). A trial court abuses its discretion if its decision is manifestly unreasonable or based on untenable grounds. In re Marriage of Littlefield, 133 Wn.2d 39, 46-7, 940 P.2d 1362 (1997). We review the trial court's findings of fact to determine whether substantial evidence supports the findings. Sunnyside Valley Irrigation Dist. v. Dickie, 111 Wn. App. 209, 214, 43 P.3d 1277 (2002). We do not review the trial court's credibility determinations, nor do we weigh conflicting evidence. Rich, 80 Wn. App. at 259.

1. September 26, 2013 Temporary Order

Estes claims that the trial court erred in designating LaVoi as the primary residential parent of the child and restricting her contact. She argues that she did not receive sufficient notice because she believed the hearing scheduled for that day was only a pretrial hearing and not one at which her status as primary residential parent would be determined. Because any temporary parenting plans entered pretrial are terminated by the final parenting plan, Estes's challenge to the September 26, 2013 order is moot. See RCW 26.09.060(10)(c).

2. November 4, 2013 Final Orders

Estes claims that the trial court erred in determining a residential schedule without considering the required statutory factors in RCW 26.09.187(3)(a).[1] But it is clear from the court's lengthy and detailed findings of fact that the court did

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[1] RCW 26.09.187(3)(a) requires the trial court to consider the following factors when determining residential provisions:

> (i) The relative strength, nature, and stability of the child's relationship with each parent;
>
> (ii) The agreements of the parties, provided they were entered into knowingly and voluntarily;
>
> (iii) Each parent's past and potential for future performance of parenting functions ... including whether a parent has taken greater responsibility for performing parenting functions relating to the daily needs of the child;
>
> (iv) The emotional needs and developmental level of the child;
>
> (v) The child's relationship with siblings and with other significant adults, as well as the child's involvement with his or her physical surroundings, school, or other significant activities;
>
> (vi) The wishes of the parents and the wishes of a child who is sufficiently mature to express reasoned and independent preferences as to his or her residential schedule; and
>
> (vii) Each parent's employment schedule, and shall make accommodations consistent with those schedules.

consider the required factors in determining that LaVoi should be L.L.'s primary residential parent:

a. Jonathan LaVoi has a strong relationship with [LL.]. Although Kyla Estes' failure to allow regular and consistent contact between Jonathan LaVoi and the child may have delayed their ability to have such a relationship, significant testimony established that Jonathan LaVoi and child have a strong, stable, bonded relationship at this time.

b. Ms. Estes has a loving relationship with her son; however she has no acknowledgment that her actions potentially have had a detrimental impact on her child.

c. The parties do not have any agreements regarding parenting of the child.

d. Jonathan LaVoi is capable of and has demonstrated his ability to perform the parenting functions.

e. Kyla Estes has demonstrated an inability to perform certain key parenting functions, such as assisting the child to develop and maintain appropriate interpersonal relationships, and exercising appropriate judgment regarding the child's welfare. The court does not find that she would physically harm her child but rather that she fails to recognize that her actions have potentially harmed her child emotionally.

f. The emotional needs and development level of the child requires that the child be placed in the primary care of Jonathan LaVoi, who has demonstrated that he is capable of providing a loving and stable environment for the child.

g. The emotional needs and developmental level of the child requires that Kyla Estes engage in the court ordered psychological evaluation. Lisa Barton, the guardian ad litem, recommended the psychological evaluation because without it, the court would be unable to determine whether Kyla Estes has mental health issues and whether she would continue to create conflict.

h. The emotional needs and developmental level of the child requires that Kyla Estes have supervised visitation pending the psychological evaluation and the successful completion of its recommendations to ensure that Kyla Estes does not continue to interfere with the child's emotional needs, such as a regular and consistent relationship with Jonathan LaVoi, and the absence of conflict.

i. Jonathan LaVoi has surrounded himself with a suitable, stable and appropriate support system of friends and family with whom the child is developing positive relationships.

j. The court is concerned about the child's relationship with the maternal grandparents and uncle based on their individual behavior and their assistance of Kyla Estes's willful and blatant violation of court orders, as well as their participation, engagement and initiation of hostile behavior and conflict.

k. Jonathan LaVoi has demonstrated a desire and ability to have a positive, consistent, stable relationship with the child. The court finds credible Jonathan LaVoi's testimony that he wants the child to have a relationship with the mother. The court finds credible Jonathan LaVoi's testimony that he will not interfere with or violate court orders regarding Kyla Estes' visitation with the child. Jonathan LaVoi has not engaged in any behavior throughout the litigation which indicates otherwise.

l. The court finds that Kyla Estes has demonstrated no desire or ability to ensure that Jonathan LaVoi and child have a consistent, positive, stable relationship.
    1) Kyla Estes has engaged in the abusive use of conflict.
    2) Kyla Estes has violated multiple court orders, including multiple missed visits and a blatant violation of the court's September 26, 2013 transference of custody order for seven days.
    3) The court does not find Kyla Estes' testimony that she will not violate future orders credible.

m. The only evidence the court has regarding either party's employment is Jonathan LaVoi's testimony about his employment. Jonathan LaVoi has a full time job, but has flexible hours regarding when he goes into work and leaves work each day.

n. Kyla Estes testified that she has a business license and a job that allows her to be at home with the child during the day, however, she provided no evidence or testimony as to what her job is, how

> much it pays, and whether it is sufficient to support the child financially. The court finds that based on Kyla Estes' claims of "poverty," she is voluntarily unemployed.

CP at 1169-70. Estes does not challenge any of the findings of fact and we therefore treat them as verities on appeal. See In re Marriage of Brewer, 137 Wn.2d 756, 766, 976 P.2d 102 (1999).

Estes claims that the trial court erred in restricting her contact with LL. based on her abusive use of conflict and withholding of LL. from LaVoi. She argues that the trial court was instead obligated to restrict LaVoi's contact with L.L. because LaVoi engaged in acts of domestic violence against her. A trial court may limit a parent's residential time with a child if the parent engages in the "abusive use of conflict by the parent which creates the danger of serious damage to the child's psychological development" or "has withheld from the other parent access to the child for a protracted period without good cause." RCW 26.09.191(3)(e)(f). A trial court must limit a parent's residential time with a child if the parent has a history of acts of domestic violence. RCW 26.09.191(2)(iii).

Again, the trial court made thorough and comprehensive findings regarding Estes's abusive use of conflict, based on Estes's frequent violation of court orders regarding visitation, false allegations of abuse and neglect, and harassment of LaVoi, his friends, his attorneys and the GAL. The trial court also found that Estes had allowed LL. to witness her behavior and that it had a detrimental effect on his well-being. Again, Estes does not challenge these findings and we treat them as verities. The trial court also found that Estes's claims of domestic violence were

not credible. The unchallenged findings support the trial court's limitation of Estes's contact with L.L.

Estes argues that the trial court erred in limiting her visitation with LL. to eight hours per week. The basis for Estes's claim appears to be that, following the entry of the trial court's order, she has had unspecified difficulties scheduling visits with LaVoi and the court-appointed visitation supervisor. This does not establish that the trial court abused its discretion.

Estes argues that the trial court erred in allowing LaVoi to take LL. on an out-of-state vacation without notifying her in advance as required by the parenting plan. Because the vacation is alleged to have taken place after the trial, this claim concerns matters outside the record. We consider only evidence that was before the trial court at the time a decision was made. See RAP 9.1; 9.11. While we recognize that Estes has filed her briefs pro se, pro se litigants are held to the same standards as attorneys and must comply with all procedural rules on appeal. In re Marriage of Olson, 69 Wn. App. 621, 626, 850 P.2d 527 (1993).

Estes contends the trial court erred in finding that she refused to undergo the court-ordered psychological evaluation. She claims that she has had multiple psychological evaluations and provided documentation to the trial court. Estes does not cite to the trial court record but instead urges this court to consider two documents she has attached to her brief. Because it is clear from the dates that these documents were created after the trial, they were not part of the trial court record and we will not consider them.

Estes argues the trial court erred in failing to require LaVoi to establish paternity. But the trial court found that LaVoi and Estes both signed an acknowledgment of paternity alleging that LaVoi was the father of L.L. Estes does not challenge this finding. An acknowledgement of paternity "is equivalent to an adjudication of parentage of a child and confers upon the acknowledged father all the rights and duties of a parent." RCW 26.26.320(1).

Estes claims that the trial court erred in permitting LaVoi to question her regarding bar grievances she had filed against his attorneys. She contends the trial court should have sustained her objection to the question as irrelevant. But Estes's actions were relevant to whether she had engaged in abusive use of conflict. Estes also claims the trial court erred in permitting LaVoi to "berate and victimize" her during closing argument. Br. of App. at 11. Because this was a bench trial, we presume that the trial court based its decision solely on admissible evidence. Crosetto v. Crosetto, 65 Wn.2d 366, 368, 397 P.2d 418 (1964).

Estes challenges the trial court's award of attorney fees to LaVoi, arguing that the trial court did not adequately consider her ability to pay. We review a trial court's decision on attorney fees for abuse of discretion. In re Marriage of Burke, 96 Wn. App. 474, 476, 980 P.2d 265 (1999). Here, the trial court awarded LaVoi $10,000 in attorney fees due to Estes's intransigence and filing of frivolous motions. The trial court made detailed findings in support of its award:

> The court finds that a judgment should be entered against Kyla Estes in favor of Jonathan LaVoi in the amount of $10,000.00 for attorney fees. The court finds that Kyla Estes' intransigence and filing of

frivolous motions has unreasonably and unnecessarily increased Jonathan LaVoi's attorney fees. The court finds it is reasonable for Kyla Estes to be responsible for a portion of Jonathan LaVoi's legal fees.

1. As of October 14, 2013, Jonathan LaVoi had incurred $57,246.66 in attorney fees. It is reasonable to find that those fees increased during the week of October 14, 2013 for trial preparation, and during the week of October 21, 2013, during the trial.
2. Due to Kyla Estes's intransigence and blatant violation of court orders, Jonathan LaVoi had to file two motions for contempt. Both motions for contempt were granted. Both orders of contempt were upheld on revision.
3. Kyla Estes filed at least two frivolous motions – her motion to vacate pursuant to CR 60 and her motion to remove the guardian ad litem. Both motions were denied. As a result of her frivolous motions, Kyla Estes was found to have violated CR 11. The denial of her motions was upheld on revision.
4. Kyla Estes also sought a trial de novo and refused to agree to dismiss it, even after being notified by two judicial officers that it was inappropriate. As a result, Jonathan LaVoi incurred attorney fees in moving to have the trial de novo dismissed.
5. Jonathan LaVoi incurred substantial attorney fees between September 26, 2013, when the court granted him temporary custody, and October 3, 2013, when Kyla Estes returned the child. As a result of Kyla Estes' custodial interference, two additional hearings had to be held. Had Kyla Estes returned the child on the 26th of September, these two hearings would have been unnecessary.
6. Jonathan LaVoi has been awarded $3,000.00 in attorney fees and a $200 civil penalty in the orders for contempt. He was awarded $1,500.00 in attorney fees on the court's motion in finding that Kyla Estes had violated CR 11. He was awarded $500.00 in the court's order dismissing Kyla Estes' request for a trial de novo. Kyla Estes has not paid on any of the judgments. The award of fees Jonathan LaVoi has already received does not compensate him for the fees he has incurred as a result of Kyla Estes' frivolous motions and intransigence.
7. The court finds that the additional award of $10,000.00 in attorney fees to Jonathan LaVoi is reasonable.

CP at 1181-82. Estes does not challenge these findings. Furthermore, if a trial court awards fees on the basis of intransigence, the financial ability of the party to pay the fees is not relevant. In re Marriage of Mattson, 95 Wn. App. 592, 604, 976 P.2d 157 (1999).

Estes also contends the trial court erred in ordering her to pay child support, claiming she does not have the financial resources to do so. We review a child support order for abuse of discretion. In re Marriage of Bell, 101 Wn. App. 366, 371-72, 4 P.3d 849 (2000). "This court will not substitute its own judgment for that of the trial court where the record shows that the trial court considered all relevant factors and the award is not unreasonable under the circumstances." In re Marriage of Fiorito, 112 Wn. App. 657, 664, 50 P.3d 298 (2002). A court will impute income to a parent for purposes of child support when the parent is voluntarily unemployed or underemployed. RCW 26.19.071 (6). "The court shall determine whether the parent is voluntarily underemployed or voluntarily unemployed based upon that parent's work history, education, health, and age, or any other relevant factors." RCW 26.19.071(6).

The trial court found that Estes had "failed to find meaningful and gainful employment in order to support herself and the child" and that she had not complied with a previous order to search for at least ten jobs a week. The trial court found that there was "no evidence that she has actively sought reasonable employment, or that she is employed." CP at1180. The trial court found that Estes was voluntarily unemployed. Though Estes challenges this finding, Estes

does not identify any evidence in the record from which the trial court could have found otherwise. And though Estes claims that the trial court refused to consider financial documentation that she provided, she provides no citation to the record in support of this claim. Estes fails to demonstrate any abuse of discretion in the child support order.

Finally, Estes claims the trial court should not have required her to pay the cost of visit supervision, citing her inability to pay. But Estes does not challenge the trial court's finding that supervision was warranted. Moreover, the trial court's finding that Estes was refusing to look for employment was supported by the evidence. As a result, Estes does not demonstrate that the trial court abused its discretion in obligating her to pay the cost of visit supervision.

We affirm all of the challenged orders.

Spearman, C.J.

WE CONCUR:

Trickey, J.

APPENDIX

IB

RICHARD D. JOHNSON,
Court Administrator / Clerk

The Court of Appeals
of the
State of Washington

DIVISION I
One Union Square
600 University Street
Seattle, WA
98101-4170
(206) 464-7750
TDD: (206) 587-5505

November 3, 2014

Kyla Marie Estes
22045 SE 271ST PL
MAPLE VALLEY, WA, 98038 7464

Jonathan Marc Lavoi
4498 SE BAKKAN CT
PORT ORCHARD, WA, 98366

CASE #: 70921-6-1
In re L.L., Kyla Estes, App v. Jonathon Lavoi, Respondent

Counsel:

Enclosed please find a copy of the Order Denying Motion for Reconsideration entered in the above case.

Within 30 days after the order is filed, the opinion of the Court of Appeals will become final unless, in accordance with RAP 13.4, counsel files a petition for review in this court. The content of a petition should contain a "direct and concise statement of the reason why review should be accepted under one or more of the tests established in [RAP 13.4](b), with argument." RAP 13.4(c)(7).

In the event a petition for review is filed, opposing counsel may file with the Clerk of the Supreme Court an answer to the petition within 30 days after the petition is served.

Sincerely,

Richard D. johnson
Court Administrator/Clerk

ssd

Enclosure

c: The Reporter of Decisions

IN THE COURT O+F APPEALS OF THE STATE OF WASHINGTON

IN RE PARENTAGE AND SUPPORT OF: L.L. Minor child. KYLA ESTES, Appellant, v. JONATHAN LaVOI, Respondent.	)	No. 70921-6-1 ORDER DENYING APPELLANT'S MOTION FOR RECONSIDERATION

Kyla Estes filed a motion for reconsideration of the opinion filed in the above matter on September 22, 2014. A majority of the panel has determined this motion should be denied.

Now, therefore, it is hereby

ORDERED that the motion for reconsideration is denied.

DATED this 3... ay of Novtut/{x!i . 4.

Presiding Judge

EXHIBIT A

FILED FAM02
KING COUNTY, WASHINGTON

NOV 2 8 2012

SUPERIOR COURT CLERK
BY CRAIG MORRISON
DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR KING COUNTY

Regarding the Matter of: KL[illegible], Petitioner, and Jo[illegible]H[illegible]A.Y[illegible] Respondent.	12-3-0[illegible]-5[illegible] KNT ORDER CONTINUING HEARING to: 12/10/2012 9 AM BEF CLERK'S ACTION REQUIRED (No Mandatory Form Available)

Upon agreement of the parties, or X for good cause found by the court, Petitioner has proof of service [illegible] matter continued to Respondent and his newly hired attorney to file Response

IT IS HEREBY ORDERED:

1. The hearing scheduled for 11/26/2012 is continued to 12/10/2012, at 9 am/~~pm~~. The location of the hearing remains the same.
2. The moving party's documents shall be delivered to (or served on, if required by law or court rules) the other party not later than 12:00noon on done. The responding party's documents shall be delivered to the moving party not later than 12:00noon on 12/4/2012. Reply documents, if any are provided by the moving party, shall be delivered not later than 12:00 noon on 12/6/2012.
3. Each party shall file the originals of their documents with the Clerk of the Court, **SEA cases:** Room W-609, 516 Third Avenue, Seattle, WA 98104.

Between now and next hearing Johnathon Lavar to have NO contact with Kyla or child. BEF

KNT cases: Room 2-C, 401 Fourth Avenue North, Kent, WA 98032-4429.

AND deliver an additional set of Court's Working Papers to

SEA cases: Room W-292 **KNT** cases: Room 1222

not later than 12:00 noon, two court days before the hearing. The documents to the moving party may be delivered, or mailed by a third party, at (address:)_____

_____ - *If* papers are mailed, rather *than delivered,* they must be mailed at least 3 additional days prior to the deadlines listed above.

4. No oral testimony will be allowed at the hearing. All statements from witnesses must be clearly printed or typed, and must be in affidavit form or sworn under penalty *of* perjury, with the signature block of *the* declarant *containing the* date and place where declaratfon was signed.

5. The moving party must confirm this hearing by calling 206-296-9340 for SE A cases or *206-205-2550* for KNT cases 3 court days *before* the *hearing betwee n* 2:30-4:30 p.m. or 2 court days before the hearing, between 8:30am-12:00 noon.

6. Current orders remain in !3ffect, pending the new hearing date.

7. Other: Attorney Covin appeared for Respondent for Respondent's Motion filed 11/26/2012

Judge/Commissioner

Approved for Entry: or
Approved as to Form:

Petitioner or Petitioner's Attorney

WSBA No. _____

_____Approved for Entry: or
_____Approved as to Form;

Respondent or Respondent's Attorney

WSBA No. _____

EXHIBIT

B

(FACTS & FINDINGS AND CONCLUSION OF LAW & FINAL PARENTING PLAN)

Superior Court of Washington
County of KING

In re the Parenting and Support of: Lance LaVoi **Child,** Kyla Estes **Petitioner,** **And** Jonathan M. LaVoi **Respondent**	**No.** 12-3-07534-8 KNT **Findings of Fact and Conclusions of Law on Petition for Residential Schedule/Parenting Plan or Child Support (FNFCL)**

I. Basis for Findings

The findings are based upon a trial held on October 21 23, 2013. The following people attended:

Kyla Estes, Mother/Petitioner
Jonathan LaVoi, Father/Respondent
Sara L. Corvin, Father's Attorney
Timothy G. Edwards, Father's Attorney
Lisa Barton, Guardian ad Litem

The following witnesses testified on behalf of Kyla Estes:

Kyla Estes
Ronnie Estes
Teresa Estes
Larry Estes
Sarah Hetrick

The following witnesses testified on behalf of Jonathan LaVoi:

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Jonathan LaVoi
Alyse Yeaman
Judy LaVoi
Beth Donnely
Lori Jensen, Protective Services Investigator, State of Washington
Christine Hanson, Community Family Services Executive Director and Visitation Supervisor
Deputy Joshua Miller, Kitsap County Sheriff's Department
Detective Luke Hillman, King County Sheriff's Department, Child Find Unit

II. Findings of Fact

Upon the basis of the court record, the court ***Finds***:

2.1 Notice and Basis of Personal Jurisdiction Over the Parties

All parties necessary to adjudicate the issues were served with a copy of the summons and petition and are subject to the jurisdiction of this court. The facts below establish personal jurisdiction over the parties:

Kyla Estes and Jonathan LaVoi engaged in sexual intercourse in the state of Washington as a result of which the child was conceived.

Jonathan LaVoi was personally served with summons and petition within this state.

Jonathan LaVoi resided with the child in this state.

The child resides in this state as a result of the acts or directives of respondent.

2.2 Period for Challenge to the Acknowledgement or Denial of Paternity

Jonathan LaVoi, the child's acknowledged father and Kyla Estes, the child's mother signed the Acknowledgment of Paternity, which was filed with the Washington State Registrar of Vital Statistics on October 1, 2013.

This proceeding was begun more than 60 days from the effective date of the Acknowledgement of Paternity and less than two years has passed since the date the acknowledgment was filed with the Washington State Registrar of Vital Statistics, and petitioner specifically alleges:

a) No man other than the acknowledged father is Jonathan LaVoi of the child; and
b) No proceeding to adjudicate the parentage of the child is currently pending; and
c) No other man is an adjudicated father of the child; and
d) Notice of this proceeding has been provided to all other men who have claimed parentage of the child.

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2.3 The Child Affected in This Action

This action affects Lance LaVoi, date of birth August 28, 2012.

2.4 Basis for Jurisdiction Over the Child

This court has jurisdiction over the child for the reasons below.

This state is the home state of the child because the child is less than six months old and has lived in Washington with a parent or a person acting as parent since birth.

Any absences from Washington have only been temporary.

No other state has jurisdiction.

2.5 Child Support

The child support order entered by this court on this date requires Kyla Estes to pay $296.20 per month for the support of the child. The findings entered in the Order of Child Support entered on this date are incorporated herein by this reference as part of these findings.

2.6 Residential Schedule/Parenting Plan

The residential schedule/parenting plan signed by the court on this date is approved and incorporated as part of these findings.

The court makes the following findings:

1. The parenting plan entered on this date is in the best interests of Lance LaVoi.

2. Restrictions in the parenting plan against Kyla Estes are necessary and in the best interest of the child.

    a. Kyla Estes has engaged in the abusive use of conflict throughout the duration of Lance LaVoi's life, including but not limited to during these legal proceedings, which creates the danger of serious damage to the child's psychological development.

    b. Kyla Estes has withheld from Jonathan LaVoi access to Lance LaVoi for a protracted period of time without good cause.

    c. Supervised visits between Kyla Estes and child are necessary to ensure the child is returned to Jonathan LaVoi after each visit, and to ensure the child is not withheld from Jonathan LaVoi for any period of time again.

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d. Kyla Estes' participation in a psychological evaluation, as well as completion of any and all treatment recommendations, is necessary to determine the basis of Kyla Estes' escalating conflict in this case. It is necessary to treat potential underlying causes of this conflict, if possible.

3. In considering the statutory factors under RCW 26.09.187(3)(a), it is in the best interest of Lance LaVoi for Jonathan LaVoi to be his primary parent.

a. Jonathan LaVoi has a strong relationship with Lance LaVoi. Although Kyla Estes' failure to allow regular and consistent contact between Jonathan LaVoi and the child may have delayed their ability to have such a relationship, significant testimony established that Jonathan LaVoi and child have a strong, stable, bonded relationship at this time.

b. Ms. Estes has a loving relationship with her son; however she has no acknowledgment that her actions potentially have had a detrimental impact on her child.

c. The parties do not have any agreements regarding parenting of the child.

d. Jonathan LaVoi is capable of and has demonstrated his ability to perform the parenting functions.

e. Kyla Estes has demonstrated an inability to perform certain key parenting functions, such as assisting the child to develop and maintain appropriate interpersonal relationships, and exercising appropriate judgment regarding the child's welfare. The court does not find that she would physically harm her child but rather she fails to recognize that her actions have potentially harmed her child emotionally.

f. The emotional needs and developmental level of the child requires that the child be placed in the primary care of Jonathan LaVoi, who has demonstrated that he is capable of providing a loving and stable environment for the child.

g. The emotional needs and developmental level of the child requires that Kyla Estes engage in the court ordered psychological evaluation. Lisa Barton, the guardian ad litem, recommended the psychological evaluation because without it, the court would be unable to determine whether Kyla Estes has mental health issues and whether she would continue to create conflict.

h. The emotional needs and developmental level of the child requires that Kyla Estes have supervised visitation pending the psychological evaluation and the successful completion of its recommendations to ensure that Kyla Estes does not continue to interfere with the child's emotional needs, such as a regular and consistent relationship with Jonathan LaVoi, and the absence of conflict.

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i. Jonathan LaVoi has surrounded himself with a suitable, stable, and appropriate support system of friends and family with whom the child is developing positive relationships.

j. The court is concerned about the child's relationship with the maternal grandparents and uncle based on their individual behavior and their assistance of Kyla Estes's willful and blatant violation of court orders, as well as their participation, engagement, and initiation of hostile behavior and conflict.

k. Jonathan LaVoi has demonstrated a desire and ability to have a positive, consistent, stable relationship with the child. The court finds credible Jonathan LaVoi's testimony that he wants the child to have a relationship with the mother. The court finds credible Jonathan LaVoi's testimony that he will not interfere with or violate court orders regarding Kyla Estes' visitation with the child. Jonathan LaVoi has not engaged in any behavior throughout the litigation which indicates otherwise.

l. The court finds that Kyla Estes has demonstrated no desire or ability to ensure that Jonathan LaVoi and child have a consistent, positive, stable relationship.

1) Kyla Estes has engaged in the abusive use of conflict.

2) Kyla Estes has violated multiple court orders, including multiple missed visits and a blatant violation of the court's September 26, 2013 transference of custody order for seven days.

3) The court does not find Kyla Estes' testimony that she will not violate future orders credible.

m. The only evidence the court has regarding either party's employment is Jonathan LaVoi's testimony about his employment. Jonathan LaVoi has a full time job, but has flexible hours regarding when he goes into work and leaves work each day.

n. Kyla Estes testified that she has a business license and a job that allows her to be at home with the child during the day, however, she provided no evidence or testimony as to what her job is, how much it pays, and whether it is sufficient to support the child financially. The court finds that based on Kyla Estes' claims of "poverty," she is voluntarily unemployed.

4. On May 8, 2013, Kyla Estes was ordered to undergo a psychological evaluation with a psychologist approved by the guardian ad litem, Lisa Barton that included collateral contacts.

a. To date, Lisa Barton has approved four psychologists.

b. To date, Kyla Estes has failed to participate in a psychological evaluation.[1]

[1] Exhibit 55 was not admitted because Ms. Estes could not lay the proper foundation for its admission.

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c. On July 31, 2013 Kyla Estes was found in contempt for failing to participate in the court-ordered psychological evaluation. She was ordered to schedule the evaluation within seven days.

d. On August 28, 2013, the court found Kyla Estes had failed to purge the contempt and remained in contempt for failing to participate in the psychological evaluation.

e. A psychological evaluation of Kyla Estes remains necessary, and in the best interest of the child, to determine whether Kyla Estes has an underlying psychological and mental health issue that has caused her to create such extreme conflict in this case.

f. The court questions the credibility of Kyla Estes' denial of mental health issues.

g. Jonathan LaVoi testified that Kyla Estes disclosed at an appointment with the child's pediatrician that she was bipolar. The child's medical records submitted into evidence support this disclosure as part of Kyla Estes's medical history.

h. Notwithstanding any prior disclosure of psychological diagnoses, the mother's increasingly erratic and conflict-filled behavior, demonstrate the need for a complete and thorough psychological evaluation.

5. Supervised visitation between Kyla Estes and child by a professional supervisor is necessary to ensure Kyla Estes does not have the opportunity to withhold the child and interfere with Jonathan LaVoi's parenting rights.

a. On July 6, 2013, Kyla Estes failed to bring the child to the court-ordered visitation with Jonathan LaVoi. As a result, Jonathan LaVoi did not have his visit that weekend.

b. On July 13, 2013, Kyla Estes failed to bring the child to the court-ordered visitation with Jonathan LaVoi. As a result, Jonathan LaVoi did not have his visitation that weekend. Kyla Estes was found in contempt, and ordered to allow makeup time.

c. On July 20, 2013, Kyla Estes failed to bring the child to the court-ordered visitation with Jonathan LaVoi. As a result, Jonathan LaVoi did not have his visit that weekend. Kyla Estes was found in contempt and ordered to allow make up time.

d. On July 27, 2013, Kyla Estes failed to bring the child to the court- ordered visitation with Jonathan LaVoi. As a result, Jonathan LaVoi did not have his visitation that weekend. Kyla Estes was found in contempt and ordered to allow make up time.

However, even if the court had admitted it, it did not meet the court requirements and was insufficient.

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e. On August 10, 2013, Kyla Estes failed to bring the child to the court-ordered visitation with Jonathan LaVoi. Again, as a result, Jonathan LaVoi did not have his visitation that weekend. Kyla Estes was found in contempt and ordered to allow make up time.

f. When Kyla Estes would appear with the child for exchanges, she often created conflict by violating Community Family Services' policies. Kyla Estes and her mother refused to cooperate and follow the policies after being counseled to do so by Christine Hanson of Community Family Services. Ms. Hanson had never experienced this level of conflict in all her years supervising visits and exchanges. The court found Ms Hanson to be a credible witness.

g. The court finds Kyla Estes' allegations against Ms. Hanson to be false and lacking credibility. Kyla Estes' claims that she "fears" Ms. Hanson. Any conflict in the relationship between Kyla Estes and Ms. Hanson has been created by Kyla Estes and Teresa Estes.

h. Based on the extreme conflict created by Kyla Estes, her involvement of the child in this conflict, and her willingness to hide the child from the court, the police, and Jonathan LaVoi, the court has serious concerns that Ms. Estes would not return the child if she had unsupervised visitation.

6. On September 20, 2013, Kyla Estes refused to allow Jonathan LaVoi to have the child for his weekend visit.

a. Credible testimony was presented by Christine Hanson of Community Family Services, the court-ordered supervisor of all child exchanges, that both parties arrived timely to the exchange location. Kyla Estes refused to allow Jonathan LaVoi to have the child, in the opinion of Christine Hanson, because Jonathan LaVoi had brought a third party with him. Kyla Estes' mother, Teresa Estes, screamed profanities at Jonathan LaVoi, and stood in the way of his vehicle to prevent him from leaving the parking lot. Kyla Estes' mother violated Community Family Services' guidelines by taking video and photographs of Jonathan LaVoi and his passenger.

b. Credible testimony was presented by Christine Hanson that Kyla Estes not only allowed her mother to engage in this behavior, but also that Kyla Estes removed the child from the vehicle and allowed the child to witness Teresa Estes' behavior. Christine Hanson testified that even though it was raining heavily, Kyla Estes had the child outside, only partially covered by a blanket.

c. Credible testimony from Jonathan LaVoi corroborated the testimony of Christine Hanson.

d. As a result of Kyla Estes' and Teresa Estes' actions, Christine Hanson advised John Lavoi to leave. He, again, missed his scheduled weekend visit.

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e. The court finds that Kyla Estes was in contempt of the May 8, 2013 temporary order determining Jonathan LaVoi's residential schedule, and in contempt of both the July 31, 2013 and August 28, 2013 contempt orders requiring Kyla Estes to allow makeup time with Jonathan LaVoi.

7. On September 26, 2013, the court entered an order, in the presence of Kyla Estes and her father Ronnie Estes, giving Jonathan LaVoi immediate and sole care, custody, and control of Lance LaVoi.

a. Kyla Estes was ordered to bring Lance LaVoi to the courthouse by 4:00 p.m. to transfer custody to Jonathan LaVoi. She failed to do so.

b. On September 27, 2013, after Kyla Estes failed to return with the child, a writ of habeas corpus was issued for the return of Lance LaVoi.

c. Detective Luke Hillman of the Child Find Unit of the King County Sheriff's Department testified that he attempted to locate Lance between September 27, 2013 until Kyla Estes' family agreed to relinquish Lance On October 3, 2013.

d. Detective Hillman testified that generally in custody cases such as this one, it takes him approximately 2-3 days to locate a child. The seven days it took him to locate the child was more than double the usual time it takes him to locate a child in similar cases.

e. Detective Hillman testified that he contacted Teresa Estes on September 27, 2013 and informed her he was looking for Kyla Estes. Teresa Estes told him she had dropped Kyla Estes and the child off at a cemetery, in the rain. Even though she was aware Detective Hillman was searching for Kyla Estes and Lance LaVoi, at no time during the week did Teresa Estes contact Detective Hillman to inform him of their location. Not only was Teresa Estes expressly aware Detective Hillman was searching for Kyla Estes and the child, but also, Kyla Estes testified that for a portion of the week she hid the child, she and the child were residing with Teresa and Ronnie Estes.

f. Detective Hillman testified that he contacted a telephone number that he reasonably believed to be Kyla Estes' telephone number and sent her numerous text messages. He did not receive any response from Kyla Estes.

g. Only after informing Teresa Estes that criminal charges were to be filed against Kyla Estes on October 3, 2013 was Detective Hillman then able to locate the child and have him returned to his custody at the Kent Regional Justice Center, seven days after he started searching for the child and Kyla Estes.

h. The court finds Detective Hillman's testimony credible.

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i. The court finds Kyla Estes is in contempt of the September 26, 2013 order transferring custody to Jonathan LaVoi by willfully, and in bad faith, withholding Lance LaVoi from September 26, 2013 until October 3, 3013.

j. Kyla Estes showed absolutely no regard or understanding of the magnitude of her actions in actively hiding the child for a period of one week. During this period of time, Jonathan LaVoi had no idea where his son was or if he was safe. The last information he had was that his child had been dropped off at a cemetery in the pouring rain. Jonathan LaVoi testified that he was unable to function at work due to his distress regarding the situation. The court finds Lavoi's testimony credible.

8. Kyla Estes failed to present any evidence to show that she would return the child or allow Jonathan LaVoi to have residential time with the child under any court order if given primary custody, or unsupervised visits with the child.

a. The court finds Kyla Estes' testimony that she "swears" she would hand Lance over to lack credibility based on Kyla Estes' prior behavior and her inability to recognize the seriousness of her actions.

b. The court finds Kyla Estes' testimony that she has "never shut the door" to allow Jonathan LaVoi in the child's life lacks credibility based on her prior behavior and her inability to recognize the seriousness of her actions.

c. Kyla Estes demonstrated no remorse when she intentionally, and in bad faith, withheld the child from court-ordered visits with Jonathan LaVoi.

d. Through her testimony and questioning at trial, the court observed that Kyla Estes was clearly unapologetic for her failure to follow court orders and court directives on multiple occasions. She seemed oblivious to the emotional strain and distress she caused Jonathan LaVoi by both withholding the child for visits, and by hiding the child from him from September 26 – October 3, 2013.

e. Jonathan LaVoi testified he has no trust in Kyla Estes's ability to follow court orders, based on her multiple violations of those orders and her inability to acknowledge that her actions were not only wrong, but also had an emotional effect on him and potentially Lance.

9. The court finds credible Jonathan LaVoi's testimony that in the months between the child's birth and the initial court orders of December 20, 2012, Kyla Estes unreasonably refused to allow Jonathan LaVoi visitation with the child.

a. Jonathan LaVoi regularly requested visitation with the child from Kyla Estes. On the occasion that Kyla Estes agreed, Kyla Estes would either arrive late or cut the visit short, or cancel the visit altogether. More often than not, Kyla Estes refused to allow Jonathan LaVoi visitation with the child for no justifiable reason.

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b. Jonathan LaVoi testified that would be excited for his weekly visits with his son only to find himself continually disappointed by Kyla Estes' actions in canceling the visits and interfering with his relationship with his son.

c. Alyse Yeaman witnessed firsthand the disappointment and emotional toll this took on Jonathan LaVoi, who would understandably become upset upon Kyla Estes' cancellation or shortening of a visit. The court found Alyse Yearman to be a credible witness

10. Kyla Estes has engaged in the abusive use of conflict since the birth of the child.

a. Kyla Estes' abusive use of conflict is most evident in her multiple violations of court orders, especially as it pertains to Jonathan LaVoi's visitation. (See 2.6.5-2.6.7 above)

b. On a number of occasions, Kyla Estes induced third parties to contact CPS based on false allegations of child abuse or neglect.

1) In October 2012, Kyla Estes falsely claimed abuse and neglect by Jonathan LaVoi to a hospital social worker at Mary Bridge Hospital. Lori Jensen of Child Protective Services investigated the claim. Ms. Jensen found Kyla Estes not to be credible. She found Jonathan LaVoi to be credible. For example, Kyla Estes claimed Jonathan LaVoi used drugs, including steroids. Ms. Jensen had Jonathan LaVoi immediately submit to a random UA. He did so the day requested, without advanced notice, and his test was negative for all substances. Ultimately, Ms. Jensen determined that the allegations were unfounded.

2) In March 2013, Kyla Estes claimed the child had been injured in Jonathan LaVoi's care during a supervised visit. The doctor's note, dated March 6, 2013, stated that the doctor did not observe the injuries Kyla Estes claimed the child had. The doctor contacted CPS, and the allegation was not investigated.

3) On August 16, 2013, Jonathan LaVoi was contacted by CPS about non-specific allegations made against him. These allegations were not investigated. Jonathan LaVoi had not seen the child since June 30, 2013 due to Kyla Estes's multiple violations of the temporary parenting plan.

4) The court finds that the allegations of abuse and neglect by Jonathan LaVoi lack credibility, and amount to abusive use of conflict by Kyla Estes.

c. Kyle Estes has contacted the police to conduct unnecessary welfare checks.

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1) On August 16, 2013, Kyla Estes contacted the Kitsap County Sheriff's Department demanding a welfare check for Jonathan LaVoi's first visit since June 2013. Kyla Estes called three times, two of which occurred within 18 minutes of each other. She was unable to articulate a specific concern, and therefore the police did not conduct a welfare check.

2) Kyla Estes called again on August 17, 2013 demanding a welfare check. According to Deputy Joshua Miller, he was ordered to conduct the welfare check, notwithstanding the lack of articulated specific concern, in order to put an end to the repeated calls from Kyla Estes.

3) Deputy Miller conducted the welfare check and found nothing of concern with Jonathan LaVoi, his home, or the child. He contacted the child and saw no reason to be concerned with the child's welfare.

4) Deputy Miller contacted Kyla Estes afterwards. Kyla Estes asked Deputy Miller about what the child looked like, leading Deputy Miller to believe Kyla Estes was questioning whether the child he had observed was, in fact, Lance. He found the question to be odd.

5) The court finds Kyla Estes' repeated requests for welfare check constituted an abusive use of conflict.

6) Rather than decreasing, Kyla Estes' abusive use of conflict has escalated since entry of the May 8, 2013 temporary orders.

d. Kyla Estes has contacted the police at least eight times since February 2012 to make a report against Jonathan LaVoi or a friend of Jonathan LaVoi's, alleging harassment and threats. Jonathan LaVoi and the third parties have never been arrested or prosecuted. Lisa Barton did not find Kyla Estes' claim to the police to be credible. The court agrees that Kyla Estes' claims lack credibility and her repetitive police calls constitute an abusive use of conflict.

e. Kyla Estes and her mother and father filed at least six grievances against counsel for Jonathan LaVoi, Sara Corvin. Kyla Estes admitted to filing at least two, but denied filing the remaining grievances. The court finds her denial to lack credibility. The court further finds that by filing the multiple grievances against Sara L. Corvin with the Washington State Bar Association, Kyla Estes engaged in the abusive use of conflict.

f. Kyla Estes filed a bar complaint against the guardian ad litem. Ms. Estes attempted to have the guardian ad litem dismissed from the case by filing a motion claiming she was biased. Her motion was denied, as she failed to establish a prima facie case of bias. The court finds that by filing the grievance and the bar complaint with the Washington State Bar Association, Kyla Estes engaged in the abusive use of conflict.

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11. Kyla Estes has allowed the child to witness her abusive use of conflict and hostile behavior toward Jonathan LaVoi.

a. On September 29, 2012, Kyla Estes appeared at Jonathan LaVoi's residence unannounced at approximately 6:00 a.m. in the morning, with the child, and spent more than ten minutes ringing the doorbell, pounding on his door, and yelling at Jonathan LaVoi. Kyla Estes held the child in her arms. At times, Kyla Estes was flailing around, causing Jonathan LaVoi to be concerned about whether Estes would drop the one-month old child. During this incident, Kyla Estes repeatedly screamed about Alyse Yeaman, Jonathan LaVoi's then-girlfriend, referring to her as "bar whore." During this incident, Kyla Estes repeatedly screamed at Jonathan LaVoi to kiss his son goodbye, telling him he'd never see his son again.

b. Kyla Estes' mother, Teresa Estes, was present during this incident and did nothing to stop her daughter or protect her grandson. Instead, she contributed to the chaos by yelling at Jonathan LaVoi herself.

c. Jonathan LaVoi remained calm during the incident, repeatedly asking Ms. Estes to leave, to take the child to the car. Kyla Estes ultimately left after Jonathan LaVoi threatened to call the police.

d. The court finds Alyse Yeaman and Jonathan LaVoi's respective testimony regarding the incident to be credible. Teresa Estes' testimony that Mr. LaVoi was the aggressor is neither credible nor supported by other evidence in the record.

e. Deputy Miller contacted both parties and determined based, on the reports of the parties, Kyla Estes and Teresa Estes, that there was probable cause to believe that Kyla Estes had trespassed. He did not find probable cause that Mr. Lavoi committed an assault.

f. Although Jonathan LaVoi acknowledged having to "move" Kyla Estes in order to close his door, as she was blocking it with her foot, Deputy Miller testified that the use of reasonable force by a property owner to remove a trespasser is allowed under the law. Deputy Miller found Jonathan LaVoi to have acted reasonably under the circumstances, after asking Kyla Estes to leave multiple times.

12. The court finds that the extensive abusive use of conflict by Kyla Estes, if allowed to continue, will detrimentally affect the well-being of the child. The only way to ensure the child is not harmed by Kyla Estes' abusive use of conflict is through supervised visits and the completion of a psychological evaluation and follow up treatment.

13. The court is concerned with Ronnie Estes and Teresa Estes, who have also engaged in the abusive use of conflict to the detriment of the child. Currently, Kyla Estes resides with the maternal grandparents.

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a. The behavior and actions of Teresa Estes, the maternal grandmother, are of substantial and considerable concern to the court.

b. Teresa Estes sent harassing emails to Ms. Hanson of Community Family Services. She violated Community Family Services' guidelines on multiple occasions, and failed to change her behavior after being notified by Ms. Hanson about it.

c. Teresa Estes allowed the child to witness her abusive behavior toward Jonathan LaVoi on September 20, 2013.

d. Teresa Estes failed to cooperate with Detective Hillman's investigation of the whereabouts of the child. After Detective Hillman notified Teresa Estes that he was looking for Kyla Estes and Lance, she actively hid her daughter and failed to notify Detective Hillman of their whereabouts. She only agreed to bring Lance in after Detective Hillman informed her that he would be filing criminal charges against Kyla Estes.

e. The court finds Teresa Estes' testimony that Kyla Estes' failure to allow Jonathan LaVoi to have at least six of his visits, and her failure to bring the child to court pursuant to court order for seven days was a "mature" thing for her daughter to do very concerning. Clearly, Teresa Estes has the same disregard for the court's authority as her daughter.

f. The court finds that Ronnie Estes and Teresa Estes actively assisted their daughter in violating the court orders. This court finds that they knowingly harbored their daughter and grandson in violation of the September 26, 2013 court order, after being made aware of the court order's requirement and that Detective Hillman was actively searching for Kyla Estes and Lance.

g. Given Ronnie Estes and Teresa Estes' roles in the abusive use of conflict and harboring of Kyla Estes while Detective Hillman was searching for Kyla Estes and Lance, the court finds it would be inappropriate to allow them to supervise Kyla Estes' visits with Lance.

h. Ronnie Estes, the maternal grandfather, filed a bar complaint against counsel for Jonathan LaVoi: Sara Corvin and Timothy Edwards. His actions also resulted in an internal affairs investigation of Deputy Miller. The Kitsap County internal affairs investigation determined that Deputy Miller acted professionally in his September 2012 investigation and August 2013 welfare check.

14. Jonathan LaVoi complied with the court order for a substance abuse evaluation, which found that Jonathan LaVoi had no substance abuse issue.

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a. Kyla Estes had the opportunity to be a collateral contact, but refused to cooperate. There is no basis to require Jonathan LaVoi to redo the evaluation based on Kyla Estes' refusal to cooperate.

b. Evidence and testimony from Kyla Estes and her family that Jonathon Lavoi drank alcohol on a few occasions in 2011 does not undermine the substance abuse evaluation finding conducted by a state certified agency.

15. The court finds that Jonathan LaVoi is the only parent who can act in the child's best interest. He has and can provide the child with a stable, loving, developmentally appropriate environment and upbringing.

a. Lisa Barton, the GAL, testified that in her observations, Mr. Lavoi and Lance are bonded and she no concerns regarding Jonathan LaVoi's ability to parent Lance. He has not engaged in any abusive use of conflict.

b. Toward the end of visits, Ms. Hanson observed that the child did not want to leave his father at the end of Jonathan LaVoi's weekends, and would cling to him. Ms. Hanson would have to coax the child from Jonathan LaVoi in order to return him to Kyla Estes.

c. Alyse Yeaman testified that Lance and Jonathan LaVoi have a very loving relationship. She has no doubts or concerns as to his ability to parent. Lance has already appeared to be well cared for in Jonathan LaVoi's care. The court finds Alyse Yeaman's testimony credible.

d. Judy LaVoi, Jonathan LaVoi's mother and Lance's grandmother, has observed Jonathan LaVoi and Lance together. She is confident in his parenting. She has observed that her son is a good father, and that Lance is Mr. LaVoi's priority. She testified that Jonathan LaVoi has provided his son with stability and a consistent schedule.

e. Judy LaVoi has serious concerns about Kyla Estes' ability to provide Lance with a stable environment. Based on the hostile telephone calls she has received from Ronnie Estes, Teresa Estes, and Kyla Estes, she believes the Estes' home to operate under some level of dysfunction. In her interactions with the family, Kyla Estes has alleged that Jonathan LaVoi is married, has another child, and had moved to Minnesota. None of these allegations were true. She does not believe Ms. Estes is capable of telling the truth. The court finds Judy LaVoi's testimony was sincere and credible.

f. Beth Donnely has known Jonathan LaVoi for several years and described him as a dear and loyal friend. She testified that Jonathon comes to her for parenting advice in an effort to be best parent for Lance. Beth Donnely observed the emotional toll this case has taken on Jonathan LaVoi. She has witnessed firsthand that Lance wants to be with his father, that he is bonded to him. The court finds Beth Donnelly's testimony credible.

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16. The court finds significant concern with Kyla Estes' testimony regarding Lance. She offered no testimony to address the ramifications of her actions on Lance, with respect to missed visits, actively hiding him for a week, and allowing him to witness her abusive use of conflict.

17. The court agrees with the testimony of Lisa Barton, the GAL, that Kyla Estes' claims of domestic violence by Jonathan LaVoi against Kyla Estes are not credible.

18. The court further agrees with the testimony of the Lisa Barton that there is no evidence that has been presented by Kyla Estes or anyone else that Jonathan LaVoi has ever been abusive to Lance.

19. Kyla Estes has failed to find meaningful and gainful employment in order to support herself and the child. She violated the August 28, 2013 order requiring her to search for at least ten jobs a week. She presented no evidence that she has actively sought reasonable employment, or that she is employed. Kyla Estes is voluntarily unemployed. It is the obligation of Kyla Estes to obtain gainful and meaningful employment to pay for her psychological evaluation and supervised visits.

20. Jonathan LaVoi is gainfully employed by a contractor for the Department of Defense. He is capable of providing for the child's needs. He has taken steps to ensure the child is properly cared for while he is at work, enrolling the child in daycare. Given Kyla Estes' unemployment status, it is anticipated Kyla Estes will not contribute to the daycare expenses.

21. Jonathan LaVoi has incurred substantial attorney fees. A large portion of the legal fees he has incurred in this case are the result of Kyla Estes' inappropriate conduct and frivolous motions Kyla Estes has filed. He incurred at least $2,000.00 in paying for his own supervised visits, including incurring extra fees for visits Kyla Estes cancelled. He has paid for 100% of his share of the exchange supervisor fees, as well as at least $225 of Kyla Estes' share when she refused to make payment. He has been ordered to pay 70% of the guardian ad litem's retainer and fees. Kyla Estes has paid none of her share of fees since payment of her initial retainer. He also has significant debt of his own which he is obligated to pay. Given the expenses Jonathan LaVoi has paid for, the court finds it would be unreasonable to require him to pay for any of Kyla Estes's psychological evaluation and supervised visitation.

22. It is appropriate to require Kyla Estes to pay 100% of any fees associated with her psychological evaluation and supervised visits.

2.7 Reimbursement

Does not apply.

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2.8 Continuing Restraining Order

A continuing restraining order against Kyla Estes is necessary because:

The court finds that Kyla Estes has engaged in behavior that has not only violated the court's prior orders, as it pertains to both custody of the child but also which has resulted in harassment and disturbance of Jonathan LaVoi's peace. The court finds a restraining order is necessary for the following reasons:

1. As described in the above findings, Kyla Estes trespassed on Jonathan LaVoi's property by appearing unannounced early in the morning, disturbing his peace, and then refusing to leave. As a result, the responding officer found probable cause to believe Kyla Estes had trespassed.

2. A mutual restraining order was entered on December 20, 2012 against both parties restraining them from disturbing the peace of the other, and from going onto the grounds of or entering the residence of the other. This order was entered for a period of 12 months and was not terminated by subsequent temporary orders. On May 14, 2013, Kyla Estes admittedly went to Jonathan LaVoi's residence with the child, at approximately 9:00 p.m., demanding to speak with Mr. LaVoi. She held the child up from the street outside his residence in an attempt to coerce Jonathan LaVoi to come outside. Jonathan LaVoi did not go outside, did not communicate with Kyla Estes and called 911.

3. Kyla Estes not only violated the September 26, 2013 custody order, but also actively hid the child from Jonathan LaVoi, the court, and the police, for seven days. This is the last time Kyla Estes had the child without professional supervision. Kyla Estes has provided no credible assurance that she will not actively withhold him again.

2.9 Protection Order

Does not apply.

2.10 Other

The court finds that a judgment should be entered against Kyla Estes in favor of Jonathan LaVoi in the amount of $10,000.00 for attorney fees. The court finds that Kyla Estes' intransigence and filing of frivolous motions has unreasonably and unnecessarily increased Jonathan LaVoi's attorney fees. The court finds it is reasonable for Kyla Estes to be responsible for a portion of Jonathan LaVoi's attorney fees.

1. As of October 14, 2013, Jonathan LaVoi had incurred $57,246.66 in attorney fees. It is reasonable to find that those fees increased during the week of October 14, 2013 for trial preparation, and during the week of October 21, 2013, during the trial.

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2. Due to Kyla Estes's intransigence and blatant violation of court orders, Jonathan LaVoi had to file two motions for contempt. Both motions for contempt were granted. Both orders of contempt were upheld on revision.

3. Kyla Estes filed at least two frivolous motions – her motion to vacate pursuant to CR 60 and her motion to remove the guardian ad litem. Both motions were denied. As a result of her frivolous motions, Kyla Estes was found to have violated CR 11. The denial of her motions was upheld on revision.

4. Kyla Estes also sought a trial de novo and refused to agree to dismiss it, even after being notified by two judicial officers that it was inappropriate. As a result, Jonathan LaVoi incurred attorney fees in moving to have the trial de novo dismissed.

5. Jonathan LaVoi incurred substantial attorney fees between September 26, 2013, when the court granted him temporary custody, and October 3, 2013, when Kyla Estes returned the child. As a result of Kyla Estes' custodial interference, two additional hearings had to be held. Had Kyla Estes returned the child on the 26th of September, these two hearings would have been unnecessary.

6. Jonathan LaVoi has been awarded $3,000.00 in attorney fees and a $200 civil penalty in the orders for contempt. He was awarded $1,500.00 in attorney fees on the court's motion in finding Kyla Estes had violated CR 11. He was awarded $500.00 in the court's order dismissing Kyla Estes' request for a trial de novo. Kyla Estes has not paid on any of the judgments. The award of fees Jonathan LaVoi has already received does not compensate him for the fees he has incurred as a result of Kyla Estes' frivolous motions and intransigence.

7. The court finds that the additional award of $10,000.00 in attorney fees to Jonathan LaVoi is reasonable.

III. Conclusions of Law

3.1 Jurisdiction

The court has jurisdiction to enter an order in this matter.

3.2 Disposition

The court entered an order that: declared this proceeding was properly begun; made provision for a residential schedule/parenting plan, or past and current support, and health insurance coverage for the child; awards court costs, guardian ad litem, attorney, and other reasonable fees; and made provision for a continuing restraining order.

Based upon the above findings of fact, the court makes the following conclusions of law:

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1. It is in the best interest of Lance LaVoi to be in the custody of Jonathan LaVoi.

2. It is in the best interest of Lance LaVoi to for Kyla Estes' visitation with him to be restricted to eight hours a week, to be supervised by a professional supervisor.

3. It is in the best interest of Lance LaVoi to require Kyla Estes to undergo the psychological evaluation ordered in the parenting plan entered on this date.

4. The parenting plan entered is in the child's best interest because Kyla Estes has engaged in the abusive use of conflict which creates the danger of serious damage to Lance LaVoi's psychological development.

5. The parenting plan entered is in the child's best interest because Kyla Estes has withheld the child from Jonathan LaVoi for a protracted period of time without good cause.

3.3 Other

1. The court retains jurisdiction of the case for five years.

Dated: 10/31/13

Judge Regina S. Cahan

Presented by:

Sara L. Corvin, WSBA # 42108 Date
Attorney for Respondent

Approved for entry:
Notice of presentation waived:

Kyla Estes Date
Petitioner

Lisa Barton
Guardian ad litem

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Superior Court of Washington
County of KING

In re the Parenting and Support of: Lance LaVoi **Child,** Kyla Estes, **Petitioner,** **And** Jonathan M. LaVoi **Respondent**	**No.** 12-3-07534-8 KNT **Parenting Plan** **Final Order (PP)**

This parenting plan is the final parenting plan signed by the court pursuant to a judgment and order establishing residential schedule/parenting plan/child support.

It Is Ordered, Adjudged and Decreed:

I. General Information

This parenting plan applies to the following parents: Kyla Estes and Jonathan LaVoi, and to the following child:

Name	Age
Lance LaVoi	1

II. Basis for Restrictions

Under certain circumstances, as outlined below, the court may limit or prohibit a parent's contact with the child and the right to make decisions for the child.

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2.1 Parental Conduct (RCW 26.09.191(1), (2))

Does not apply.

2.2 Other Factors (RCW 26.09.191(3))

Kyla Estes' involvement or conduct may have an adverse effect on the child's best interests because of the existence of the factors which follow.

The abusive use of conflict by the parent which creates the danger of serious damage to the child's psychological development.

A parent has withheld from the other parent access to the child for a protracted period without good cause.

III. Residential Schedule

The residential schedule must set forth where the child shall reside each day of the year, including provisions for holidays, birthdays of family members, vacations, and other special occasions, and what contact the child shall have with each parent. Parents are encouraged to create a residential schedule that meets the developmental needs of the child and individual needs of their family. Paragraphs 3.1 through 3.9 are one way to write your residential schedule. If you do not use these paragraphs, write in your own schedule in Paragraph 3.13.

3.1 Schedule for Children Under School Age

Prior to enrollment in school, the child shall reside with Jonathan LaVoi, except for the following days and times when the child will reside with or be with the other parent:

See Section 3.10

3.2 School Schedule

Upon enrollment in school, the child shall reside with Jonathan LaVoi, except for the following days and times when the child will reside with or be with the other parent: every other week

See Section 3.10

3.3 Schedule for Winter Vacation

The child shall reside with Jonathan LaVoi during winter vacation, except for the following days and times when the child will reside with or be with the other parent:

See Section 3.10

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3.4 Schedule for Other School Breaks

The child shall reside with Jonathan LaVoi during other school breaks, except for the following days and times when the child will reside with or be with the other parent:

See Section 3.10

3.5 Summer Schedule

Upon completion of the school year, the child shall reside with Jonathan LaVoi, except for the following days and times when the child will reside with or be with the other parent:

See Section 3.10

3.6 Vacation With Parents

The schedule for vacation with parents is as follows:

See Section 3.10

Jonathan LaVoi shall have the option to take two seven day vacations with the child each year. During these weeks, the mother shall have no visitation with the child. He shall notify Kyla Estes of these vacation dates at least 45 days in advance. So long as it can be accommodated by the visitation supervisor, the mother shall be allowed up to four hours of visitation time with the child the day before the vacation is to begin, and the first full day after the vacation ends.

3.7 Schedule for Holidays

See Section 3.10

3.8 Schedule for Special Occasions

The residential schedule for the child for the following special occasions (for example, birthdays) is as follows:

	With Kyla Estes (Specify Year Odd/Even/Every)	With Jonathan LaVoi (Specify Year Odd/Even/Every)
Mother's Day	Every	
Father's Day		Every

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The mother shall have no visitation with the child on Father's Day. So long as it can be accommodated by the visitation supervisor, the mother may have up to eight hours of visitation with the child on Mother's Day.

3.9 Priorities Under the Residential Schedule

Does not apply because one parent has no visitation or restricted visitation.

3.10 Restrictions

Visitation Kyla Estes' residential time with the child shall be limited because there are limiting factors in paragraphs 2.1 and 2.2. The following restrictions shall apply when the child spends time with this parent: * first week shall be Nov 4-10, 2013

Kyla Estes shall have only supervised visitation with the child. Pursuant to the restrictions in Section 2.2, and the recommendations of the guardian ad litem, Kyla Estes shall have up to eight hours of supervised visitation with the child each week. This can occur in one eight- hour visit or in two four- hour visits. Visitation shall be professionally supervised by Community Family Services, or any agency recommended by the guardian ad litem. Visitation shall be at the mother's sole expense. In the event an agency other than Community Family Services is used, the mother shall be solely responsible for her intake fee and the father's intake fee.

Visitation shall only be between Kyla Estes and Lance LaVoi. It shall be up to the sole discretion of the visitation supervisor to determine whether the supervisor is willing to allow visitation to include Kyla Estes' mother (Teresa Estes), father (Ronnie Estes) or uncle (Larry Estes) once a month. (The visit would be with Kylas Estes, Lance Estes and one guest.)

Visitation days and time shall be based on the availability of the visitation supervisor, the father, and the mother. The father may elect to have the weekly visitation occur on another day other than Friday, Saturday, and Sunday every other weekend. The mother shall still be afforded weekly visitation, but the father at least will have the option to have weekend free time with his son every other weekend.

Psychological Evaluation The court ordered Kyla Estes to undergo a psychological evaluation in the May 8, 2013 temporary order, based on the recommendation of the guardian ad litem. To date, Kyla Estes has failed to undergo a psychological evaluation that met the court's requirements.

Kyla Estes shall undergo a psychological evaluation with one of the three psychologists recommended by the guardian ad litem: Dr. Marnee Milner, Dr. Richard Adler, or Dr. John Gamache. She shall sign all releases to allow the psychologist to release the evaluation to the court, Jonathan LaVoi, and counsel for Jonathan LaVoi.

The evaluation shall include at a minimum: (1) at least two interviews with Kyla Estes; (2) review of all declarations, guardian ad litem reports, and court orders entered in this

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case; (3) review of all medical and psychological records of Kyla Estes since the age of 12, if deemed necessary by the psychologist; (4) interview with Jonathan LaVoi; (5) interview with supervisor of supervised visits; (6) psychological testing deemed necessary by the psychologist.

Kyla Estes shall participate in and successfully complete any and all treatment and counseling recommended by the psychological evaluation. Kyla Estes shall sign and maintain a valid release with any treatment providers to provide updates on her compliance in treatment to the court, Jonathan LaVoi, and counsel for Mr. LaVoi.

The psychological evaluation and any and all treatment she participates in shall be at Kyla Estes' sole expense.

Review Hearing

Upon completion of the psychological evaluation and successful completion of the recommended treatment, Kyla Estes shall be allowed to request a review hearing to determine whether she should be allowed to have expanded visitation with Lance, or unsupervised visitation with Lance. Kyla Estes must be in full compliance with this parenting plan and other orders entered on this date in order to request the review hearing.

When requesting the review hearing, Kyla Estes must provide to the court, Jonathan LaVoi, and counsel for Jonathan LaVoi, the full psychological evaluation, along with all testing result and treatment recommendations, as well as a report from any and all treatment providers stating that she has fully complied with and successfully completed her treatment. The court shall also consider a report from the supervisor who supervises Kyla Estes' visits with Lance LaVoi, as well as any information and declarations Jonathan LaVoi wishes to submit.

If Kyla Estes' conduct and behavior continues to deteriorate, Jonathan LaVoi may seek a review hearing to add additional restrictions or requirements to Kyla Estes. This should be based on his own observations and any issues with Kyla Estes that may arise, as well as reports from the visitation supervisor. Multiple violations of the court's orders by Kyla Estes are grounds for Jonathan LaVoi to seek a review hearing.

The findings of fact listed in the Findings of Fact and Conclusions of Law on Petition for Residential Schedule/Parenting Plan or Child Support entered on this date are incorporated herein by this reference, and support the court's restrictions on the mother's residential time.

3.11 Transportation Arrangements

Transportation costs are included in the Child Support Worksheets and/or the Order for Child Support and should not be included here.

Transportation arrangements for the child between parents shall be as follows:

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Transportation shall be provided by the father, or as arranged by the visitation supervisor.

3.12 Designation of Custodian

The child named in this parenting plan are scheduled to reside the majority of the time with Jonathan LaVoi. This parent is designated the custodian of the child solely for purposes of all other state and federal statutes which require a designation or determination of custody. This designation shall not affect either parent's rights and responsibilities under this parenting plan.

3.13 Other

Does not apply.

3.14 Summary of RCW 26.09.430 - .480, Regarding Relocation of a Child

This is a summary only. For the full text, please see RCW 26.09.430 through 26.09.480.

If the person with whom the child resides a majority of the time plans to move, that person shall give notice to every person entitled to court ordered time with the child.

If the move is outside the child's school district, the relocating person must give notice by personal service or by mail requiring a return receipt. This notice must be at least 60 days before the intended move. If the relocating person could not have known about the move in time to give 60 days' notice, that person must give notice within five days after learning of the move. The notice must contain the information required in RCW 26.09.440. See also form DRPSCU 07.0500, (Notice of Intended Relocation of A Child).

If the move is within the same school district, the relocating person must provide actual notice by any reasonable means. A person entitled to time with the child may not object to the move but may ask for modification under RCW 26.09.260.

Notice may be delayed for 21 days if the relocating person is entering a domestic violence shelter or is moving to avoid a clear, immediate and unreasonable risk to health and safety.

If information is protected under a court order or the address confidentiality program, it may be withheld from the notice.

A relocating person may ask the court to waive any notice requirements that may put the health and safety of a person or a child at risk.

Failure to give the required notice may be grounds for sanctions, including contempt.

If no objection is filed within 30 days after service of the notice of intended relocation, the relocation will be permitted and the proposed revised residential

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schedule may be confirmed.

A person entitled to time with a child under a court order can file an objection to the child's relocation whether or not he or she received proper notice.

An objection may be filed by using the mandatory pattern form WPF DRPSCU 07.0700, (Objection to Relocation/Petition for Modification of Custody Decree/Parenting Plan/Residential Schedule). The objection must be served on all persons entitled to time with the child.

The relocating person shall not move the child during the time for objection unless: (a) the delayed notice provisions apply; or (b) a court order allows the move.

If the objecting person schedules a hearing for a date within 15 days of timely service of the objection, the relocating person shall not move the child before the hearing unless there is a clear, immediate and unreasonable risk to the health or safety of a person or a child.

IV. Decision Making

4.1 Day to Day Decisions

Each parent shall make decisions regarding the day-to-day care and control of each child while the child is residing with that parent. Regardless of the allocation of decision making in this parenting plan, either parent may make emergency decisions affecting the health or safety of the child.

4.2 Major Decisions

Major decisions regarding each child shall be made as follows:

	Jonathan LaVoi has sole decision making for:
Education decisions	X
Non-emergency health care	X
Religious upbringing	X

4.3 Restrictions in Decision Making

Sole decision making shall be ordered for the following reasons:

A limitation on a parent's decision making authority is mandated by RCW

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26.09.191 (See paragraph 2.1).

One parent is opposed to mutual decision making, and such opposition is reasonably based on the following criteria:

(a) The existence of a limitation under RCW 26.09.191;

(b) The history of participation of each parent in decision making in each of the areas in RCW 26.09.184(4)(a);

(c) Whether the parents have demonstrated ability and desire to cooperate with one another in decision making in each of the areas in RCW 26.09.184(4)(a); and

(d) The parents' geographic proximity to one another, to the extent that it affects their ability to make timely mutual decisions.

V. Dispute Resolution

The purpose of this dispute resolution process is to resolve disagreements about carrying out this parenting plan. This dispute resolution process may, and under some local court rules or the provisions of this plan must, be used before filing a petition to modify the plan or a motion for contempt for failing to follow the plan.

No dispute resolution process, except court action is ordered. RJC

Judge Regina Cahan retains jurisdiction ~~for any and all future motions/petitions in this case;~~ in this case for 5 years including but not limited to motions regarding review hearings by either party, or petitions for modification of this parenting plan.

VI. Other Provisions

There are the following other provisions:

1. The parties shall communicate with each other only via email, and only as it pertains to Lance. The mother shall only communicate with the father using his "Yahoo" email account. Both parties shall notify the other in the event their email address will be changing, prior to terminating their current accounts.

2. Mr. LaVoi shall inform the visitation supervisor of the child's activities in the prior 12 hours, including eating, sleeping, vomiting, bathroom use, and provide them with any other information relevant to the child's health and general care. Mr. LaVoi shall provide the visitation supervisor with any medication the child will need to take during the visit, along with the reason for the medication and instructions for the medication.

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3. Mr. LaVoi shall keep the mother apprised of any medical emergencies that the child has, or any major medical issues or diagnosis. He shall do so as soon as is reasonably possible.

4. Neither party shall speak about the other parent in derogatory terms in front of the child, nor allow a third party to do so.

5. Neither party shall speak with the child about the court orders or litigation, nor shall they allow third parties to do so.

6. The father is not prohibited from taking the child outside the State of Washington for trips, vacations, and holidays.

VII. Declaration for Proposed Parenting Plan

Does not apply.

VIII. Order by the Court

It is ordered, adjudged and decreed that the parenting plan set forth above is adopted and approved as an order of this court.

WARNING: Violation of residential provisions of this order with actual knowledge of its terms is punishable by contempt of court and may be a criminal offense under RCW 9A.040.060(2) or RCW 9A.40.070(2). Violation of this order may subject a violator to arrest.

When mutual decision making is designated but cannot be achieved, the parties shall make a good faith effort to resolve the issue through the dispute resolution process.

If a parent fails to comply with a provision of this plan, the other parent's obligations under the plan are not affected.

Dated: 10/3/13

Judge/~~Commissioner~~
Judge Regina Cahan

Presented by:

Sara L. Corvin, WSBA # 42108
Attorney for Jonathan LaVoi

Approved for entry:

Kyla Estes
Respondent

Lisa Barton
Guardian Ad Litem

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