No. 46824-7-II

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

In re the Marriage Of:

Michael St. George Bent,

Appellant,

v.

LaShandre Nichele Bent,

Respondent.

BRIEF OF RESPONDENT

MASTERS LAW GROUP, P.L.L.C.
Kenneth W. Masters, WSBA 22278
Shelby R. Frost Lemmel, WSBA 33099
241 Madison Ave. North
Bainbridge Island, WA 98110
(206) 780-5033
Attorney for Respondent

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

Rules

Other Authorities

INTRODUCTION

Among other factors, the trial court granted LaShandre Bent's motion to relocate with the parties' teenage children, where LaShandre has been the children's primary residential parent since their birth, and where LaShandre is best suited to help the children adjust to the divorce. The court's ruling is entirely consistent with recommendations from the parenting evaluator and is supported by substantial evidence. Although Michael ostensibly appeals from the relocation order, he does not challenge any of the court's findings or even address the order's substance. This Court should affirm.

Michael instead raises a bevy of constitutional arguments, all of which are meritless or have been previously rejected by our courts. He asserts "rights" that do not exists. He persists in arguments that were resoundingly and reasonably rejected. He ignores relevant facts and controlling law.

In short, Michael's appeal is nothing more than an effort to turn a run-of-the-mill relocation case into a constitutional morass. This Court should reject Michael's meritless claims and award LaShandre fees.

STATEMENT OF THE CASE AND PROCEDURE

A. The parties' marriage was troubled from the beginning.

In this, a no-fault state, it is typically unnecessary to discuss the details of why a marriage falls apart. But Michael has gone to great lengths to question LaShandre's mental health, making claims that were rejected by the judge and the parenting evaluator, Dr. Landon Poppleton.[1] BA 4-5. Thus, LaShandre is forced to respond. In an effort to provide the most neutral response possible, LaShandre relies largely on Poppleton's report and testimony. RP 24; Ex 2.

LaShandre and Michael met in 1986 and dated for five years before marrying in 1991. Ex 2 at 7, 15. Early on, the relationship struggled. *Id.* at 7-8, 15. As discussed below, Michael, a self-described "loner," has suffered from depression and suicidal ideation from age 18. *Id.* at 4, 6.

Relationship difficulties began when Michael found it difficult to accept that LaShandre's friendships with men were platonic. *Id.* at 15. LaShandre felt that Michael did not really want to be with her, but wanted her social connectedness. *Id.* Michael became insulting,

[1] This brief uses first names to avoid confusion. No disrespect is intended.

telling LaShandre that she was not that kind of woman he wanted to be with. *Id.*

LaShandre became pregnant, but – according to Michael – agreed to terminate the pregnancy at Michael's request in exchange for a promise to marry her in the future. *Id.* at 7. Despite continuing problems, the parties did not want to part ways, and eventually became engaged. *Id.* at 15. From there on, Michael told people that LaShandre "forced" him to marry her. *Id.*

Michael described their premarital relationship as "absolutely wonderful," but claimed that "everything changed" after they married. *Id.* at 8. LaShandre described the marriage as "horrible," stating that as soon as they became engaged, Michael became more "'derogatory and needy.'" *Id.* at 15. She wanted to call off the wedding, but was too embarrassed. *Id.*

At times, the couple made a concerted effort and things briefly improved. *Id.* at 15-16. LaShandre always wanted the best for Michael and his career, but the marriage suffered. *Id.* at 16.

In 1996, Michael left Florida and move to Washington, telling LaShandre she had one year to decide whether she wanted to remain married. Ex 2 at 8. Once in Washington, Michael began an affair. *Id.* When LaShandre's grandmother died, she moved to

Washington, deciding it was time to see if they could salvage the marriage. *Id.* She hoped they would move back to Florida, as it is important to her to be near family, and Michael has family in Florida, too. *Id.* at 12. Michael ended his affair to "support" LaShandre while she grieved her grandmother's death, but admitted that he planned to end the marriage. *Id.* at 8.

LaShandre unexpectedly became pregnant a month or two later. *Id.* at 8, 16. Michael began "tormen[ting]" LaShandre, insisting that she had become pregnant on purpose despite knowing that he did not want children. *Id.* at 16. Michael again asked her to terminate the pregnancy. *Id.* at 8. LaShandre refused, stating that she was keeping the baby and would divorce Michael is she had to. *Id.*

Michael accused LaShandre of "ruin[ing]" his life, and became antisocial, depressed and suicidal. *Id.* at 16. This continued for months until the parties got into counseling. *Id.* The relationship improved dramatically before and after the oldest child's, C's, birth in 1998. *Id.* at 16, 19.

But C struggled in daycare, and when he was just 6-months old, the parties agreed that LaShandre would quit her job and stay home to care for C. *Id.* at 8, 13. Michael told LaShandre he would

"take care of [them]." *Id.* at 13. Michael describes himself as having given up his life again for his "commitment." *Id.* at 8.

LaShandre thought Michael was "onboard" with C's birth, but had to coordinate events just to get him engaged and to "make an appearance" at home. *Id.* at 16. Over the years, Michael disengaged from the family and LaShandre felt like he was avoiding them. *Id.* Though the marriage continued to struggle, the parties decided to have another child so C would have a sibling. *Id.*

At that point, Michael remained in the marriage only because he felt responsible for the children. *Id.* at 8. The parties continued to talk about moving back to Florida. *Id.* Indecision about whether they would move, and Michael's continued requests that LaShandre stay at home with the kids, prevented her from looking for work in Washington. *Id.* at 13.

B. Michael's depression worsened, as did marital discord.

LaShandre engrossed herself in the children's development. *Id.* at 16. The parties remained "cordial," but the marriage continued to struggle. *Id.* at 16-17. Michael's depression worsened. *Id.* at 17-18.

Michael wrote out his Will in summer 2010, emailing it to LaShandre. CP 2; RP 230-31; Ex 2 at 18; Ex 98. Concerned,

LaShandre met him at a QFC so that the kids would not be around. Ex 2 at 18. Michael expressed that he had no value, and LaShandre begged him not to commit suicide, telling him that the kids needed him. *Id.*

Then things came to a head on Mother's Day 2012, when Michael refused to sit with LaShandre at church. Ex 2 at 17; RP 239-44, 252-53. Embarrassed, LaShandre decided to listen to the service in the van. Ex 2 at 17; RP 239-44. Not wanting parishioners to see her in the parking lot, she drove away, returning before the service ended. *Id.*

Michael interrogated LaShandre who was driving, demanding to know where she had been and who she had been with. Ex 2 at 17. LaShandre repeatedly stated that she would not talk about it in front of the children, who were crying in the backseat. *Id.* Michael "demanded" that LaShandre stop the car and tell him immediately. *Id.*

As the parties argued on the roadside, C got out of the car and stated that if LaShandre was leaving, he was going with her. *Id.* LaShandre told him to get back in the car. *Id.* When Michael finally calmed down, they got back in the car, and LaShandre drove to the airport, upset and ready to leave. *Id.* C again stated that he

was leaving with her. *Id.* M, the "peace maker," told Michael to tell Lashandre that he loved her. *Id.* Michael told LaShandre not to leave and that he would move out. *Id.*

But after leaving for two days, Michael returned stating that he "'pays the bills.'" *Id.* LaShandre moved into a separate bedroom, no longer willing to be subjected to Michael's erratic behavior, particularly in the children's presence. *Id.* Things then went "really downhill." *Id.*

Neither party saw the value in the other, and they became more estranged and distant. *Id.* Michael again agreed to move out so they could have some space to work on the marriage, but "forced his way back in," continuing to be "belligerent." *Id.* Eventually LaShandre saw no point in trying to salvage the marriage where, for Michael, everything was "business as usual." *Id.*

LaShandre was hurt and became fearful as Michael's behavior grew more erratic. *Id.* She began putting a board up across her doorway to feel safer. *Id.* Michael began threatening suicide, telling LaShandre, "your [*sic*] going to have blood on your hands if you leave me." *Id.* at 17-18; RP 237-38.

In late 2012, the parties finally decided to divorce, and Michael packed his things. RP 201-02. Michael left for a family reunion and

was gone for 36 days without contact with LaShandre or the children. *Id.* During his trip, Michael unilaterally purchased an RV and decided that the parties would move back and forth between the RV and the house. *Id*; Ex 2 at 18.

Michael grew more unstable and LaShandre felt more and more concerned for her safety. Ex 2 at 18. Then she found materials that she believed could be used to make a bomb, including a launching device, projectile drawings and calculations. CP 5, 8-9, 18, 26.

In May 2013, Michael angrily confronted LaShandre about grocery shopping receipts, demanding an explanation for her expenditures. Ex 2 at 9; RP 250-52. LaShandre went to the guest room where she slept, locking herself in. RP 251. From the other side, Michael continued to badger LaShandre, berating her for spending money and stating that her parents were ashamed of her and that she should be ashamed of herself for "not doing anything." *Id.*

Alone and scared, LaShandre called 911, fearing she had no alternative. RP 252. When the police arrived, they told Michael to leave the house. *Id.* But without a restraining order, nothing prevented him from returning just a few hours later. *Id.*

Later that summer, Michael left a card containing information about suicide on the bathroom counter. RP 233-36; Ex 99. In June 2013, LaShandre obtained a restraining order and filed for divorce. Ex 2 at 18. Thereafter, the "flood gate" of Michael's "vengeance" came open. *Id.*

C. Both parties have college degrees, but LaShandre has not worked since C was born.

Michael worked at a convenience store when the parties met and were attending college. Ex 2 at 6, 7, 15. After graduating with a Bachelor's of Science in Mechanical Engineering, Michael took a job at Motorola, where he worked for seven years. *Id.* at 5, 6. He left Motorola to take a job in Vancouver Washington with Hewlett Packard, where he has worked since 1996. *Id.* at 6, 8. Michael earns $126,000 annually. *Id.* at 30.

LaShandre has a Bachelor's degree in Public Relations and a Masters in Marketing from the University of Phoenix. *Id.* at 13. She cashiered at a grocery store in college, and went to work for the Palm Beach County and Humana Health Care after graduation. *Id.* After moving to Washington, LaShandre worked for United Health Care for about 18 months. *Id.*

LaShandre quit working in 1999 at Michael's request, as C was not adjusting to daycare. *Id.* at 16. Before that, she had always worked and enjoyed it. *Id.* She left work in part due to concerns about the marriage – she thought it was what Michael wanted. *Id.*

Since then, LaShandre has not worked outside of the home apart from a brief stint at the post office. *Id.* at 13. LaShandre could not continue at the post office as it was too labor intensive given her injuries from a 2006 car accident, causing an inner ear concussion and neck and back sprains. *Id.* She has daily pain, and intermittent numbness, tingling, headaches, vision problems and heart palpitations. *Id.* at 14. She is under medical care, but elects to use Tylenol over prescription medications. *Id.*

D. Michael has long suffered from depression and suicidal ideation.

Michael was born and raised in Jamaica, and moved to the U.S. when he was 16. *Id.* at 4. Michael lived with his mother and siblings, his father remaining in Jamaica for work. *Id.* Michael described his parents as being focused on instruction and discipline, not communication. *Id.* One childhood event he found significant was his father beating him with a belt for swearing. *Id.* The pain was

so severe that Michael "disassociated." *Id.* Michael was also emotionally abused by his cousins, who lived with the family. *Id.*

Michael describes himself as a "loner" who is "below normal" in terms of his social life. *Id.* at 4, 5. He has suffered from depression since age 18, but was not diagnosed until sometime in 2011. *Id.* at 6. Michael's diagnosis is "double depression," which means that his underlying depression is chronic and enduring, coupled with "situational stressors" that add to the depression. RP 31. Michael is, in his own words, "highly medicated," taking three different prescriptions for depression and one for anxiety. Ex 2 at 6, 7.

Michael acknowledges that he has contemplated suicide in the past, but claims he made no actual plans to take his life. *Id.* at 6. As discussed above, Michael has indeed threatened suicide throughout the marriage. Ex 2 at 16, 17-18; RP 235-36. Michael plainly blames LaShandre if not for his depression, at least for his anxiety, stating "I don't think there is anything wrong with me. What is being done to me is improper and immoral. For her to be claiming these atrocities of me is unreal." Ex 2 at 7.

LaShandre is close to her parents and siblings, speaking to them nearly every day. *Id.* at 12. She grew up in a "loving" and "supportive" environment, focused on the church, education, and

"'community – being part of something greater.'" *Id.* She looks to her family for support. RP 206.

LaShandre saw a therapist after her grandmother's death in 1996 or 1997, and on-and-off to address marital problems. Ex 2 at 14. LaShandre does not suffer from depression, but feels that she has some anxiety associated with the divorce and raising teenaged boys. *Id.* She believes that therapy has been helpful and plans on continuing. *Id.*

All reports are that C is smart, stable, and outgoing. *Id.* at 10. M is quiet, more reserved, and reclusive and somewhat antisocial, like Michael. *Id.* at 10, 11. M has had suicidal thoughts since age 6 or 7. *Id.* at 10. He is not quick to anger, but when he becomes angry can be very volatile. *Id.* He has "pulled a knife" on C and "stabbed" a kid at school with a pencil. *Id.* He sees a counselor for anger management. *Id.*

E. Procedural History.

1. In June 2013, LaShandre filed for dissolution and obtained a restraining order.

On June 10, 2013, the trial court granted LaShandre a temporary restraining order, and entered a show cause order. CP 24, 28-31; RP 188. LaShandre filed for dissolution the same day. CP 5.

Following Michael's response, the court held a show cause hearing, entering a temporary restraining order and setting family support. CP 39-40. The court also ordered Michael is to have a full psychological exam with Dr. Harry Dudley. CP 40. The court set a review hearing following Dudley's evaluation. *Id.* Dudley interviewed the parties, completing his first report on July 23, 2013. CP 43.

On August 6, 2013, Michael sent LaShandre one of many "belligerent and abusive" emails, disparaging the way she cares for the children and demanding increased communication. RP 225-29. Michael stated that he was "reward[ing]" LaShandre for "baby-sitting two grown boys," accused her of committing "forgeries" in her declarations, and question the environment in her home. *Id.*

Later that month, Michael sent offensive emails to LaShandre's mother. RP 43-44. Amongst general accusations that LaShandre is a terrible parent who is ruining the boys and that her own mother is to blame, Michael specifically alleged:

- "[V]engeance is the lord and [LaShandre] best plan on a very hot after life. . . I only hope she has not already wrecked the boys. Perhaps she has intentionally as she wants company down below."
- "She is consumed by Satan. One day you will look back and hope you trusted my judgment that she is walking in the power of Satan. . ."

- "[S]he must be off to her disgraceful ways offering sexual favors to lazy guys who comfort her for a moment."
- [After accusing LaShandre of stealing money from their joint account] "Hopefully it was used wisely on condoms. She had a liking for Gonorrhea and shares it freely."
- "Before long, the boys will come to find their mother is the village whore who leaches off others and scams society to maintain her last lifestyle. . . I married that whore on the guidance of your mother who did not know who LaShandre really was/is. I know who is rolling in kher [*sic*] graver [*sic*] as she know [*sic*] gets to see."
- "I fear that the severe stress of [LaShandre's] lies are resting heavy on her mind causing her to find solace thru [*sic*] sexual engagement with guys she befriend [*sic*] in various towns in Oregon."
- "While you and your entire family scoff at me, she is off in her sick world seeking comfort from low-life bastards who will abuse your grandkids as they have only one agenda: free and sultry sex with LaShandre. She is not who you believe."

Ex 42. Michael's only explanation was that he was trying to get LaShandre's mother to intervene in the marriage. 626-29.

From August through October or that year, Michael harassed LaShandre, revving his engine when he saw her in a Fred Meyer parking lot, pulling up directly behind her while she was stopped at her mailbox, puling past them at McDonalds while the GPS device in M's cell phone was turned on, and parking outside her parenting class. CP 94.

In September 2013, Dudley interviewed the parties and their boys, entering an addendum to his psychological evaluation on the

24th. CP 61, 82. In October, Dudley filed a supplemental report. CP 61. Dudley concluded that there was a "low" risk that Michael would act violently toward LaShandre, but that Michael suffers from major depression, needs to exercise better judgment and discretion, and should continue in therapy. CP 86, 87.

Michael then moved to amend the temporary orders, asked to have LaShandre subject to a psychological assessment or a bilateral parenting evaluation, and asked the court to appoint a guardian ad litem. CP 89.

Following LaShandre's response, the court held a hearing on October 18, 2013. CP 98-102. The court ordered that the restraining orders would remain in effect. CP 99. The court appointed Dr. Lanchon Poppleton to perform a bilateral parenting evaluation, but denied Michael's request to have Poppleton perform a full psychological evaluation on LaShandre. *Id.* The court terminated the supervision on Michael's visitation. *Id.*

Poppleton began the bilateral parenting evaluation in November 2013. RP 24-25. Poppleton was initially asked to assume that LaShandre would be the primary residential parent, as she had been for about 15 years. RP 97. Thus, he focused on Michael,

tasked with determining how much parenting time Michael could "sustain" given his "disposition." RP 94.

LaShandre filed a notice of intent to relocate in May 2014. Supp. CP ____. Poppleton then switched gears to focus on the relocation factors. RP 24-25. And at that time, Poppleton also brought LaShandre in for psychological testing, seeing the need to focus more on her since she had moved for relocation. RP 97.

2. Dr. Poppleton's psychological evaluation.

Poppleton's psychological testing of Michael showed that Michael has an elevated clinical scale consistent with descriptions that he is "suspicious, angry, broodingly resentful," and prone to interpreting situations as directed toward him. Ex 2 at 21. Michael's psychological profile could "partially" be the result of the dissolution and the allegations against him. *Id.*

LaShandre's psychological profile revealed multiple elevated scales in the very high range. *Id.* at 21-22. She appeared defensive, eager to present herself in an overly favorable light, extremely sensitive to criticism, and seeking of approval. *Id.*

Poppleton determined that LaShandre is prone to interpreting events consistent with her concern that Michael presents a threat. *Id.* at 24. Michael exacerbates the situation by using poor judgment,

such as producing recordings of LaShandre made on the children's phones in LaShandre's home, without her knowledge or consent, and without adequate explanation of how they were made. *Id.* In other words, the relationship is cyclical: "Michael demonstrates poor boundaries and judgment, which reinforces LaShandre's paranoia, which in turn, causing Michael to say that she is 'mentally ill.'" *Id.*

Poppleton accepted Dudley's conclusion that Michael is low risk, but found that he is plainly struggling with the divorce, the restructuring of his family and the need for support. *Id.* at 25. Michael "bounced" through stages of grief including anger, hurt, and acceptance. *Id.* He exercises very poor judgment, escalating the parties' ongoing problems. *Id.* at 25-26. Examples of his poor judgment include making nasty comments about LaShandre to others, and obtaining a book on homemade weapons for M and taking it to M's school, despite understanding the allegations against him. *Id.*; CP 556. The latter also violated the protection order that was then in place. CP 556.

LaShandre too struggled with the divorce. Ex 2 at 26. Given Michael's "disposition," it was impossible to totally "blame" LaShandre. *Id.* But without external support that Michael presented

a threat, Poppleton concluded that LaShandre's concerns seem paranoid. *Id.*

3. Dr. Poppleton recommended that LaShandre be allowed to relocate with the children.

Dr. Poppleton went through each relocation factor in RCW 26.09.520, finding as follows:

Factor 1: "The relative strength, nature, quality, extent of involvement, and stability of the child's relationship with each parent, siblings, and other significant persons in the child's life": LaShandre is the primary residential parent and Michael is a "weekend dad." Ex 2 at 27. The children very much view them in these roles. *Id.* LaShandre prevails on nature, quality and extent of involvement with the children. *Id.* It is impossible to say which parent's relationship with the children is stronger, where the children have a good relationship with both parents, but see Michael as more "fun" because LaShandre is the day-to-day parent, while Michael's parenting is limited to fun weekend activities. *Id.* at 24.

Factor 2: "Prior agreements of the parties": inapplicable. *Id.* at 27.

Factor 3: "Whether disrupting the contact between the child and the person with whom the child resides a majority of the time would be more detrimental to the child than disrupting contact between the child and the person objecting to the relocation": Although close, LaShandre prevailed on this factor. *Id.* at 27. Michael has been more than just a financial provider, but LaShandre has always been the day-to-day parent. *Id.* It would be more detrimental to disrupt LaShandre's contact with the children than Michael's. *Id.*

Factor 4: "Whether either parent or a person entitled to residential time with the child is subject to limitations under RCW 26.09.191": family conflict has been consistent with "mutual aggression" centering around finances and he parties' differing views on contributions to the family. *Id.* at 28. LaShandre has experienced this as a "'coercive/controlling' model," which is validated by arguments over money, Michael's comments about LaShandre to others, and his accusations that LaShandre had an extramarital affair. *Id.* "Michael was the more aggressive party." *Id.*

Factor 5: "The reasons of each person for seeking or opposing the relocation and the good faith of each of the parties in requesting or opposing the relocation": both parties acted in good faith. *Id.*

Factor 6: "The age, developmental stage, and needs of the child, and the likely impact the relocation or its prevention will have on the child's physical, educational, and emotional development, taking into consideration any special needs of the child": it would be better for the children to remain in the area than to move at this time, both because of the loss of a part or their relationship with their father, and the necessity that the re-establish themselves in a hierarchy of teenagers. *Id.* at 28-29. That said, Poppleton is concerned about Michael's ability to help the children adjust if LaShandre relocates without them. *Id.*

Factor 7: "The quality of life, resources, and opportunities available to the child and to the relocating party in the current and proposed geographic locations": Poppleton had insufficient evidence on this factor but found nothing in West Palm Beach Florida, where LaShandre plans to move. *Id.* at 29.

Factor 8: "The availability of alternative arrangements to foster and continue the child's relationship with and access to the other parent": setting parenting time up in blocks, maximizing vacation time with Michael, phone and video calls, letter writing and information sharing will minimize the impact of the relocation. *Id.*

Factor 9: "The alternatives to relocation and whether it is feasible and desirable for the other party to relocate also": Poppleton did not consider whether Michael would also move to Florida – no alternatives to relocation were presented. CP 106.

Factor 10: "The financial impact and logistics of the relocation or its prevention": Michael earns about $126,000 per year and LaShandre anticipates earning $40,000 to $45,000 once she finds employment in Florida. Ex 2 at 30.

Factor 11: "For a temporary order, the amount of time before a final decision can be made at trial": trial was set just weeks after Poppleton's report. *Id.*

Trial began on July 7, 2014 and the court entered final orders on October 10, 2014. CP 103-158; RP 1. Michael appealed. CP 159.

ARGUMENT

A. The trial court acted well within its broad discretion in granting LaShandre's relocation.

This Court "defers to the trial court's ultimate relocation ruling unless it is manifestly unreasonable or based on untenable grounds or untenable reasons under the abuse of discretion standard." ***In re Marriage of Fahey***, 164 Wn. App. 42, 56, 262 P.3d 128 (2011), *rev. denied*, 173 Wn.2d 1019 (2012). This Court will uphold findings that are supported by substantial evidence – evidence sufficient to convince a fair-minded, reasonable person of the truth of the declared premise. ***Fahey***, 164 Wn. App. at 55. Within these confines, a trial court has discretion to grant or deny a relocation after considering the 11 factors in RCW 26.09.520, "and the interests of the children and their parents." 164 Wn. App. at 56.

In a relocation proceeding, the trial court must conduct a fact-finding hearing, at which the relocating parent is entitled by statute to a rebuttable presumption that the relocation will be allowed. The parent objecting to the proposed relocation may rebut the presumption by a showing that, under an 11-factor statutory test, the detrimental effects of relocating outweigh the benefits. *Id.*; RCW 26.09.520. After weighing these factors, the court may grant or deny relocation of the child, based on an overall consideration of the best

interests of the child. 164 Wn. App. at 56-57 (citing RCW 26.09.420; ***In re Parentage of R.F.R.***, 122 Wn. App. 324, 328, 93 P.3d 951 (2004); ***In re Marriage of Grigsby***, 112 Wn. App. 1, 7-8, 57 P.3d 1166 (2002)).

The Child Relocation Act "shifts the analysis away from only the best interests of the child to an analysis that focuses on both the child and the relocating person." ***In re Marriage of Horner***, 151 Wn.2d 884, 887, 93 P.3d 124 (2004); RCW 26.09.520. Our courts have, for example, regularly allowed relocations so that the relocating spouse can pursue opportunities to provide economic security. ***In re Marriage of Pape***, 139 Wn.2d 694 989 P.2d 1102 (1999) (permitting relocation to allow mother to secure teaching position); ***Clarke v. Clarke***, 49 Wn.2d 509, 304 P.2d 673 (1956) (permitting relocation to California for step-father's new job); ***Nedrow v. Nedrow***, 48 Wn.2d 243, 292 P.2d 872 (1956) (permitting relocation to Illinois, where stepfather was offered a job there); and ***Kirby v. Kirby***, 126 Wash. 530, 219 P. 27 (1923) (permitting relocation to New York for step father's "better business connections"). Our courts have long recognized that "[c]hildren of divorce do better when the well-being of the primary residential parent is high." ***Pape***, 139 Wn.2d at 709.

The trial court carefully went through each of these 11 statutory factors, entering findings and a ruling consistent with Dr. Poppleton. CP 104-06; Ex 2 at 27-30. The court found that all but one applicable factor favored relocation. CP 104-06. The court found, for example: (1) that LaShandre has historically been more involved with the children as the stay-at-home parent; (2) that LaShandre is better equipped to help the children through the dissolution and relocation; (3) that the parties had previously agreed that moving to Florida would benefit the children; and (4) that LaShandre was acting in good faith, seeking to move to Florida to be near her family. *Id.* The court found that while there are some negative aspects to relocating the children, such as adjusting to a new school, they were not significant enough to rebut the presumption that LaShandre, the primary residential parent, may relocate with the children. CP 105.

Michael does not challenge or even assign error to these findings. Thus, they are verities on appeal. ***In re Disciplinary Proceedings Against Jackson***, 180 Wn.2d 201, 219, 372 P.3d 795 (2014).

In short, the trial court's decision was well within its broad discretion. This Court should affirm.

B. *Pro se* litigants are held to the same standard as attorneys. (BA 9-10).

Michael begins by asking this Court for leniency because he is *pro se*, relying on federal cases. BA 10. Our courts have repeatedly held that *pro se* litigants are "held to the same standard as an attorney." ***Kelsey v. Kelsey***, 179 Wn. App. 360, 368, 317 P.3d 1096, *rev. denied*, 180 Wn.2d 1017 (2014); ***Edwards v. Le Duc***, 157 Wn. App. 455, 460, 238 P.3d 1187 (2010). Michael is not entitled to leniency.

C. Civil statutes are presumed constitutional. (BA 10-14).

Michael request a "Declaratory Judgment clarifying Washington Courts' holding on presumed constitutionality of civil statutes." BA 13. There is no need for clarification, where countless State Supreme Court cases addressing constitutional challenges to civil statutes have held that the statutes are presumed constitutional. *E.g.,* ***In re Estate of Hambleton***, ____ Wn.2d ____, ¶24, 335 P.3d 398, 406 (2014) ("We presume that statutes are constitutional and place 'the burden to show unconstitutionality ... on the challenger'") (citing ***Amunrud v. Bd. of Appeals***, 158 Wn.2d 208, 215, 143 P.3d 571 (2006)); ***Wash. Educ. Ass'n v. Dep't of Ret. Sys.***, 181 Wn.2d 212, 221, 332 P.3d 428 (2014) (same); ***City of Bothell v. Barnhart***, 172 Wn.2d 223, 229, 257 P.3d 648 (2011) (same). These decisions

are binding. This Court cannot "declare" controlling precedent incorrect.

But in any event, Michael's argument is meritless. Applying a presumption that duly enacted statues are constitutional furthers the doctrine of separation of powers:

> Because the statute is presumed to be constitutional, the burden is on the challenging party to prove, beyond a reasonable doubt, that it is unconstitutional. . . . This means that one challenging a statute must, by argument and research, convince the court that there is no reasonable doubt that the statute violates the constitution. . . . . The assumption is that the Legislature considered the constitutionality of its enactment and thus should be afforded some deference. . . . Though ultimately, the judiciary decides whether a given statute is within the Legislature's power to enact or whether it violates a constitutional mandate. . . . This is analogous to what the United States Supreme Court has stated, "[d]ue respect for the decisions of a coordinate branch of Government demands that we invalidate a congressional enactment only upon a plain showing that Congress has exceeded its constitutional bounds."

Peninsula Neighborhood Ass'n v. Dep't of Transp., 142 Wn.2d 328, 12 P.3d 134 (2000) (quoting ***United States v. Morrison***, 529 U.S. 598, 607, 120 S. Ct. 1740, 1748, 146 L. Ed. 2d 658 (2000), internal citations omitted).

D. Michael does not have an equal protection claim, and this Court should decline to address this argument for the first time on appeal.

No one disagrees that parents have a protected interest in the care and custody of their children. BA 15-18. But there is no

fundamental liberty interest to "associate" with one's children as much as one desires to. *Id.* Rather, "a parenting plan that 'complies with the statutory requirements to promote the best interests of the children' does not violate a parent's constitutional rights." ***In re Marriage of Katare***, 175 Wn.2d 23, 42, 283 P.3d 546 (2012) (quoting ***In re Marriage of Katare***, 125 Wn. App. 813, 823, 105 P.3d 44 (2004)). Michaels' argument to the contrary is meritless. This Court should decline to participate in the exercise of trying to turn a parenting plan into a First Amendment issue.

Michael appears to assert that the First Amendment protections on the freedom to associate guarantee him unfettered "association" with his children. BA 18-21. The argument goes: LaShandre cannot relocate because it severely infringes on Michael's fundamental "right to parent-child association." BA 18. There is no fundamental right to unfettered parent-child association, and Michael's claims to the contrary are entirely unsupported. BA 18-21.

Here, as in any dissolution proceeding, the trial court has to balance the rights of **both** parents. ***Katare***, 175 Wn.2d at 42. Indeed, in ***Katare***, our Court rejected the claim, similar to Michael's, that limiting international travel impermissibly interfered

with the father's "'fundamental constitutional right to parent his children without state interference.'" 175 Wn.2d at 41-42. The ***Katare*** Court noted, "We have long recognized a parent's right to raise his or her children may be limited in dissolution proceedings because the competing fundamental rights of both parents and the best interests of the child must also be considered." *Id.* at 42 (citing ***In re Marriage of King***, 162 Wn.2d 378, 388, 174 P.3d 659 (2007) ("[F]undamental constitutional rights are not implicated in a dissolution proceeding"); ***Momb v. Ragone***, 132 Wn. App. 70, 77, 130 P.3d 406 (2006) ("No case has applied a strict scrutiny standard when weighing the interests of two parents")). Again "a parenting plan that 'complies with the statutory requirements to promote the best interests of the children' does not violate a parent's constitutional rights." ***Katare*** 175 Wn.2d at 42 (quoting ***Katare,*** 125 Wn. App. at 823).

But even assuming arguendo that there is a fundamental right to "parent-child association" – and necessary then that ***Katare*** and its predecessors and progeny are wrong – LaShandre and Michael are not similarly situated. BA 19. Thus, Michael's equal protection claim fails. *See e.g.*, ***Harris v. Charles***, 171 Wn.2d 455, 462, 256 P.3d 382 (2011); WASH. CONST. at 1, § 12.

LaShandre is, and has for the last 16-years been, the primary residential parent. Ex 2 at 19, 124-25, 27. Michael is a "weekend dad." *Id.* at 27. While his contributions to the children's upbringing was more than financial, Michael has not been nearly as involved in childrearing as LaShandre. *Id.* In other words, this Court is not faced with two parents equally – or even roughly equally – sharing parenting. The parties simply are not similarly situated.

Michael completely misses the mark in suggesting that the County is "limited to validating parental fitness to justify its continued intrusion." BA 21. LaShandre filed for divorce invoking the court's jurisdiction over the marriage and the children of the marriage. The court is statutorily required to enter a parenting plan. RCW 26.09.050(1). This is not the type of "intrusion" that occurs when the State seeks to terminate parental rights, claiming that a parent is unfit. And the upshot of Michael's argument is that courts cannot enter parenting plans unless a parent is unfit. BA 21. That is plainly incorrect and unwise.

Finally, Michael is not entitled to strict scrutiny, as he claims. BA 21-25. Again, "case has applied a strict scrutiny standard when weighing the interests of two parents." ***Momb***, 132 Wn. App. at 77. But in any event, allowing trial courts to dissolve marriages

and enter parenting plans is plainly a compelling state interest. BA 21-25.

E. LaShandre is a fit parent, and this Court should decline to reach this issue for the first time on appeal. (BA 26-32).

Michael begins this argument with the assertion that LaShandre is unfit because she "requires compensation." BA 27-28. The upshot of this argument is that any parent leaving a divorce who needs maintenance or child support is not fit to parent their children. This is incorrect as it is offensive.

Michael then argues that LaShandre's "possible psychosis" renders her unfit. BA 28-30. To support this assertion, Michael accuses the "County" of having kept LaShandre's "possible psychosis hidden throughout the dissolution." BA 29. This argument is unsupported.

Michael faults the trial court for initially refusing to order LaShandre to undergo a psychological evaluation. BA 29. Michael agreed to his own psychological exam. CP 32-33. He ignores that the court initially declined to do order an evaluation of LaShandre because it found no factual basis supporting Michael's claims that LaShandre was "mentally ill." Ex 2 at 24; see RP 742; CP 104. Michael also ignores that once LaShandre filed for relocation, Dr.

Poppleton performed on LaShandre the same psychological evaluation he performed on Michael. Ex 2 at 21-23.

Michael claims that the court ignored RCW 26.09.187. BA 29-30. LaShandre moved for relocation, governed by RCW 26.09.520, not RCW 26.09.187. In any event, many of the considerations are the same. *Compare* RCW 26.09.187 *with* .520.

Michael's argument is nothing more than a *quid-pro-quo* claim that since Michael was "heavily scrutinized," LaShandre should have been too. BA 28-30. In this regard as well, the parties are not similarly situated. As discussed at length in the facts, Michael has a long history of depression and suicidal ideation. Statement of Fact § D. As the marriage worsened, his depression became more pronounced, and he made statements about blaming LaShandre should he take his life. RP 237-38.

Michael repeatedly exercised phenomenally poor judgment documented by third-parties, including sending disgusting letters to LaShandre's parents, providing surreptitious recordings of LaShandre to the parenting evaluator, and arriving at his child's school, in violation of a restraining order, with a book about making homemade weapons. Ex 2 at 24; Ex 42; RP 556.

Michael's claim that LaShandre is "mentally ill" is essentially that she overacts to his actions. Ex 2 at 24. But again, Dr. Poppleton opined that this is a cycle – Michael exercises poor judgment, LaShandre overreacts, and Michael accuses her of mental illness. *Id.* Given the long history of marital discord, her reactions were understandable. *Id.*

F. Michaels' argument that marriage does not affect "individual rights" is baseless. (BA 32-44).

Michael argues that the parties' marriage did not affect his "individual rights" to "autonomy and property." BA 32-44. The premise underpinning this argument is fatally flawed and undermines the entire argument.

Marriage is a civil contract entered into voluntarily by adults. RCW 26.04.010. The marital contract plainly affects property in numerous ways, just a few examples of which are: (1) that property acquired during the marriage is presumed to belong to the community; (2) that spouses may only bequeath their 50% share of community assets; and (3) that all property, community and separate, comes before the court for distribution during a divorce. *See* generally, RCW 26.09.080, 26.16.030. Marriage plainly affects the right to "autonomy" in similar ways – as just one example, a

married person does not have the "autonomy" to dispose of all community assets. RCW 26.16.030.

In short, when Michael elected to get married, his rights to "autonomy and property" changed. This Court should disregard this meritless argument.

Michael claims that the trial court "ignored" his rights to autonomy and property, stemming from its adherence to "ancient practices, so socially engrained as to be imperceptible." BA 32. Although not clear, Michael appears to refer to the "practice" that the husband was "granted . . . absolute dominion over [the wife] and in return he was indebted to re-establish her post-separation identity." BA 34. There is no indication the trial court reverted to such a "practice," assuming it ever existed.

In dissolution proceedings, the trial court has broad discretion to make a just and equitable property distribution based on the factors enumerated in RCW 26.09.080. ***In re Marriage of Rockwell***, 141 Wn. App. 235, 242-43, 170 P.3d 572 (2007), *rev. denied*, 163 Wn.2d 1055 (2008); ***In re Marriage of Luckey***, 73 Wn. App. 201, 209-10, 868 P.2d 189 (1994). This Court will reverse only upon a showing of a manifest abuse of discretion. ***In re Marriage of Buchanan***, 150 Wn. App. 730, 735, 207 P.3d 478 (2009).

In addition to the character, nature and extent of the parties' property, and the economic circumstances of each spouse when the property division will take effect (RCW 26.09.080), the court considers the parties' health and ages, their prospects for future earnings, their education and employment histories, their necessities and financial abilities, and their foreseeable future acquisitions and obligations. ***In re Marriage of Gillespie***, 89 Wn. App. 390, 399, 948 P.2d 1338 (1997). The trial court's paramount concern is the economic situation in which the decree leaves the parties. ***Gillespie***, 89 Wn. App. at 399. A division of property need not be equal, but just and equitable, depending on both parties' circumstances at the time of dissolution. RCW 26.09.080.

Maintenance awards and property distributions work in conjunction with one another – "[t]he trial court may properly consider the property division when determining maintenance, and may consider maintenance in making an equitable division of the property." ***In re Marriage of Estes***, 84 Wn. App. 586, 593, 929 P.2d 500 (1997). The trial court has broad discretion to award maintenance based on the factors enumerated in RCW 26.09.090. ***In re Marriage of Bulicek***, 59 Wn. App. 630, 633, 800 P.2d 394 (1990). Maintenance is "a flexible tool by which the parties'

standard of living may be equalized for an appropriate period of time." ***In re Marriage of Washburn***, 101 Wn.2d 168, 179, 677 P.2d 152 (1984). "The only limitation on amount and duration of maintenance under RCW 26.09.090 is that, in light of the relevant factors, the award must be just." ***Bulicek***, 59 Wn. App. at 633.

The trial court plainly applied these well-established principles. CP 112-20; RP 713-20, 738-41. Michaels' assertion that the court did anything else is unfounded.

Michael's remaining arguments are also meritless. Michael apparently interprets "women's emancipation" and the Equal Rights Amendment to mean that a stay-at-home mom leaving a long-term marriage should take little or nothing with her because she did not "reciprocate" during the marriage. BA 34. But our courts have long recognized that there is value in raising children, managing a family and household, and generally supporting a working spouse. *See e.g.* ***Washburn***, 101 Wn.2d at 178-81.

Michael next claims that the trial court stripped his right to "parental autonomy," which he appears to define as his "privilege to direct, authority to control and duty to provide." BA 35-39. He claims that his "autonomy was infringed when the County ordered dissemination of parenting functions between parents." BA 36.

It is impossible to tell what Michael means when he accuses the County of "disseminating" parenting functions. *Id.* But in any event, no divorced parent co-parenting under a parenting plan, has the right to "parental autonomy" in the sense Michael seems to use it. Michael does not get to unilaterally "direct" or "control" all aspects of parenting, nor is he expected to exclusively provide for the kids. BA 36. Rather, the parties, must find a way to parent with the other, as must all parties co-parenting under a parenting plan. *See e.g.* ***In re Custody of B.M.H.***, 179 Wn.2d 224, 243, 315 P.3d 470 (2013) (holding that the Legislature contemplated that divorced parents will co-parent under a parenting plan).

Further, the parenting plan provides that each parent may make decisions regarding day-to-day care while child is with him or her, and that major decision-making is joint. CP 128. There are no restrictions on decision-making. *Id.*

Michael claims that "[o]nly" he "was capable and willing to provide for the children's moral, intellectual and material welfare." BA 37. The court and parenting evaluator plainly disagreed. CP 104-06; Ex 2 at 27-30. This Court affirms all findings supported by substantial evidence, "'evidence of sufficient quantity to persuade a fair-minded, rational person of the truth of the declared

premise.'" ***Marriage of Rockwell***, 141 Wn. App. at 242 (quoting ***In re Marriage of Griswold***, 112 Wn. App 333, 339, 48 P.3d 1018 (2002)).

Michael next claims that "[r]equiring him to subsidize Ms Bent to do what he could do himself was cumbersome and improper." BA 37. It is unclear whether the "subsidy" Michael refers to is maintenance or child support, but neither are subsidies. Michael essentially suggests that because he has superior ability to provide for the children financially, the trial court had to place the children with him, rather than award maintenance and or child support to LaShandre. BA 37. Here too, this argument is as incorrect as it is offensive. Superior earning capacity is not a basis for placing children with a parent under a parenting plan or denying a relocation. RCW 26.09.187; 26.09.520.

Michael next argues that requiring him to "sustain [LaShandre] post-separation" is a due process violation. BA 39-41. This is just another iteration of the argument that a trial court must award primary residential parentage to the superior-earning husband if the wife needs maintenance or child support, even if only temporarily. *Id.* Such "'naked castings into the constitutional sea are

not sufficient to command judicial consideration and discussion.'" ***Katare***, 175 Wn.2d at 40-41.

Finally, Michael argues for a "[t]ransformation" based on what he claims is a contemporary marriage and contemporary dissolution. BA 41-44. Michael argues that our current system of dissolving marriages promotes "entitlements" and rewards "frivolous behavior like [LaShandre] filing for dissolution without first ensuring her self-reliance." BA 42. Michael here too persists in the repeated assertion that LaShandre did not "sustain the bilateral loyalty by contributing equally." *Id.*

Apparently, Michael does not see raising the children and maintaining the home as "loyalty" or "contributing." BR 42. Luckily for LaShandre and many like her, our courts have long disagreed.

And it is unclear why Michael refers to the parties' marriage as "[c]ontemporary." BA 32. The marriage is in many ways quite traditional – the mother staying at home to raise the children, and the father working to support the family. The consequences of this traditional arrangement are common – LaShandre is more connected to the children, but less able to provide for them financially.

Michal's suggestion that a spouse must stay in a marriage until they are "self-reliant" is exactly the type of thinking that has kept domestic violence victims in dangerous marriages for years. BA 42. While Poppleton characterized this marriage not as "abusive," but as fraught with "mutual conflict," there is no doubt that it was unhealthy for both parties. RP 62-63; Ex 2 at 28. But in any event, the purpose of maintenance is to provide for an economically disadvantaged spouse for a reasonable period of time so that he or she can gain "self-reliance." ***Washburn***, 101 Wn.2d at 178. Nothing in our law suggests that a party should be punished for terminating a marriage before becoming financially independent.

In sum, this Court should reject Michael's baseless arguments that marriage – a civil contract – does not affect property and "autonomy" rights.

G. Strict-scrutiny does not apply. (BA 44-47).

Michael argues that the relocation statute, and specifically, the presumption that the primary residential parent may relocate with the children, does not satisfy strict-scrutiny. BA 44-47. As discussed above, however, our courts have never applied strict scrutiny in family-law cases resolving two parent's competing interests. ***Momb***, 132 Wn. App. at 77. Michael has no answer.

But in any event, Michael's argument ignores the compelling reason for the presumption he challenges – relocations cases do not focus exclusively on the children, but on the requesting parent as well. ***Horner***, 151 Wn.2d at 887. LaShandre has a right to move. The presumption that the children may go with her protects her rights, while also balancing the children's best interests.[2]

H. Michael does not have a § 1983 claim (BA 47-48).

Michael's §1983 argument is virtually impossible to understand, but appears to be that the "County" (apparently the trial judge) entered orders violating Michael's rights (apparently to autonomy, property and parent-child association), so is subject to a §1983 claim. BA 48. In other words, he argues that a litigant who is unhappy with a court's orders should get to sue the "County." *Id.* Michael's remedy is the appellate process, not a lawsuit against the "County."

I. This Court should award LaShandre fees on appeal.

This Court should award fees based on LaShandre's need and Michael's ability to pay. RCW 26.09.140. While the trial court

---

[2] This Court has already addressed situations in which, unlike here, both parents share parenting responsibilities equally. ***Fahey***, 164 Wn. App. at 58-60. In that case, neither party is entitled to the presumption otherwise applicable under the relocation act. 164 Wn. App. at 58-60.

correctly noted that both parties have incurred significant debt litigating this matter, Michael is far better suited to bear this massive financial burden. RP 751. Michael earns $126,000 annually, while LaShandre is unemployed and has the capacity to earn about $40,000-$45,000. Ex 2 at 30.

This Court should also award fees on the ground that Michael's appeal is frivolous. RAP 18.9; ***In re Marriage of Greenlee***, 65 Wn. App. 703, 708, 711, 829 P.2d 1120 (1992). Michael does not even address the court's highly discretionary relocation ruling. He instead raises a battery of constitutional arguments for the first time on appeal, all of which are meritless, and many of which have already been rejected. In short, Michael raises no debatable issues on which reasonable minds might differ, and his arguments are so devoid of merit that there is no reasonable possibility of reversal. *See, e.g.,* ***Fay v. Nw. Airlines, Inc.,*** 115 Wn.2d 194, 200-01, 796 P.2d 412 (1990); ***Carlile v. Harbour Homes, Inc.***, 147 Wn. App. 193, 217, 194 P.3d 280 (1990) (citing ***State ex rel. Quick-Ruben v. Verharen***, 136 Wn.2d 888, 905, 969 P.2d 64 (1998)).

CONCLUSION

For the reasons stated above, this Court should affirm and award LaShandre fees.

RESPECTFULLY SUBMITTED this 7th day of January, 2015.

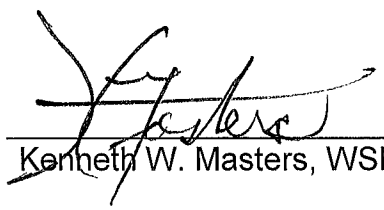
MASTERS LAW GROUP, P.L.L.C.

Kenneth W. Masters, WSBA 22278
Shelby R. Frost Lemmel, WSBA 33099
241 Madison Ave. North
Bainbridge Island, WA 98110
(206) 780-5033

CERTIFICATE OF SERVICE BY MAIL

I certify that I caused to be mailed, a copy of the foregoing **BRIEF OF RESPONDENT**, postage prepaid, via U.S. mail on the 7th day of January, 2015, to the following counsel of record at the following addresses:

Michael Bent, Appellant, pro se 16506 SE 29th St., Apt K91 Vancouver, WA 98683	x U.S. Mail ____ E-Mail ____ Facsimile
Teresa Foster Morse, Bratt, Andrews & Foster, PLLC 108 E Mill Plain Blvd Vancouver, WA 98660-3282	x U.S. Mail ____ E-Mail ____ Facsimile



Kenneth W. Masters, WSBA 22278

RCW 26.04.010

Marriage contract — Void marriages — Construction of gender specific terms — Recognition of solemnization of marriage not required.

(1) Marriage is a civil contract between two persons who have each attained the age of eighteen years, and who are otherwise capable.

(2) Every marriage entered into in which either person has not attained the age of seventeen years is void except where this section has been waived by a superior court judge of the county in which one of the parties resides on a showing of necessity.

(3) Where necessary to implement the rights and responsibilities of spouses under the law, gender specific terms such as husband and wife used in any statute, rule, or other law must be construed to be gender neutral and applicable to spouses of the same sex.

(4) No regularly licensed or ordained minister or any priest, imam, rabbi, or similar official of any religious organization is required to solemnize or recognize any marriage. A regularly licensed or ordained minister or priest, imam, rabbi, or similar official of any religious organization shall be immune from any civil claim or cause of action based on a refusal to solemnize or recognize any marriage under this section. No state agency or local government may base a decision to penalize, withhold benefits from, or refuse to contract with any religious organization on the refusal of a person associated with such religious organization to solemnize or recognize a marriage under this section.

(5) No religious organization is required to provide accommodations, facilities, advantages, privileges, services, or goods related to the solemnization or celebration of a marriage.

(6) A religious organization shall be immune from any civil claim or cause of action, including a claim pursuant to chapter 49.60 RCW, based on its refusal to provide accommodations, facilities, advantages, privileges, services, or goods related to the solemnization or celebration of a marriage.

(7) For purposes of this section:

(a) "Recognize" means to provide religious-based services that:

(i) Are delivered by a religious organization, or by an individual who is managed, supervised, or directed by a religious organization; and

(ii) Are designed for married couples or couples engaged to marry and are directly related to solemnizing, celebrating, strengthening, or promoting a marriage, such as religious counseling programs, courses, retreats, and workshops; and

(b) "Religious organization" includes, but is not limited to, churches, mosques, synagogues, temples, nondenominational ministries, interdenominational and ecumenical organizations, mission organizations, faith-based social agencies, and other entities whose principal purpose is the study, practice, or advancement of religion.

[2012 c 3 § 1 (Referendum Measure No. 74, approved November 6, 2012); 1998 c 1 § 3; 1973 1st ex.s. c 154 § 26; 1970 ex.s. c 17 § 2; 1963 c 230 § 1; Code 1881 § 2380; 1866 p 81 § 1; 1854 p 404 §§ 1, 5; RRS § 8437.]

RCW 26.09.050

Decrees — Contents — Restraining orders — Enforcement — Notice of termination or modification of restraining order.

(1) In entering a decree of dissolution of marriage or domestic partnership, legal separation, or declaration of invalidity, the court shall determine the marital or domestic partnership status of the parties, make provision for a parenting plan for any minor child of the marriage or domestic partnership, make provision for the support of any child of the marriage or domestic partnership entitled to support, consider or approve provision for the maintenance of either spouse or either domestic partner, make provision for the disposition of property and liabilities of the parties, make provision for the allocation of the children as federal tax exemptions, make provision for any necessary continuing restraining orders including the provisions contained in RCW 9.41.800, make provision for the issuance within this action of the restraint provisions of a domestic violence protection order under chapter 26.50 RCW or an antiharassment protection order under chapter 10.14 RCW, and make provision for the change of name of any party.

(2) Restraining orders issued under this section restraining or enjoining the person from molesting or disturbing another party, or from going onto the grounds of or entering the home, workplace, or school of the other party or the day care or school of any child, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, shall prominently bear on the front page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(3) The court shall order that any restraining order bearing a criminal offense legend, any domestic violence protection order, or any antiharassment protection order granted under this section, in addition to the law enforcement information sheet or proof of service of the order, be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order is fully enforceable in any county in the state.

(4) If a restraining order issued pursuant to this section is modified or terminated, the clerk of the court shall notify the law enforcement agency specified in the order on or before the next judicial day. Upon receipt of notice that an order has been terminated, the law enforcement agency shall remove the order from any computer-based criminal intelligence system.

[2008 c 6 § 1008; 2000 c 119 § 6; 1995 c 93 § 2; 1994 sp.s. c 7 § 451; 1989 c 375 § 29; 1987 c 460 § 5; 1973 1st ex.s. c 157 § 5.]

RCW 26.09.080

Disposition of property and liabilities — Factors.

In a proceeding for dissolution of the marriage or domestic partnership, legal separation, declaration of invalidity, or in a proceeding for disposition of property following dissolution of the marriage or the domestic partnership by a court which lacked personal jurisdiction over the absent spouse or absent domestic partner or lacked jurisdiction to dispose of the property, the court shall, without regard to misconduct, make such disposition of the property and the liabilities of the parties, either community or separate, as shall appear just and equitable after considering all relevant factors including, but not limited to:

(1) The nature and extent of the community property;

(2) The nature and extent of the separate property;

(3) The duration of the marriage or domestic partnership; and

(4) The economic circumstances of each spouse or domestic partner at the time the division of property is to become effective, including the desirability of awarding the family home or the right to live therein for reasonable periods to a spouse or domestic partner with whom the children reside the majority of the time.

[2008 c 6 § 1011; 1989 c 375 § 5; 1973 1st ex.s. c 157 § 8.]

RCW 26.09.090

Maintenance orders for either spouse or either domestic partner — Factors.

(1) In a proceeding for dissolution of marriage or domestic partnership, legal separation, declaration of invalidity, or in a proceeding for maintenance following dissolution of the marriage or domestic partnership by a court which lacked personal jurisdiction over the absent spouse or absent domestic partner, the court may grant a maintenance order for either spouse or either domestic partner. The maintenance order shall be in such amounts and for such periods of time as the court deems just, without regard to misconduct, after considering all relevant factors including but not limited to:

(a) The financial resources of the party seeking maintenance, including separate or community property apportioned to him or her, and his or her ability to meet his or her needs independently, including the extent to which a provision for support of a child living with the party includes a sum for that party;

(b) The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find employment appropriate to his or her skill, interests, style of life, and other attendant circumstances;

(c) The standard of living established during the marriage or domestic partnership;

(d) The duration of the marriage or domestic partnership;

(e) The age, physical and emotional condition, and financial obligations of the spouse or domestic partner seeking maintenance; and

(f) The ability of the spouse or domestic partner from whom maintenance is sought to meet his or her needs and financial obligations while meeting those of the spouse or domestic partner seeking maintenance.

[2008 c 6 § 1012; 1989 c 375 § 6; 1973 1st ex.s. c 157 § 9.]

RCW 26.09.140

Payment of costs, attorneys' fees, etc.

The court from time to time after considering the financial resources of both parties may order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding under this chapter and for reasonable attorneys' fees or other professional fees in connection therewith, including sums for legal services rendered and costs incurred prior to the commencement of the proceeding or enforcement or modification proceedings after entry of judgment.

Upon any appeal, the appellate court may, in its discretion, order a party to pay for the cost to the other party of maintaining the appeal and attorneys' fees in addition to statutory costs.

The court may order that the attorneys' fees be paid directly to the attorney who may enforce the order in his or her name.

[2011 c 336 § 690; 1973 1st ex.s. c 157 § 14.]

RCW 26.09.187

Criteria for establishing permanent parenting plan.

(1) DISPUTE RESOLUTION PROCESS. The court shall not order a dispute resolution process, except court action, when it finds that any limiting factor under RCW 26.09.191 applies, or when it finds that either parent is unable to afford the cost of the proposed dispute resolution process. If a dispute resolution process is not precluded or limited, then in designating such a process the court shall consider all relevant factors, including:

(a) Differences between the parents that would substantially inhibit their effective participation in any designated process;

(b) The parents' wishes or agreements and, if the parents have entered into agreements, whether the agreements were made knowingly and voluntarily; and

(c) Differences in the parents' financial circumstances that may affect their ability to participate fully in a given dispute resolution process.

(2) ALLOCATION OF DECISION-MAKING AUTHORITY.

(a) AGREEMENTS BETWEEN THE PARTIES. The court shall approve agreements of the parties allocating decision-making authority, or specifying rules in the areas listed in RCW 26.09.184(5)(a), when it finds that:

(i) The agreement is consistent with any limitations on a parent's decision-making authority mandated by RCW 26.09.191; and

(ii) The agreement is knowing and voluntary.

(b) SOLE DECISION-MAKING AUTHORITY. The court shall order sole decision-making to one parent when it finds that:

(i) A limitation on the other parent's decision-making authority is mandated by RCW 26.09.191;

(ii) Both parents are opposed to mutual decision making;

(iii) One parent is opposed to mutual decision making, and such opposition is reasonable based on the criteria in (c) of this subsection.

(c) MUTUAL DECISION-MAKING AUTHORITY. Except as provided in (a) and (b) of this subsection, the court shall consider the following criteria in allocating decision-making authority:

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

(ii) The history of participation of each parent in decision making in each of the areas in RCW 26.09.184(5)(a);

(iii) Whether the parents have a demonstrated ability and desire to cooperate with one another in decision making in each of the areas in RCW 26.09.184(5)(a); and

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

(3) RESIDENTIAL PROVISIONS.

(a) The court shall make residential provisions for each child which encourage each parent to maintain a loving, stable, and nurturing relationship with the child, consistent with the child's developmental level and the family's social and economic circumstances. The child's residential schedule shall be consistent with RCW 26.09.191. Where the limitations of RCW 26.09.191 are not dispositive of the child's residential schedule, the court shall consider the following factors:

(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 as defined in *RCW 26.09.004(3), 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.

Factor (i) shall be given the greatest weight.

(b) Where the limitations of RCW 26.09.191 are not dispositive, the court may order that a child frequently alternate his or her residence between the households of the parents for brief and substantially equal intervals of time if such provision is in the best interests of the child. In determining whether such an arrangement is in the best interests of the child, the court may consider the parties geographic proximity to the extent necessary to ensure the ability to share performance of the parenting functions.

(c) For any child, residential provisions may contain any reasonable terms or conditions that facilitate the orderly and meaningful exercise of residential time by a parent, including but not limited to requirements of reasonable notice when residential time will not occur.

[2007 c 496 § 603; 1989 c 375 § 10; 1987 c 460 § 9.]

RCW 26.09.191

Restrictions in temporary or permanent parenting plans.

(1) The permanent parenting plan shall not require mutual decision-making or designation of a dispute resolution process other than court action if it is found that a parent has engaged in any of the following conduct: (a) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (b) physical, sexual, or a pattern of emotional abuse of a child; or (c) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm.

(2)(a) The parent's residential time with the child shall be limited if it is found that the parent has engaged in any of the following conduct: (i) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (ii) physical, sexual, or a pattern of emotional abuse of a child; (iii) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm; or (iv) the parent has been convicted as an adult of a sex offense under:

(A) RCW 9A.44.076 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;

(B) RCW 9A.44.079 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;

(C) RCW 9A.44.086 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;

(D) RCW 9A.44.089;

(E) RCW 9A.44.093;

(F) RCW 9A.44.096;

(G) RCW 9A.64.020 (1) or (2) if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;

(H) Chapter 9.68A RCW;

(I) Any predecessor or antecedent statute for the offenses listed in (a)(iv)(A) through (H) of this subsection;

(J) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (a)(iv)(A) through (H) of this subsection.

This subsection (2)(a) shall not apply when (c) or (d) of this subsection applies.

(b) The parent's residential time with the child shall be limited if it is found that the parent resides with a person who has engaged in any of the following conduct: (i) Physical, sexual, or a pattern of emotional abuse of a child; (ii) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault that causes grievous bodily harm or the fear of such harm; or (iii) the person has been convicted as an adult or as a juvenile has been adjudicated of a sex offense under:

(A) RCW 9A.44.076 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(B) RCW 9A.44.079 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(C) RCW 9A.44.086 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(D) RCW 9A.44.089;

(E) RCW 9A.44.093;

(F) RCW 9A.44.096;

(G) RCW 9A.64.020 (1) or (2) if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(H) Chapter 9.68A RCW;

(I) Any predecessor or antecedent statute for the offenses listed in (b)(iii)(A) through (H) of this subsection;

(J) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (b)(iii)(A) through (H) of this subsection.

This subsection (2)(b) shall not apply when (c) or (e) of this subsection applies.

(c) If a parent has been found to be a sexual predator under chapter 71.09 RCW or under an analogous statute of any other jurisdiction, the court shall restrain the parent from contact with a child that would otherwise be allowed under this chapter. If a parent resides with an adult or a juvenile who has been found to be a sexual predator under chapter 71.09 RCW or under an analogous statute of any other jurisdiction, the court shall restrain the parent from contact with the parent's child except contact that occurs outside that person's presence.

(d) There is a rebuttable presumption that a parent who has been convicted as an adult of a sex offense listed in (d)(i) through (ix) of this subsection poses a present danger to a child. Unless the parent rebuts this presumption, the court shall restrain the parent from contact with a child that would otherwise be allowed under this chapter:

(i) RCW 9A.64.020 (1) or (2), provided that the person convicted was at least five years older than the other person;

(ii) RCW 9A.44.073;

(iii) RCW 9A.44.076, provided that the person convicted was at least eight years older than the victim;

(iv) RCW 9A.44.079, provided that the person convicted was at least eight years older than the victim;

(v) RCW 9A.44.083;

(vi) RCW 9A.44.086, provided that the person convicted was at least eight years older than the victim;

(vii) RCW 9A.44.100;

(viii) Any predecessor or antecedent statute for the offenses listed in (d)(i) through (vii) of this subsection;

(ix) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (d)(i) through (vii) of this subsection.

(e) There is a rebuttable presumption that a parent who resides with a person who, as an adult, has been convicted, or as a juvenile has been adjudicated, of the sex offenses listed in (e)(i) through (ix) of this subsection places a child at risk of abuse or harm when that parent exercises residential time in the presence of the convicted or adjudicated person. Unless the parent rebuts the presumption, the court shall restrain the parent from contact with the parent's child except for contact that occurs outside of the convicted or adjudicated person's presence:

(i) RCW 9A.64.020 (1) or (2), provided that the person convicted was at least five years older than the other person;

(ii) RCW 9A.44.073;

(iii) RCW 9A.44.076, provided that the person convicted was at least eight years older than the victim;

(iv) RCW 9A.44.079, provided that the person convicted was at least eight years older than the victim;

(v) RCW 9A.44.083;

(vi) RCW 9A.44.086, provided that the person convicted was at least eight years older than the victim;

(vii) RCW 9A.44.100;

(viii) Any predecessor or antecedent statute for the offenses listed in (e)(i) through (vii) of this subsection;

(ix) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (e)(i) through (vii) of this subsection.

(f) The presumption established in (d) of this subsection may be rebutted only after a written finding that:

(i) If the child was not the victim of the sex offense committed by the parent requesting residential time, (A) contact between the child and the offending parent is appropriate and poses minimal risk to the child, and (B) the offending parent has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the child; or

(ii) If the child was the victim of the sex offense committed by the parent requesting residential time, (A) contact between the child and the offending parent is appropriate and poses minimal risk to the child, (B) if the child is in or has been in therapy for victims of sexual abuse, the child's counselor believes such contact between the child and the offending parent is in the child's best interest, and (C) the offending parent has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the child.

(g) The presumption established in (e) of this subsection may be rebutted only after a written finding that:

(i) If the child was not the victim of the sex offense committed by the person who is residing with the parent requesting residential time, (A) contact between the child and the parent residing with the convicted or adjudicated person is appropriate and that parent is able to protect the child in the presence of the convicted or adjudicated person, and (B) the convicted or adjudicated person has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the child; or

(ii) If the child was the victim of the sex offense committed by the person who is residing with the parent requesting residential time, (A) contact between the child and the parent in the presence of the convicted or adjudicated person is appropriate and poses minimal risk to the child, (B) if the child is in or has been in therapy for victims of sexual abuse, the child's counselor believes such contact between the child and the parent residing with the convicted or adjudicated person in the presence of the convicted or adjudicated person is in the child's best interest, and (C) the convicted or adjudicated person has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes contact between the parent and child in the presence of the convicted or adjudicated person is appropriate and poses minimal risk to the child.

(h) If the court finds that the parent has met the burden of rebutting the presumption under (f) of this subsection, the court may allow a parent who has been convicted as an adult of a sex offense listed in (d)(i) through (ix) of this subsection to have residential time with the child supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such residential time. The court shall not approve of a supervisor for contact between the child and the parent unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

(i) If the court finds that the parent has met the burden of rebutting the presumption under (g) of this subsection, the court may allow a parent residing with a person who has been adjudicated as a juvenile of a sex offense listed in (e)(i) through (ix) of this subsection to have residential time with the child in the presence of the person adjudicated as a juvenile, supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such residential time. The court shall not approve of a supervisor for contact between the child and the parent unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

(j) If the court finds that the parent has met the burden of rebutting the presumption under (g) of this subsection, the court may allow a parent residing with a person who, as an adult, has been convicted of a sex offense listed in (e)(i) through (ix) of this subsection to have residential time with the child in the presence of the convicted person supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such residential time. The court shall not approve of a supervisor for contact between the child and the parent unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

(k) A court shall not order unsupervised contact between the offending parent and a child of the offending parent who was sexually abused by that parent. A court may order unsupervised contact between the offending parent and a child who was not sexually abused by the parent after the presumption under (d) of this subsection has been rebutted and supervised residential time has occurred for at least two years with no further arrests or convictions of sex offenses involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW and (i) the sex offense of the offending parent was not committed against a child of the offending parent, and (ii) the court finds that unsupervised contact between the child and the offending parent is appropriate and poses minimal risk to the child, after consideration of the testimony of a state-certified therapist, mental health counselor, or social worker with expertise in treating child sexual abuse victims who has supervised at least one period of residential time between the parent and the child, and after consideration of evidence of the offending parent's compliance with community supervision requirements, if any. If the offending parent was not ordered by a court to participate in treatment for sex offenders, then the parent shall obtain a psychosexual evaluation conducted by a certified sex offender treatment provider or a certified affiliate sex offender treatment provider indicating that the offender has the lowest likelihood of risk to reoffend before the court grants unsupervised contact between the parent and a child.

(l) A court may order unsupervised contact between the parent and a child which may occur in the presence of a juvenile adjudicated of a sex offense listed in (e)(i) through (ix) of this subsection who resides with the parent after the presumption under (e) of this subsection has been rebutted and supervised residential time has occurred for at least two years during which time the adjudicated juvenile has had no further arrests, adjudications, or convictions of sex offenses involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW, and (i) the court finds that unsupervised contact between the child and the parent that may occur in the presence of the adjudicated juvenile is appropriate and poses minimal risk to the child, after consideration of the testimony of a state-certified therapist, mental health counselor, or social worker with expertise in treatment of child sexual abuse victims who has supervised at least one period of residential time between the parent and the child in the presence of the

adjudicated juvenile, and after consideration of evidence of the adjudicated juvenile's compliance with community supervision or parole requirements, if any. If the adjudicated juvenile was not ordered by a court to participate in treatment for sex offenders, then the adjudicated juvenile shall obtain a psychosexual evaluation conducted by a certified sex offender treatment provider or a certified affiliate sex offender treatment provider indicating that the adjudicated juvenile has the lowest likelihood of risk to reoffend before the court grants unsupervised contact between the parent and a child which may occur in the presence of the adjudicated juvenile who is residing with the parent.

(m)(i) The limitations imposed by the court under (a) or (b) of this subsection shall be reasonably calculated to protect the child from the physical, sexual, or emotional abuse or harm that could result if the child has contact with the parent requesting residential time. The limitations shall also be reasonably calculated to provide for the safety of the parent who may be at risk of physical, sexual, or emotional abuse or harm that could result if the parent has contact with the parent requesting residential time. The limitations the court may impose include, but are not limited to: Supervised contact between the child and the parent or completion of relevant counseling or treatment. If the court expressly finds based on the evidence that limitations on the residential time with the child will not adequately protect the child from the harm or abuse that could result if the child has contact with the parent requesting residential time, the court shall restrain the parent requesting residential time from all contact with the child.

(ii) The court shall not enter an order under (a) of this subsection allowing a parent to have contact with a child if the parent has been found by clear and convincing evidence in a civil action or by a preponderance of the evidence in a dependency action to have sexually abused the child, except upon recommendation by an evaluator or therapist for the child that the child is ready for contact with the parent and will not be harmed by the contact. The court shall not enter an order allowing a parent to have contact with the child in the offender's presence if the parent resides with a person who has been found by clear and convincing evidence in a civil action or by a preponderance of the evidence in a dependency action to have sexually abused a child, unless the court finds that the parent accepts that the person engaged in the harmful conduct and the parent is willing to and capable of protecting the child from harm from the person.

(iii) If the court limits residential time under (a) or (b) of this subsection to require supervised contact between the child and the parent, the court shall not approve of a supervisor for contact between a child and a parent who has engaged in physical, sexual, or a pattern of emotional abuse of the child unless the court finds based upon the evidence that the supervisor accepts that the harmful conduct occurred and is willing to and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing to or capable of protecting the child.

(n) If the court expressly finds based on the evidence that contact between the parent and the child will not cause physical, sexual, or emotional abuse or harm to the child and that the probability that the parent's or other person's harmful or abusive conduct will recur is so remote that it would not be in the child's best interests to apply the limitations of (a), (b), and (m)(i) and (iii) of this subsection, or if the court expressly finds that the parent's conduct did not have an impact on the child, then the court need not apply the limitations of (a), (b), and (m)(i) and (iii) of this subsection. The weight given to the existence of a protection order issued under chapter 26.50 RCW as to domestic violence is within the discretion of the court. This subsection shall not apply when (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m)(ii) of this subsection apply.

(3) A parent's involvement or conduct may have an adverse effect on the child's best interests, and the court may preclude or limit any provisions of the parenting plan, if any of the following factors exist:

(a) A parent's neglect or substantial nonperformance of parenting functions;

(b) A long-term emotional or physical impairment which interferes with the parent's performance of parenting functions as defined in RCW 26.09.004;

(c) A long-term impairment resulting from drug, alcohol, or other substance abuse that interferes with the performance of parenting functions;

(d) The absence or substantial impairment of emotional ties between the parent and the child;

(e) The abusive use of conflict by the parent which creates the danger of serious damage to the child's psychological development;

(f) A parent has withheld from the other parent access to the child for a protracted period without good cause; or

(g) Such other factors or conduct as the court expressly finds adverse to the best interests of the child.

(4) In cases involving allegations of limiting factors under subsection (2)(a)(ii) and (iii) of this section, both parties shall be screened to determine the appropriateness of a comprehensive assessment regarding the impact of the limiting factor on the child and the parties.

(5) In entering a permanent parenting plan, the court shall not draw any presumptions from the provisions of the temporary parenting plan.

(6) In determining whether any of the conduct described in this section has occurred, the court shall apply the civil rules of evidence, proof, and procedure.

(7) For the purposes of this section:

(a) "A parent's child" means that parent's natural child, adopted child, or stepchild; and

(b) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

[2011 c 89 § 6; 2007 c 496 § 303; 2004 c 38 § 12; 1996 c 303 § 1; 1994 c 267 § 1. Prior: 1989 c 375 § 11; 1989 c 326 § 1; 1987 c 460 § 10.]

RCW 26.09.420

Grant of authority.

When entering or modifying a court order, the court has the authority to allow or not allow a person to relocate the child.

[2000 c 21 § 4.]

RCW 26.09.520

Basis for determination.

The person proposing to relocate with the child shall provide his or her reasons for the intended relocation. There is a rebuttable presumption that the intended relocation of the child will be permitted. A person entitled to object to the intended relocation of the child may rebut the presumption by demonstrating that the detrimental effect of the relocation outweighs the benefit of the change to the child and the relocating person, based upon the following factors. The factors listed in this section are not weighted. No inference is to be drawn from the order in which the following factors are listed:

(1) The relative strength, nature, quality, extent of involvement, and stability of the child's relationship with each parent, siblings, and other significant persons in the child's life;

(2) Prior agreements of the parties;

(3) Whether disrupting the contact between the child and the person with whom the child resides a majority of the time would be more detrimental to the child than disrupting contact between the child and the person objecting to the relocation;

(4) Whether either parent or a person entitled to residential time with the child is subject to limitations under RCW 26.09.191;

(5) The reasons of each person for seeking or opposing the relocation and the good faith of each of the parties in requesting or opposing the relocation;

(6) The age, developmental stage, and needs of the child, and the likely impact the relocation or its prevention will have on the child's physical, educational, and emotional development, taking into consideration any special needs of the child;

(7) The quality of life, resources, and opportunities available to the child and to the relocating party in the current and proposed geographic locations;

(8) The availability of alternative arrangements to foster and continue the child's relationship with and access to the other parent;

(9) The alternatives to relocation and whether it is feasible and desirable for the other party to relocate also;

(10) The financial impact and logistics of the relocation or its prevention; and

(11) For a temporary order, the amount of time before a final decision can be made at trial.

[2000 c 21 § 14.]

RCW 26.16.030
Community property defined — Management and control.

Property not acquired or owned, as prescribed in RCW 26.16.010 and 26.16.020, acquired after marriage or after registration of a state registered domestic partnership by either domestic partner or either husband or wife or both, is community property. Either spouse or either domestic partner, acting alone, may manage and control community property, with a like power of disposition as the acting spouse or domestic partner has over his or her separate property, except:

(1) Neither person shall devise or bequeath by will more than one-half of the community property.

(2) Neither person shall give community property without the express or implied consent of the other.

(3) Neither person shall sell, convey, or encumber the community real property without the other spouse or other domestic partner joining in the execution of the deed or other instrument by which the real estate is sold, conveyed, or encumbered, and such deed or other instrument must be acknowledged by both spouses or both domestic partners.

(4) Neither person shall purchase or contract to purchase community real property without the other spouse or other domestic partner joining in the transaction of purchase or in the execution of the contract to purchase.

(5) Neither person shall create a security interest other than a purchase money security interest as defined in *RCW62A.9-107 in, or sell, community household goods, furnishings, or appliances, or a community mobile home unless the other spouse or other domestic partner joins in executing the security agreement or bill of sale, if any.

(6) Neither person shall acquire, purchase, sell, convey, or encumber the assets, including real estate, or the good will of a business where both spouses or both domestic partners participate in its management without the consent of the other: PROVIDED, That where only one spouse or one domestic partner participates in such management the participating spouse or participating domestic partner may, in the ordinary course of such business, acquire, purchase, sell, convey or encumber the assets, including real estate, or the good will of the business without the consent of the nonparticipating spouse or nonparticipating domestic partner.

[2008 c 6 § 604; 1981 c 304 § 1; 1972 ex.s. c 108 § 3; Code 1881 § 2409; RRS § 6892.]

MASTERS LAW GROUP

January 07, 2015 - 10:44 AM

Transmittal Letter

Document Uploaded: 1-468247-Respondent's Brief.pdf

Case Name:

Court of Appeals Case Number: 46824-7

Is this a Personal Restraint Petition? Yes ■ No

The document being Filed is:

Designation of Clerk's Papers Supplemental Designation of Clerk's Papers

Statement of Arrangements

Motion: ____

Answer/Reply to Motion: ____

■ Brief: __Respondent's__

Statement of Additional Authorities

Cost Bill

Objection to Cost Bill

Affidavit

Letter

Copy of Verbatim Report of Proceedings - No. of Volumes: ____
Hearing Date(s): _____

Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Petition for Review (PRV)

Other: _____

Comments:

No Comments were entered.

Sender Name: Cheryl Fox - Email: cheryl@appeal-law.com