

63214-1

63214-1

No. 63214-1-I

COURT OF APPEALS  
OF THE STATE OF WASHINGTON,  
DIVISION ONE

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CHERYL KOOPS, Respondent,

v.

ROBERT E. KOOPS, Appellant.

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ON APPEAL FROM THE SUPERIOR COURT OF THE  
STATE OF WASHINGTON FOR WHATCOM COUNTY  
#07-3-00381-5

**BRIEF OF RESPONDENT**

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FILED  
CLERK OF COURT  
STATE OF WASHINGTON  
2009 APR 29 AM 11:36

BURI FUNSTON MUMFORD, PLLC

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ORIGINAL

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## INTRODUCTION

Rarely does a trial court award maintenance “without considering the factors required by RCW 26.09.090 and caselaw, without making findings necessary to an award of maintenance, and without the showing required to meet the legal standard for awarding maintenance.” (Opening Brief at 14). This is not one of those rare cases.

Skagit County Superior Court Judge John Meyer made substantial findings regarding both Robert and Cheryl Koops’ 32-year marriage and a just and equitable division of the couple’s property.

Both of these people are very hard workers. They worked outside of the home at jobs. They worked a great deal at the family home site. They worked a great deal at the family second home and property that was purchased over in Winthrop and both made substantial contributions...from their separate property for the benefit of the community.

Though interestingly enough, whereas the wife started off with \$350,000 of separate property, she’s now down to \$51,303 of separate property, and the husband started out with 416,[000] and he’s now down to 263,[000], so technically the husband benefited a bit more than the wife did from the comparative contributions to the community.

(10/16/08 VRP 4).

Judge Meyer awarded maintenance to respondent Cheryl Koops of \$500 per month for four years, until she turns 66. He did this for three compelling reasons. First, as the Judge noted above, the division of property benefitted Robert over Cheryl. Maintenance would address this imbalance. "The 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). Second, the court found Robert had a substantially greater earning capacity than Cheryl.

I have also considered the age and the health and the education and employment history. I have taken into consideration a disparity in earning capacity because I do believe *the husband is capable of earning a better living than the wife.*

(10/16/08 VRP 5) (emphasis added).

Third, Cheryl is 62 and nearing retirement age. Judge Meyer acknowledged this in the Decree of Dissolution, ruling "husband shall pay \$500 monthly to the wife as maintenance from 3/1/09 until the month in which wife reaches her 66<sup>th</sup> birthday." (Decree ¶ 3.7; CP 181) (Appendix A). The award is both for a reasonable amount, \$24,000, and for a limited duration, four years.

These three findings encompass all of the relevant statutory factors for maintenance under RCW 26.09.090.

Because trial courts have broad discretion to award maintenance, and Judge Meyer did not abuse that discretion here, respondent Cheryl Koops respectfully requests this Court to affirm the trial court's decision and award reasonable attorneys' fees on appeal.

#### **I. RESTATEMENT OF ISSUES PRESENTED**

Appellant Robert Koop's appeal presents two issues:

A. Washington caselaw gives trial courts broad discretion to award maintenance, and "trial court decisions in a dissolution action will seldom be changed upon appeal." In re Marriage of Landry, 103 Wn.2d 807, 809, 699 P.2d 214 (1985). After a day-long bench trial in which both parties testified, Judge Meyer awarded Cheryl Koops \$500 per month until she reaches age 66. Was Judge Meyer's decision so unusual that "no reasonable judge would have reached the same conclusion?" Landry, 103 Wn.2d at 809.

B. To award maintenance, the trial judge must consider the statutory factors, but "nothing in RCW 26.09.090 requires the trial court to make specific factual findings on each of the factors

listed in RCW 26.09.090(1).” Mansour v. Mansour, 126 Wn. App. 1, 16, 106 P.3d 768 (2004). Judge Meyer reviewed the parties’ ages, earning capacity, financial status after dissolution, standard of living during marriage, duration of the marriage, and ability to pay before awarding maintenance. Did Judge Meyer sufficiently consider the statutory factors?

## **II. STATEMENT OF FACTS**

Appellant’s opening brief touches on the basic facts of the Koop’s 32-year marriage. But missing from the brief is Cheryl Koop’s testimony and the trial court’s reasons for awarding her maintenance. Judge Meyer had ample reason to award maintenance as part of a just and equitable division of the couple’s assets.

### **A. Cheryl Koops Had Limited Ability To Earn Money Compared To Her Husband**

Cheryl Koops has a high school diploma, and for 17 years worked as a custodian for the Sedro Woolley school district. (10/14/08 VRP 84). She earned \$17 an hour until the district laid her off in 2008. (10/14/08 VRP 84). In August 2008, she began work for United General Hospital in Sedro Woolley as a

housekeeper, earning less than \$14 per hour. (10/14/08 VRP 83).

She lost that job within the year. (CP 154).

At trial, Cheryl testified that both her school district pension and social security would pay greater benefits if she retired at age 66 rather than 62.

Q. Do you know how much you will be receiving through your SERS [school district] Pension?

A. Seems like, as far as I can recall, it was maybe \$700.

THE COURT: At what age?

A. That would be at age 66.

Q. And about \$750 for Social Security if you started in June of '09?

A. Yes.

THE COURT: What if you started at 66?

A. I believe it's increased a small amount.

(10/14/08 VRP 103-04).

Cheryl did not have the work history of her husband because she spent the majority of the marriage taking care of the family home and raising her children. (10/14/08 VRP 85). In contrast, Robert worked continuously during the marriage and earned

substantially more each year than she did. (10/14/08 VRP 121) (CP 288).

B. The Trial Court's Findings Recognize The Couple's Unequal Finances and Earning Capacity

Two days after concluding trial, on October 16, 2008, the trial court gave its ruling from the bench. Judge Meyer's decision has five findings relevant to this appeal.

First, as noted above, the court found that both parties contributed separate property to the marital community, but at dissolution, Robert came out in better financial shape than Cheryl. (10/16/08 VRP 4). The final distribution of assets, Exhibits H and W attached to the trial court's Decree of Dissolution, shows Robert receiving \$660,818 and Cheryl \$525,000, a difference of \$135,818. (Exhibits H & W; CP 183-188) (Appendix A). This imbalance occurred in part because Cheryl received less from her separate property than Robert. (10/16/08 VRP 4) ("husband benefited a bit more than the wife did from the comparative contributions to the community").

Second, the court found that "this is a marriage of long duration" with the couple not distinguishing between separate and community property. (10/16/08 VRP 3). The couple had mixed

their assets for years with Robert exercising control over the bank accounts and investments. "The husband...was in control, in terms of what sort of account they would be put into – this is both true as to her and his assets – and designated what accounts and the names on accounts that the assets went into." (10/16/08 VRP 3).

Their joint planning included Robert retiring and Cheryl working to preserve their health benefits. As Robert testified,

we talked for years that she'd keep working on her job, keep the medical for her school job. She had four weeks vacation, plus probably 10 or 11 holidays, and she could have probably get into a seasonal job. The original intention was for me to retire at 62 and build a house. Sell the one we got for retirement.

(10/14/08 VRP 69). The couple shared equally during marriage and therefore deserved an equal distribution of assets when the relationship ended.

Third, the court expressly looked at caselaw and the relevant statutes before dividing the couple's assets and awarding maintenance.

The Court has been called upon to characterize property and make a fair and equitable distribution of the property. The Court has taken into consideration many statutory and case law principles for the just and equitable distribution of the property, including but not confined to the duration of the marriage, the nature and extent of the separate property and community property, the economic circumstances of

each spouse at the time of division of property in effect, and quite candidly, I cannot speculate on what these two people are going to do with their working plans.

(10/16/08 VRP 5). Because trial took place during the financial crisis of fall 2008, neither the parties nor the court could predict what would happen to the economy or the couple's finances.

Fourth, as noted above, the court found Robert more capable of earning a better living than Cheryl. (10/16/08 VRP 5) ("I have taken into consideration a disparity in earning capacity") Fifth, the court looked "at the relinquishment of rights and property, required of property, future earning prospects, just about everything I thought was important under case and statutory law in order to make a decision." (10/16/08 VRP 5).

Based on these five factors, Judge Meyer initially proposed maintenance to Cheryl at \$750 per month beginning January 15, 2009, if the family home did not sell by then. (10/16/08 VRP 15). The maintenance award changed on entry of final orders. Cheryl had lost her job with United General Hospital, and Judge Meyer awarded her a lower amount, \$500 per month, for the four years remaining before her retirement at 66. (Decree of Dissolution ¶ 3.7; CP 181).

Robert now appeals.

## ARGUMENT

### III. STANDARD OF REVIEW

This Court reviews Judge Meyer's maintenance award for abuse of discretion.

An award of maintenance is within the broad discretion of the trial court. We will find an abuse of discretion only if the trial court bases its award or denial of spousal maintenance on untenable grounds or for untenable reasons. The paramount concern is the economic condition in which a dissolution decree leaves the parties.

In re Marriage of Terry, 79 Wn. App. 866, 869, 905 P.2d 935 (1995)

(citations omitted).

Appellate courts rarely overturn a trial court's discretionary division of property.

[T]rial court decisions in a dissolution action will seldom be changed upon appeal. Such decisions are difficult at best. Appellate courts should not encourage appeals by tinkering with them. The emotional and financial interests affected by such decisions are best served by finality. The spouse who challenges such decisions bears the heavy burden of showing a manifest abuse of discretion on the part of the trial court. The trial court's decision will be affirmed unless no reasonable judge would have reached the same conclusion.

In re Marriage of Landry, 103 Wn.2d 807, 809-810, 699 P.2d 214

(1985) (citation omitted).

**IV. JUDGE MEYER MADE A REASONABLE AWARD OF MAINTENANCE**

**A. The Decision Complies With The Statutory Factors**

Under RCW 26.09.090, the trial court had to consider a list of non-exclusive factors before entering an award of maintenance.

(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.

RCW 26.09.090(1).

Judge Meyer's oral ruling described how he considered these factors. As quoted in the statement of facts above, the trial court examined the financial resources of each party, the remaining working life for both, the standard of living during marriage, both parties' age, physical and emotional condition, and the ability of each to meet their financial obligations. The trial court satisfied RCW 26.09.090 by "considering all relevant factors including but not limited to" those listed in the statute. RCW 26.09.090; In re Marriage of Estes, 84 Wn. App. 586, 593, 929 P.2d 500 (1997) ("the award must be just in light of the relevant factors including the financial resources of each party; duration of the marriage; the standard of living during the marriage; and the resources and obligations of the spouse seeking maintenance, including that spouse's ability for self-support").

B. Robert Cannot Prove An Abuse of Discretion

Robert attacks the trial court's award on four grounds: (1) the trial court did not consider the factors in RCW 26.09.090; (2) there are no findings of fact that support an award of maintenance; (3) the award of maintenance was not fair; and (4) Cheryl is estopped from receiving maintenance. None of these arguments withstands close scrutiny or proves the trial court abused its discretion.

First, Judge Meyer reviewed the statutory factors. Robert argues “there is nothing in the record to indicate the trial court considered the factors required by RCW 26.09.090”, yet the transcript from the oral decision confirms the court did. (Opening Brief at 19) (10/16/08 VRP). Furthermore, the case Robert cites for his argument, Marriage of Matthews, 70 Wn. App. 116, 852 P.2d 462 (1993) supports rather than invalidates Judge Meyer’s decision.

In Matthews, the Court of Appeals reversed the trial court’s maintenance award,

because it does not evidence a fair consideration of the statutory factors and therefore constitutes an abuse of discretion. Mr. Mathews’ net monthly income from his job as a fire fighter is approximately \$2,800. The trial court’s maintenance award and its order that Mr. Mathews pay Mrs. Mathews’ medical insurance premiums and education expenses for a period of several years presently leaves him with about \$1,000 a month, and Mrs. Mathews with \$1,855 per month. *His personal property is not significant.*

Mathews, 70 Wn. App. at 123 (emphasis added). Here, in contrast, Robert leaves the marriage with steady employment and assets worth more than \$600,000. Unlike Mr. Matthews, Robert has ample means to pay \$6000 per year over four years.

Furthermore, Matthews involved a maintenance award of unknown duration. Cheryl's award ends in four years. Both the amount of maintenance and its duration are more than reasonable. Finally, the Matthews court strongly objected to maintenance continuing after Mr. Matthews reached retirement age.

The effect of the indefinite maintenance order is to require Mr. Mathews to pay maintenance out of his remaining retirement or disability income. This is not only an abuse of discretion, it is clear error.

Mathews, 70 Wn.App. at 125. Here, the maintenance award terminates at or before Robert reaches retirement age.

Robert's discussion of Matthews shows his desire to relitigate the trial court's discretionary decision. But once Judge Meyer confirmed his review of caselaw and the relevant statutory factors, the question is not whether this Court should make a different decision. Instead, it is whether no reasonable judge would have awarded Cheryl maintenance. That is clearly not the case.

Second, the trial court's findings in its oral opinion are sufficient to support the maintenance award on appeal. Robert argues "the trial court never set forth any analysis of the factors in RCW 26.09.090 in either its oral ruling or written orders." (Opening

Brief at 21). The record proves otherwise. In addition, Robert faults the trial court for not making specific findings of fact.

A trial court's failure to make findings of fact reflecting whether the trial court considered the required factors and, if so, the facts upon which the court based its decision requires, at the very least, remand.

(Opening Brief at 21).

This court, in an opinion Robert cites, concluded the exact opposite.

Nothing in RCW 26.09.090 requires the trial court to make specific factual findings on each of the factors listed in RCW 26.09.090(1). The statute merely requires the court to consider the listed factors. Despite the court's failure to list the influence of each factor in its ruling, we find no basis for reversing the maintenance award for lack of consideration of the listed factors.

Mansour v. Mansour, 126 Wn. App. 1, 16, 106 P.3d 768 (2004).

The trial court found that the division of property favored Robert and that he had the superior earning capacity. These factors, combined with Cheryl's unemployment, supported a moderate, limited award of maintenance.

Third, the maintenance award is fair. It amounts to \$24,000 stretched out over four years. It also does not fully balance the \$135,000 difference in the division of property. Despite this, Robert

argues that Cheryl does not need the money and he cannot pay it. (Opening Brief at 22-33). Both arguments are unpersuasive.

As Robert acknowledges, “the primary consideration is the economic condition in which the decree leaves the parties.” (Opening Brief at 32) (citing Washburn v. Washburn, 101 Wn.2d 168, 677 P.2d 152 (1984)). Here, the decree left Robert with \$135,000 more than Cheryl. The maintenance award helps to reduce that imbalance – an appropriate role for maintenance given that Cheryl is unemployed and Robert is not. In re Marriage of Estes, 84 Wn. App. 586, 593, 929 P.2d 500 (1997). As the Supreme Court concluded in Washburn,

maintenance is not just a means of providing bare necessities, but rather a flexible tool by which the parties' standard of living may be equalized for an appropriate period of time. RCW 26.09.090(1)(c), RCW 26.09.090(1)(d). Moreover, the factors listed in the statute are not exclusive.

Washburn v. Washburn, 101 Wn.2d 168, 179, 677 P.2d 152 (1984).

Robert’s arguments concerning the financial positions of the parties merely restate the claims he made to the trial court. (Opening Brief at 26) (“the trial court erred by awarding maintenance despite ample evidence that the wife did not need maintenance in addition to the \$310,828 in cash she received from

the husband between the date of trial and date of the final orders”). The trial court rejected these arguments, and the fact that the court did not side with Robert was not an abuse of discretion. A reasonable judge could, and did, find that \$24,000 in maintenance over four years is appropriate.

Finally, Cheryl did not make an agreement with Robert to waive maintenance if he paid her \$310,828 before January 15, 2009. Equitable estoppel does not apply where the trial court modified its decision from oral opinion to final orders. The difference in the court’s decision stems from Cheryl’s unemployment, and the trial court changed the maintenance award accordingly. Both the amount and duration of maintenance changed from \$750 per month until the home sold to \$500 per month for four years. This had nothing to do with any alleged admission, statement or inconsistent act by the parties.

Robert alleges that he refinanced the home relying on the trial court’s oral ruling. But that ruling is not final until the court signs the Decree and Findings of Fact.

[A]ssignments of error directed to statements contained in a trial court’s oral decision do not constitute proper assignments of error. We further said that such statements, when at variance with the findings, cannot be used to impeach the findings or

judgment. On the other hand, if the court's oral decision is consistent with the findings and judgment, it may be used to interpret them.

Ferree v. Doric Co., 62 Wn.2d 561, 567, 383 P.2d 900 (1963). In effect, Robert could not reasonably rely on the court's oral opinion until the court reduced it to writing. The court's oral statements are relevant to interpreting the final orders, but they do not prevent the court from altering its decision.

Cheryl is not estopped from asking for an appropriate maintenance award.

**V. CHERYL REQUESTS AN AWARD OF REASONABLE ATTORNEYS FEES**

Under RCW 26.09.140, this Court may award fees to Cheryl based on the parties' financial resources and the relative merits of their arguments. Marriage of CMC, 87 Wn. App. 84, 89, 940 P.2d 669 (1997). Taking the second factor first, Robert's appeal presents no compelling legal ground for reversal and does not address the deference given to trial courts for awarding maintenance. His arguments have relatively low merit on appeal.

Second, Cheryl has received less in the property division than Robert and has a limited earning capacity. In the interest of equity, an award of reasonable attorneys fees is appropriate.

## CONCLUSION

Washington law gives trial courts discretion for good reason. The dissolution of a marriage is a difficult event, and the parties are rarely completely satisfied with the outcome. Finality is important, because without it, these disputes could go on for years. Because Judge Meyer acted within his discretion in awarding maintenance, respondent Cheryl Koops respectfully requests this Court to affirm the trial court's orders, dismiss this appeal, and award her reasonable attorneys' fees on appeal.

DATED this 6<sup>th</sup> day of November, 2009.

BURI FUNSTON MUMFORD, PLLC

By 

Philip J. Buri, WSBA #17637  
1601 F. Street  
Bellingham, WA 98225  
360/752-1500

## DECLARATION OF SERVICE

The undersigned declares under penalty of perjury under the laws of the State of Washington that on the date stated below, I mailed or caused delivery of Brief of Respondent to:

Donald Bisagna  
407 S. First Street  
Mount Vernon, WA 98273

Ken Evans  
506 Main Street  
Mount Vernon, WA 98273

DATED this 6<sup>th</sup> day of November, 2009.



Heidi Main

# APPENDIX A

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Superior Court of Washington  
County of SKAGIT

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In re the Marriage of:

CHERYL J. KOOPS

Petitioner,

and

ROBERT E. KOOPS

Respondent.

No. 07-3-00381-5

Decree of Dissolution (DCD)

(Marriage)

**I. Judgment/Order Summaries**

**1.1 Restraining Order Summary:**

Does not apply.

**1.2 Real Property Judgment Summary:**

See Exhibits H&W attached.

**1.3 Money Judgment Summary:**

Does not apply.

***End of Summaries***

1 **II. Basis**

2 Findings of Fact and Conclusions of Law have been entered in this case.

3 **III. Decree**

4 *It Is Decreed* that:

5 **3.1 Status of the Marriage**

6 The marriage of the parties is dissolved.

7 **3.2 Property to be Awarded the Husband**

8 The husband is awarded as his separate property the property set forth in Exhibit H.  
9 This exhibit is attached or filed and incorporated by reference as part of this decree.

10 **3.3 Property to be Awarded to the Wife**

11 The wife is awarded as her separate property the property set forth in Exhibit W. This  
12 exhibit is attached or filed and incorporated by reference as part of this decree.

13 **3.4 Liabilities to be Paid by the Husband**

14 The husband shall pay the community or separate liabilities set forth in Exhibit H. This  
15 exhibit is attached or filed and incorporated by reference as part of this decree.

16 Unless otherwise provided herein, the husband shall pay all liabilities incurred by him  
17 since the date of separation.

18 **3.5 Liabilities to be Paid by the Wife**

19 The wife shall pay the community or separate liabilities set forth in Exhibit W. This  
20 exhibit is attached or filed and incorporated by reference as part of this decree.

21 Unless otherwise provided herein, the wife shall pay all liabilities incurred by her since  
22 the date of separation.

23 **3.6 Hold Harmless Provision**

24 Each party shall hold the other party harmless from any collection action relating to  
25 separate or community liabilities set forth above, including reasonable attorney's fees  
and costs incurred in defending against any attempts to collect an obligation of the other  
party.

1 **3.7 Maintenance**

*Husband shall pay \$500 monthly to the wife as maintenance from 3/1/09*

2 No maintenance is awarded in this case given the health of the parties, their nearness  
3 to retirement age, and the property awarded which includes \$310,828 to the wife and  
4 the husband's pension of \$61,908, with a projected monthly income of \$440.36. *until the*  
*month in which wife reaches her*

5 **3.8 Continuing Restraining Order**

6 Does not apply.

*66th birthday.*  
*Jmm.*

7 **3.9 Protection Order**

8 Does not apply.

9 **3.10 Jurisdiction Over the Children**

10 Does not apply because there are no dependent children.

11 **3.12 Child Support**

12 Does not apply.

13 **3.13 Attorney Fees, Other Professional Fees and Costs**

14 Does not apply.

15 **3.14 Name Changes**

16 Does not apply.

17 **3.15 Other**

18 a. Signature of Documents. The parties shall sign any documents necessary to carry  
19 out the terms of this Decree of Dissolution under penalty of contempt.

20 b. Undisclosed Debts. Any debt or obligation, not specifically awarded herein, incurred  
21 by either party, shall be the sole and separate obligation of the party who incurred it and who  
22 failed to disclose it in this Decree. If an undisclosed debt was incurred by the parties jointly,  
23 then the parties shall remain jointly liable.

24 c. Undisclosed Assets. There are no assets which have not been divided by the parties  
25 prior to the date of this Decree or by this Decree. Any community assets owned by the parties  
on the date of this Decree which either party has failed to disclosed shall be divided 50/50 upon  
discovery.

1 d. Revocation of Wills, Powers of Attorney, and Other Instruments. All previous wills,  
2 powers of attorney, contract and community property agreements between the parties hereto  
are hereby revoked and the parties are prohibited from exercising same.

3 e. Federal Income Tax. In the event that any prior income tax returns of the parties should  
4 be audited for any year during the marriage, any additional tax found to be due, including  
5 penalties and interest, shall be paid by the parties equally. If there is a refund, it shall be shared  
equally.

6 f. Legal Description. In the event that any legal descriptions are not attached to this  
7 Decree at the time it is executed, or are incorrectly recorded in these pleadings or in  
8 subsequently prepared Quit Claim deeds or Real Estate Excise Tax Affidavits or other legal  
9 instruments intended to further and enforce the property division set forth in this Decree and the  
10 attached Exhibits, each of the parties hereto expressly authorize Respondent's attorney, acting  
by mutual agreement, to attach exhibits with legal descriptions, correct incorrect legal  
descriptions, or amend any pleading, document, or legal instrument to reflect the correct legal  
description of the property in question, in furtherance of this Decree, without re-opening this  
dissolution, or involvement of the court.

11 g. Taxes. The parties intend that the property and debt division made in this Decree  
12 will result in no recognition of taxable gain or loss to either party, and that neither party shall  
adjust the basis of any asset or debt awarded or distributed pursuant to this Decree for income  
tax purposes as a consequence of the division.

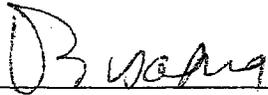
14 Dated: 2/18/09

15   
16 Judge/Commissioner

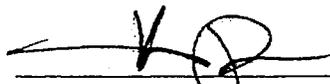
17 Presented by:

Approved for entry:

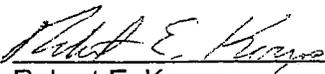
Notice for presentation waived:

18   
19 \_\_\_\_\_

20 Donald J. Bisagna, WSBA #7577  
Attorney for Respondent

21   
22 \_\_\_\_\_

23 Kenneth J. Evans, WSBA #5611  
Attorney for Petitioner

24   
25 \_\_\_\_\_  
Robert E. Koops

  
Cheryl J. Argent-Koops  
CHERYL'S ARGENT-KOOPS

**KOOPS DISSOLUTION  
EXHIBIT H**

Property awarded to Husband

**Real Property**

1. The residence and acreage located at 32698 Lyman-Hamilton Highway, Sedro Woolley, WA.

Property valued at \$420,000, paid wife \$310,828     \$109,172

Legal description attached as Exhibit A.

Tax Parcel Nos.: P41283, P141280

The husband shall be responsible for all expenses concerning the above-described real property until it sells.

- 
2. Property located on Bryan Road, Winthrop, WA.

valued at                     \$220,000

Legally described as:

The East 1/4 of the Southeast 1/4 of the Northeast 1/4 of Section 9, Township 34 North, Range 21 East W.M., Okanogan County, Washington.

EXCEPT the following described property:

COMMENCING at the Southeast corner of the above described parcel; thence West 429.00 feet along the South line of said parcel to the TRUE POINT OF BEGINNING; then ce North West to a point in the West line of said parcel, 429.00 feet from the Southwest corner thereof, thence South along the West line of said parcel 429.00 feet to the Southwest corner thereof; thence East along the South line of said parcel 231.00 feet more or less to the TRUE POINT OF BEGINNING.

SUBJECT TO: Easements, Restrictions, and Reservations of records.

Parcel No.: 3421090021

- 
3. Homestead property in Burleigh County, North Dakota -- 160 acres

**Personal Property**

The personal property that is in his possession and under his control, except as otherwise awarded to the Wife in Exhibit W.

**Vehicles**

1997 Ford Pickup, License No. _____	valued at \$	5,635	
1987 Ford Pickup, License No. _____	valued at \$	1,850	
1976 International truck, License No. _____	valued at \$	<u>4,250</u>	
Total			\$ 11,735

**Off-Road and Recreational Vehicles/Boats**

2007 BMBDR Off-Road Vehicle (ATV)	valued at \$	6,500	
1995 Honda Off-Road Vehicle	valued at \$	2,050	
1998 YACTC Arctic Cat Snowmobile	valued at \$	1,750	
Arctic Cat Snowmobile	valued at \$	2,000	
2 Snowmobile trailers	valued at \$	600	
1991 S/S Camper	valued at \$	2,000	
Honda Gold-Wing motorcycle	valued at \$	7,000	
1989 Woolridge Boat/Outboard with EZ Loader Trailer	valued at \$	10,000	
1978 Holiday Rambler Travel Trailer	valued at \$	<u>1,500</u>	
Total			\$ 33,400

**Farm/Stock Equipment**

John Deere 70	valued at \$	1,500	
Hay rake, bailer, tedder, plow (2)	valued at \$	6,300	
John Deere 2040	valued at \$	6,000	
Earth Mover - 450C John Deere Excavator	valued at \$	6,000	
1979 FLYGL Horse Trailer	valued at \$	1,000	
1978 Thompson Equipment Trailer	valued at \$	1,000	
Total			\$ 21,800

**Livestock**

Five Head of Cattle	valued at	<u>\$ 1,250</u>	
Total vehicles/equipment/livestock			\$ 68,185

**Bank Accounts/Certificate of Deposit/Investment Accounts**

Morgan Stanley Account No. xxx1315	valued at \$	38,313	
Morgan Stanley Account No. xxx3179	valued at \$	44,168	
Skagit State IMMA	valued at \$	10,416	
Skagit State CD (this was cashed in to pay the wife)	valued at \$	43,387*	
Skagit State CD (partially cashed in to pay the wife)	valued at \$	104,225*	
Total			\$240,509*

\*The \$310,828 that the husband gave to the wife (reflected on page 1, paragraph 1 of this Exhibit H), consists of \$198,080 from refinancing the Skagit County property, and \$112,748 from cashing in or partially cashing in these Skagit State CD's.

**Life Insurance**

Allstate Life insurance policy on husband's life      cash surrender value of      **\$ 22,952**  
  
\$660,818

**Pension, Retirement Plans, Social Security Benefits, et cetera:**

EXCEPT as awarded to Wife, all pensions and deferred compensations earned from his employment, various forms of insurance, rights of social security benefits, welfare benefits, unemployment compensation benefits, disability benefits, Medicare and Medicaid benefits, educational benefits and grants, interest from health or welfare plans and profit sharing plans, and all other legislated rights, directly or indirectly derived through the employment activity of that specific party: provided, however, that said benefit or benefits have not otherwise specifically been awarded herein, and provided, further, that marriage to the party through whose activity said benefits have been accrued, shall not be an indirect basis for an award of that benefit.

**Liabilities awarded to Husband**

All debts incurred by him since the date of separation, July 12, 2007.

Any and all indebtedness on any property, real or personal, awarded to him, including but not limited to liens, taxes, and loans secured by that property.

**Exhibit A****Parcel A**

That portion of the Southwest  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of Section 16, Township 35 North, Range 6 East, W.M., described as follows:

Beginning at a point on the South line of the Great Northern Railway right of way, 33 rods East of the West line of said Southwest  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$ ;  
thence East along the South line of said railway a distance of 360 feet to the true point of beginning;  
thence continue East along the South line of said right of way a distance of 437 feet, more or less, to the East line of said subdivision;  
thence South along the East line of said subdivision, a distance of 499 feet;  
thence West parallel with said South line of said right of way a distance of 437 feet, more or less, to the intersection of a line running parallel with the East line of said subdivision and intersecting the true point of beginning;  
thence North along said line a distance of 499 feet to the true point of beginning.

Situate in the County of Skagit, State of Washington.

**Parcel B**

That portion of the Southwest  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of Section 16, Township 35 North, Range 6 East, W.M., lying Northerly of the North line of Etach or Minkler Creek as it existed on June 4, 1907 and lying Southerly of the Great Northern Railroad Company Railway right of way and lying Easterly of the following described line:

Beginning at a point on the South line of the Great Northern Railway right of way 33 rods East of the West line of said Southwest  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$ ;  
thence East along the South line of said railway a distance of 260 feet to the point of beginning of said line;  
thence South to the Northerly line of Etach or Minkler Creek as it existed on June 4, 1907 and the terminal point of said line.

EXCEPTING from the above described premises, the following described tract:

Beginning at a point on the South line of the Great Northern Railway right of way 33 rods East of the West line of said Southwest  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$ ;  
thence East along the South line of said railway a distance of 360 feet to the true point of beginning;  
thence continue East along the South line of said right of way a distance of 437 feet, more or less, to the East line of said subdivision;  
thence South along the East line of said subdivision, a distance of 499 feet;  
thence West parallel with said South line of said right of way a distance of 437 feet, more or less, to the intersection of a line running parallel with the East line of said subdivision and intersecting the true point of beginning;  
thence North along said line a distance of 499 feet to the true point of beginning.

Situate in the County of Skagit, State of Washington.

**Ex. A**

**KOOPS DISSOLUTION  
EXHIBIT W**

Property awarded to Wife

**Real Property:**

1. Property on Unadilla Avenue, El Paso, Texas.  
Parcel No. S33500100100490

**Personal property**

All the personal property in her possession and under her control, except as otherwise awarded to the husband.

Cash from refinance of the family home and cashing in of the husband's CD's \$310,828

**Maintenance**

~~No maintenance is awarded.~~

*Husband shall pay \$500 monthly to the wife as maintenance from 3/1/09 until the month in which wife reaches her 66<sup>th</sup> birthday.*

**Vehicles**

2000 Volkswagen Beetle, License No. \_\_\_\_\_ valued at \$ 7,420

**Bank Accounts/Certificate of Deposit/Investment Accounts**

Morgan Stanley IRA Account # xxx4697	valued at \$36,215	
Morgan Stanley IRA Account #xxx5104	valued at \$39,098	
Wachovia/AG Edward Investment Account #xxx2984	valued at <u>\$51,303</u>	
Total		\$126,616

**Pension, Retirement Plans, Social Security Benefits, et cetera:**

Her retirement benefits through Sedro Woolley School District	valued at \$16,323	
JLC Vanguard Target Retirement 2010 Account	valued at <u>\$63,813</u>	
Total		<u>\$ 80,136</u>

Total accounts/investments/retirement \$214,172

**Total** **\$525,000**

All pensions and deferred compensations earned from her employment, various forms of insurance, rights of social security benefits, welfare benefits, unemployment compensation benefits, disability benefits, Medicare and Medicaid benefits, educational benefits and grants, interest from health or welfare plans and profit sharing plans, and all

other legislated rights, directly or indirectly derived through the employment activity of that specific party: provided, however, that said benefit or benefits have not otherwise specifically been awarded herein, and provided, further, that marriage to the party through whose activity said benefits have been accrued, shall not be an indirect basis for an award of that benefit.

Liabilities awarded to Wife

All debts incurred by her since the date of separation July 12, 2007.

Any and all indebtedness on any property, real or personal, awarded to her, including but not limited to liens, taxes, and loans secured by that property.

KK      C.A.H.