

No. 67918-0-1

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

PATRICA BURNARD,

Appellant,

v.

FORREST M. BURNARD,

Respondent.

BRIEF OF RESPONDENT

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A. INTRODUCTION

Forrest Michael (“Mike”) and Patricia Burnard’s long-term marriage of more than 30 years ended in divorce.¹ Patricia appeals, arguing the trial court abused its discretion by awarding Mike \$10,000 in attorney fees and costs based on her intransigence during the dissolution proceedings. Nothing in Patricia’s brief should persuade this Court to reverse because the award was soundly within the trial court’s discretion.

Patricia presents the Court with a truncated and overly sanitized version of events to conceal her misconduct. Despite her efforts, the record documents her intransigent, obstructionist behavior. For example, Patricia admitted during trial that she intentionally filed frivolous motions and that she missed mandatory deadlines. She also admitted that she benefitted from the work performed by Mike’s attorney. Her intransigence unnecessarily increased Mike’s litigation expenses.

The record also demonstrates that Patricia’s misconduct permeated the entire dissolution, obviating the need for any segregation of fees. The trial court did not abuse its discretion by awarding Mike slightly less than one-half of his documented attorney fees under the circumstances.

¹ The parties will be referred to by their familiar names to avoid confusion; no disrespect is intended.

This Court should affirm the trial court in all respects and award attorney fees and costs on appeal to Mike.

B. ASSIGNMENTS OF ERROR

Mike acknowledges the assignments of error in Patricia's brief, but notes that Patricia fails to differentiate between the assignments of error and the issues pertaining to them as required by the Rules of Appellate Procedure. RAP 10.3(a)(4). She also fails to comply with RAP 10.3(g), which requires her to pinpoint the findings she alleges the trial court entered erroneously. More importantly, she does not specifically assign error to any of the trial court's findings of fact or to the conclusions of law drawn from those facts. Br. of Appellant at 4. Instead, she baldly states her disagreement with the trial court's decision without adequately arguing the issue by reference to the record. This is insufficient.²

The issues pertaining to Patricia's assignments of error are more correctly formulated as follows:

(1) Did the trial court properly exercise its discretion by awarding the husband attorney fees and costs after finding in an unchallenged finding of fact that the wife's intransigence caused the husband to incur additional attorney fees and that the wife benefitted from the work performed by the husband's attorney?

² Patricia's failure to assign error to any of the trial court's findings renders them verities on appeal. See *Robel v. Roundup Corp.*, 148 Wn.2d 35, 42, 59 P.3d 611 (2002). See also, *In re Santore*, 28 Wn. App. 319, 623 P.2d 702, review denied, 95 Wn.2d 1019 (1981) (unchallenged findings become the established facts of the case). The unchallenged conclusions are also now the law of the case. See *King Aircraft Sales, Inc. v. Lane*, 68 Wn. App. 706, 716-17, 846 P.2d 550 (1993).

(2) Did the trial court properly exercise its discretion by awarding the husband \$10,000 in attorney fees and costs based on the wife's intransigence where the wife's misconduct permeated the entire dissolution, thus obviating the need for the husband to segregate his fees?

C. COUNTERSTATEMENT OF THE CASE

Mike must begin his counterstatement of the case by pointing out the obvious: Patricia has presented the Court with an overly sanitized statement of the case sprinkled with argumentative assertions. Her statement violates RAP 10.3(a)(5).³ Mike thus offers the Court the following more proper statement of the case:

Mike and Patricia were married in 1979 and separated in 2010 after Patricia filed a pro se petition for dissolution of marriage.⁴ CP 74. The trial court issued a case scheduling order imposing numerous deadlines on both parties. CP 11-16. Among other deadlines, Mike and Patricia were to disclose primary witnesses by June 7, 2011 and possible

³ RAP 10.3(a)(5) requires a brief to contain a "fair statement of the facts and procedure relevant to the issues presented for review, without argument." Argumentative assertions abound in Patricia's statement of the case. Br. of Appellant at 5. These arguments are a far cry from the "fair recitation" required by the rules and place an unacceptable burden on Mike and the Court. *See Lawson v. Boeing Co.*, 58 Wn. App. 261, 271, 792 P.2d 545 (1990), *review denied*, 116 Wn.2d 1021 (1991).

Based on Patricia's blatant disregard for the appellate rules, this Court should strike her statement of the case. RAP 10.7; *Litho Color, Inc. v. Pac. Employers Ins. Co.*, 98 Wn. App. 286, 305, 991 P.2d 638 (1999).

⁴ Although Patricia eventually retained an attorney to represent her, she fired him two months before trial. CP 2, 33-34, 40; RP 16, 21, 24.

additional witnesses by July 5, 2011. CP 13. Trial was noted for September 6, 2011. *Id.*

Mike timely filed his witness disclosures. CP 2, 18-26. Patricia did not; instead, she filed her witness list less than one month before the trial. CP 36-37. She also did not identify any witnesses in response to discovery that Mike propounded and never supplemented her discovery answers. CP 2-3, 28-31. This left Mike with no advance notice of Patricia's potential witnesses and prevented him from conducting discovery into the knowledge of those witnesses prior to trial. CP 5.

Based on Patricia's failure to comply with the case scheduling order, Mike filed a motion in limine seeking to exclude testimony at trial from any witnesses that Patricia did not timely disclose. CP 1-9, 59-67.

Patricia filed her own motion in limine, seeking among other things to exclude evidence already admissible under ER 904. CP 39-41, 70-72. She later admitted that she filed her motion in retaliation for Mike's filing, stating: "isn't that how it is done?" CP 72. In response, Mike asked the court to award him attorney fees and costs for having to respond to Patricia's baseless motion. CP 65-66.

Mike also filed a trial brief and asked the court to award him attorney fees based on Patricia's uncooperative and intransigent behavior,

which exponentially increased his litigation expenses.⁵ CP 55-58. He detailed Patricia's intransigence in his brief, including her failure to disclose three bank accounts containing funds acquired during the marriage, the filing of an admittedly unnecessary motion for temporary orders, a retaliatory motion in limine, and the submission of late exhibits and materials protected by ER 408. CP 56-57. He asked the court to award him \$10,000 to compensate him for the additional legal services he incurred as the result of Patricia's misconduct. CP 57-58.

The trial court conducted a bench trial on September 6, 2011. RP 1. At the outset, the trial court struck any documents that Patricia submitted relating to settlement negotiations and any exhibits that she failed to provide in a timely fashion. RP 29-30, 32. During trial, Patricia did not dispute that she failed to comply with the court rules or that her filings were untimely. CP 70; RP 25. She also admitted that she filed her motion in limine to retaliate and that her initial motion for temporary orders was not justified. CP 72; RP 26-27. She continued to try to hide assets and thought that everything would be separate as of the date of the parties'

⁵ Curiously, Patricia contends that Mike's trial brief did not contain a request for attorney fees or an analysis of the law as it relates to such an award. Br. of Appellant at 4, 5. She also claims that the only notice she received prior to trial that Mike intended to seek fees was in his motion in limine. *Id.* Patricia has a selective memory and is being less than truthful with the Court. Mike's trial brief contained an unmistakable request for fees based on Patricia's intransigence and an analysis of the law supporting such an award. CP 55-58. Moreover, Mike clearly requested fees in his proposed findings of fact and conclusions of law. RP 193. That Patricia chose not to read Mike's submissions is not his fault.

separation. RP 62, 65, 75, 79, 83-88. Moreover, she admittedly benefitted from the pre-trial work performed by Mike's attorney. CP 57; RP 49.

The trial court entered findings of fact and conclusions of law and a decree of dissolution on September 7, 2011 and amended findings of fact and conclusions of law on September 9, 2011.⁶ CP 73-100. The court awarded Mike \$10,000 in attorney fees and costs based on Patricia's intransigence and the benefit she received from the work performed by Mike's attorney. CP 75, 84.

Patricia moved for reconsideration of the trial court's attorney fee award and also moved to amend the judgment. CP 101-03. The court reconsidered its award on October 10, 2011 and stated that Patricia's specific acts of intransigence were "as stated on the record." CP 101. The court simultaneously granted the motion to amend the judgment. CP 102.

Mike moved to reconsider that portion of the amended judgment awarding Patricia an equalization payment with 12% interest and making the parties tenants-in-common in the family home. CP 104-05. The court granted the motion in part, lowering the interest rate to 6% and giving Mike 18 months within which to pay the equalization payment. CP 105.

Patricia appeals the court's attorney fee award.

⁶ Copies of the amended findings of fact and conclusions of law and the decree of dissolution are in the Appendix.

D. SUMMARY OF ARGUMENT

The trial court may award attorney fees and costs to one spouse in a dissolution proceeding after balancing the needs of that spouse against the ability of the other spouse to pay those fees. The trial court may also consider the extent to which one spouse's intransigence caused the spouse seeking fees to require additional legal services. The court is not required to consider the factors enunciated in RCW 26.09.140 when deciding whether to award attorney fees based on intransigence. An award of attorney fees based on intransigence is an equitable remedy.

Substantial evidence in the record confirms the trial court did not abuse its discretion when it awarded attorney fees to Mike based on Patricia's intransigence. Patricia's documented intransigence substantially increased Mike's legal expenses to his detriment and to her benefit.

A trial court is not required to enter findings for the calculation of attorney fees due to a spouse's intransigence and bad faith. It is also not required to segregate fees where the spouse's misconduct permeates the entire dissolution proceeding.

Substantial evidence confirms that Mike incurred \$25,306 in attorney fees and that Patricia's intransigent and obstructionist behavior needlessly increased his fees. He presented the trial court with evidence to substantiate his claim, which Patricia did not dispute. The court's decision

to award Mike slightly less than one-half of his attorney fees and costs was reasonable under the circumstances.

Patricia is not entitled to attorney fees and costs on appeal even if she prevails because she failed to comply with RAP 18.1.

Mike is entitled to an award of attorney fees and costs on appeal based on Patricia's intransigence below and her frivolous appeal.

E. ARGUMENT

(1) Standard of Review

Trial court decisions in dissolution proceedings are seldom changed on appeal. *In re Marriage of Stenshoel*, 72 Wn. App. 800, 866 P.2d 635 (1993). An award of attorney fees is within the trial court's discretion. *In re Marriage of Crosetto*, 82 Wn. App. 545, 563, 918 P.2d 954 (1996); *In re Marriage of Knight*, 75 Wn. App. 721, 729, 880 P.2d 71 (1994), *review denied*, 126 Wn.2d 1011 (1995). The party challenging the award must show that the trial court exercised its discretion in a way that was clearly untenable or manifestly unreasonable. *Knight*, 75 Wn. App. at 729. A decision is manifestly unreasonable if it is outside the range of acceptable choices given the facts and the applicable legal standard; it is based on untenable grounds if the factual findings are unsupported by the record. *See In re Marriage of Littlefield*, 133 Wn.2d 39, 47, 940 P.2d 1362 (1997) (citation omitted).

Factual issues will not be retried on appeal; the trial court's findings of fact will be accepted as verities on appeal as long as they are supported by substantial evidence in the record.⁷ *In re Marriage of Thomas*, 63 Wn. App. 658, 660, 821 P.2d 1227 (1991).

An unchallenged finding characterizes Patricia's behavior as intransigent, which resulted in additional attorney fees to Mike and a benefit to Patricia. Substantial evidence exists to support this characterization. Accordingly, the trial court did not abuse its discretion in awarding fees to Mike.

(2) The Trial Court Did Not Abuse Its Discretion

Patricia contends the trial court abused its discretion by awarding attorney fees and costs to Mike based on her intransigence during the dissolution proceedings. She asserts the record is devoid of specific acts of intransigence and the trial court failed to enter any findings on the issue. Br. of Appellant at 6. She also argues there is no proof of the fees Mike incurred as a result of her intransigence, which justifies reversing the

⁷ "Substantial evidence" is evidence that exists in a sufficient quantum to persuade a fair-minded person of the truth of the declared premise. *Holland v. Boeing Co.*, 90 Wn.2d 384, 390-91, 583 P.2d 621 (1978). So long as substantial evidence supports a finding, it does not matter that other evidence may contradict it because credibility determinations are left to the trier of fact and are not subject to review. *In re Marriage of Burrill*, 113 Wn. App. 863, 868, 56 P.3d 993 (2002), *review denied*, 149 Wn.2d 1007 (2003).

award. *Id.* She is mistaken. The trial court acted within its discretion by awarding fees and costs to Mike; accordingly, this Court should affirm.

a. Patricia was intransigent

Under RCW 26.09.140, the trial court may order a spouse in a domestic relations action to pay reasonable attorney fees after balancing the needs of the spouse requesting the fees against the ability of the other spouse to pay those fees. *Crosetto*, 82 Wn. App. at 563. The trial court may also consider the extent to which one spouse's intransigence caused the spouse seeking a fee award to require additional legal services. *In re Marriage of Greenlee*, 65 Wn. App. 703, 708, 829 P.2d 1120, *review denied*, 120 Wn.2d 1002 (1992). A spouse's intransigence can substantiate an award of attorney fees regardless of the factors enunciated in RCW 26.09.140; attorney fees based on intransigence are an equitable remedy. *Greenlee*, 65 Wn. App. at 708; *In re Marriage of Morrow*, 53 Wn. App. 579, 590, 770 P.2d 197 (1989).

Awards of attorney fees based on the intransigence of one spouse have been granted in a variety of circumstances. *See, e.g., Morrow*, 53 Wn. App. at 590 (trial made unduly difficult); *Chapman v. Perera*, 41 Wn. App. 444, 455-56, 704 P.2d 1224, *review denied*, 104 Wn.2d 1020 (1985) (repeated filing of unnecessary motions); *Seals v. Seals*, 22 Wn. App. 652, 654, 658, 590 P.2d 1301 (1979) (willful and fraudulent concealment of

community property); *Eide v. Eide*, 1 Wn. App. 440, 445-46, 462 P.2d 562 (1969) (foot-dragging and obstruction). As in those cases, the trial court's award in this case was justified.

Here, the trial court found that Mike incurred additional legal fees because of Patricia's intransigence and that she benefitted from the work his attorney performed. Unchallenged finding of fact 2.15 specifically states:

The Petitioner's intransigence has caused the Respondent to incur additional attorney fees. Further, the Petitioner has benefitted from the work performed by the Respondent's counsel and it is fair and equitable that the Petitioner contributes to the Respondent's attorney fees as ordered by the Court.

CP 75.⁸ This finding is more than sufficient to support the trial court's attorney fee award where this Court has affirmed awards flowing from one party's intransigence based on findings less detailed than this.

For example, in *In re Marriage of Lilly*, 75 Wn. App. 715, 880 P.2d 40 (1994), the trial court awarded fees to the wife after finding: "The award of attorney fees is based on the intransigence of [the husband] and his prior counsel." *Id.* at 718. The husband appealed, arguing the finding of intransigence was not supported by the record. This Court disagreed,

⁸ In unchallenged Conclusion of Law 3.7, the trial court concluded: "The Petitioner shall contribute to the Respondent's attorney fees and costs as provided in the Decree of Dissolution." CP 76. There, the court stated: "The Respondent is awarded \$10,000 from the Petitioner for attorney fees and costs." CP 84. This is slightly less than one-half of the attorney fees Mike had incurred to date. RP 177-78.

concluding there was abundant evidence in the record that the husband agreed to the very proceeding he was challenging on appeal. The Court found no error in the trial court's conclusion that the husband's subsequent challenge to the procedure constituted intransigence. *Id.* at 719.

In *Eide*, the husband was caught tampering with the exhibits. 1 Wn. App. at 441, 446. The trial court determined the wife incurred additional legal services because of the husband's intransigence and awarded her \$3,000 in attorney fees and costs. In its single finding on this issue the court stated: "Defendant, by his recalcitrant, foot-dragging, obstructionist attitude, increased the cost of this litigation to plaintiff, and plaintiff should have judgment against defendant[.]" *Id.* at 445. This Court affirmed the award to the wife, determining that the trial court's finding had ample support in the record. *Id.* at 446.

In *Greenlee*, the trial court made no specific finding of intransigence. 65 Wn. App. at 708. Instead, it stated the award of attorney fees was justified by the fact that the wife had to come to court to enforce her decree. Based on the trial court's language, this Court determined the trial court was relying on the husband's intransigence in justifying the award. The Court concluded there was overwhelming evidence to support the characterization of the husband's behavior as intransigent and affirmed the award.

Here, Patricia insinuates that Mike made only bald assertions to the trial court about her misconduct. Br. of Appellant at 6. Not so. Mike presented overwhelming evidence that Patricia was intransigent. For example, Patricia admitted during trial that she transferred funds in stages from the parties' joint Charles Schwab investment accounts to personal accounts she established shortly before filing the petition for dissolution. RP 56, 83; Exs. 34-36. She used her mother's address when she opened those accounts and had the statement mailed to her there. RP 84. She also admitted that she concealed financial accounts from Mike and removed funds from their joint accounts. RP 56, 62-63, 74-75, 78-81, 83; Exs. 32, 33. As a result, Mike was forced to subpoena her bank records. RP 159-62.

In another classic example of obstructionism, Patricia admitted filing a frivolous motion in limine to prevent Mike from using properly disclosed exhibits and witnesses in retaliation for his properly based motion in limine. RP 25-26; CP 72. Substantial evidence supports the trial court's finding that Patricia was intransigent and that her misconduct increased Mike's legal expenses.

Patricia's reliance on *In re Marriage of Wright*, 78 Wn. App. 230, 896 P.2d 735 (1995) is misplaced because the case is easily distinguishable. Br. of Appellant at 6. There, the wife argued on appeal

that the trial court erred in not awarding her substantial attorney fees based on what she claimed was her husband's intransigence and obstructionist tactics. This Court declined to award additional attorney fees to the wife because it concluded her bald assertions were not supported by the record. *Id.* at 239. A review of the entire record convinced this Court that while the divorce was highly contested, there was no conduct by either party that justified an award of fees based on intransigence. *Id.* That is clearly not the case here. *Supra.*

The trial court found that Patricia's intransigent behavior increased Mike's legal expenses and that Patricia benefitted from the work performed by his attorney. Substantial evidence supports this unchallenged finding. The trial court therefore did not err in awarding attorney fees to Mike based on Patricia's intransigence.

b. Mike was not required to segregate his fees where Patricia's intransigence was pervasive

Patricia next argues there is no evidence of what Mike's attorney fees and costs were or evidence by which the trial court could segregate the fees attributable to her intransigence. Br. of Appellant at 5, 6. On the contrary, the court was presented with evidence of Mike's fees and costs. Moreover, Mike was not required to segregate fees where Patricia's

intransigence permeated the entire dissolution proceeding. The award was soundly within the trial court's discretion.

Mike addressed his request for attorney fees based on Patricia's intransigence during trial, testifying that he incurred additional legal fees because of the work his attorney had to do for Patricia or because Patricia failed to do it herself, and because Patricia filed frivolous motions to which he had to respond. RP 178. He also testified, and Patricia admitted, that she had not divulged all of her financial accounts. *Id.* He also testified that he had incurred \$25,306 in attorney fees and costs.⁹ RP 177-78. Mike presented ample evidence to substantiate his claim for fees.

Contrary to Patricia's assertion, the trial court was not required to enter findings for the calculation of fees due to her intransigence and deliberate bad faith. *But see, In re Marriage of Foley*, 84 Wn. App. 839, 846-47, 930 P.2d 929 (1997) (requiring calculation on the record of attorney fees awards under RCW 26.09.140). Moreover, Mike was not required to segregate the fees he incurred by reason of Patricia's intransigence from those he incurred for other matters because her bad acts permeated the entire proceeding. *In re Marriage of Sievers*, 78 Wn. App. 287, 312, 897 P.2d 388 (1995) (affirming award of 50% of entire

⁹ Mike substantiated his claim with exhibit 50, which detailed the attorney fees and costs he had incurred to date; however, he inadvertently failed to have the exhibit admitted into evidence after he finished testifying about the information it contained. RP 177-78.

attorney fee incurred, notwithstanding wife's failure to segregate fees where husband's intransigence permeated the entire proceeding). *See also, Burrill*, 113 Wn. App. at 873 (wife's intransigent behavior permeated the entire proceedings, thereby obviating the need to segregate fees). The trial court's decision to require Patricia to pay slightly less than half of Mike's attorney fees and costs was reasonable in light of the trial court's roughly equal property distribution and is more than generous to her in these circumstances. *Supra*. The trial court did not abuse its discretion.

(3) Patricia Is Not Entitled to Attorney Fees on Appeal

Pursuant to RAP 18.1(b), a party seeking attorney fees on appeal must devote a section of the opening brief to a request for such fees. This requirement is mandatory. *Phillips Bldg. Co. v. An*, 81 Wn. App. 696, 705, 915 P.2d 1146 (1996). A party who fails to comply with this procedure is not entitled to an award of attorney fees. *See, e.g., Jacob's Meadow Owners Ass'n v. Plateau 44 II, LLC*, 139 Wn. App. 743, 772 n.17, 162 P.3d 1153 (2007). *See also, Eugster v. City of Spokane*, 121 Wn. App. 799, 816-17, 91 P.3d 117 (2004) (party who failed to comply with rule requiring separate section of brief for each issue, even though successful on appeal, was not entitled to attorney fees on appeal).

Patricia fails to cite applicable law creating a right to recover attorney fees and to devote a section of her brief to such a request. She is therefore not entitled to attorney fees on appeal even if she prevails.

(4) Mike Is Entitled to Attorney Fees and Costs on Appeal

RAP 18.1(a) indicates that a party may recover attorney fees on appeal where the law supports such an award. Mike requests attorney fees and costs on appeal based on Patricia's intransigence below and the frivolous nature of her appeal.

Intransigence is a basis for awarding fees on appeal, separate from RCW 26.09.140 (financial need) or RAP 18.9 (frivolous appeals). *Chapman*, 41 Wn. App. at 455-56. The financial resources of the parties need not be considered when intransigence by one party is established. *Greenlee*, 65 Wn. App. at 711; *Morrow*, 53 Wn. App. at 590. A party's intransigence in the trial court can also support an award of attorney fees on appeal. *Eide*, 1 Wn. App. at 445-4; *Perera*, 41 Wn. App. at 456. "[I]n general, where a prevailing party is entitled to attorney fees below, they are entitled to attorney fees if they prevail on appeal." *Sharbono v. Universal Underwriters Ins. Co.*, 139 Wn. App. 383, 423, 161 P.3d 406 (2007). Because Mike was entitled to fees below based on Patricia's intransigence, the Court should award him fees on appeal without regard to his need or Patricia's ability to pay.

The Court may also award terms and compensatory damages for a frivolous appeal or for a party's failure to comply with the rules of appellate procedure. RAP 18.9(a); RAP 18.1. *See also, In re Marriage of Healy*, 35 Wn. App. 402, 406, 667 P.2d 114, *review denied*, 100 Wn.2d 1023 (1983) (noting an appeal may be so devoid of merit as to warrant the imposition of sanctions and an award of attorney fees). The concept of a frivolous appeal has been established for more than 30-years. *Streater v. White*, 26 Wn. App. 430, 613 P.2d 187, *review denied*, 94 Wn.2d 1014 (1980). An appeal is frivolous when it presents no debatable issues and is so devoid of merit that there is no possibility of reversal. *Id.* at 434. *See also, Miller Cas. Ins. Co. of Texas v. Briggs*, 100 Wn.2d 9, 15, 665 P.2d 887 (1983) (adopting the same standard). "A lawsuit is frivolous when it cannot be supported by an[y] rational argument on the law or facts." *Forster v. Pierce County*, 99 Wn. App. 168, 183, 991 P.2d 687, *review denied*, 141 Wn.2d 1010 (2000). In the instance of a frivolous appeal, an award of attorney fees under RAP 18.9(a) is appropriate. *See Mahoney v. Shinpoch*, 107 Wn.2d 679, 692, 732 P.2d 510 (1987); *Watson v. Maier*, 64 Wn. App. 889, 901, 27 P.2d 311, *review denied*, 120 Wn.2d 1015 (1992).

The record reflects Patricia's incremental disclosure of her income, when prodded, and her ongoing obstructionism throughout the dissolution, which support a finding of intransigence. The trial court's award of

attorney fees to Mike was clearly justified on that basis. *See Greenlee*, 65 Wn. App. at 708, 711. Her appeal of that issue is thus frivolous. *Id.* Even resolving all doubt in Patricia's favor, she raises no debatable issues upon which reasonable minds could differ.

This Court has the authority to sanction Patricia and her counsel by awarding Mike his reasonable attorney fees and costs on appeal. The Court should do so.

F. CONCLUSION

Patricia's actions during the dissolution proceedings were willful, spiteful, and vexatious. Her intransigent behavior required additional legal services, which were incurred to Mike's detriment and to her benefit. Substantial evidence supports the trial court's unchallenged finding of intransigence and award of attorney fees. There was no abuse of discretion.

This Court should affirm the trial court in all respects and award Mike his attorney fees and costs on appeal.

DATED this 24th day of February, 2012.

Respectfully submitted,



Emmelyn Hart, WSBA #28820

Talmadge/Fitzpatrick

18010 Southcenter Parkway

Tukwila, WA 98188

(206) 574-6661

Attorneys for Respondent/Forrest M. Burnard

APPENDIX

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**SUPERIOR COURT OF WASHINGTON
COUNTY OF KING**

In re the Marriage of:

PATRICIA A. BURNARD,

Petitioner,

and

FORREST M. BURNARD,

Respondent.

NO. 10-3-07186-9 KNT

** Amended*
**FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

I. Basis for Findings

The findings are based on the decision of the trial court after trial held on September 6, 2011 before the Honorable Monica Benton.

II. Findings of Fact

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

2.1 Residency of Petitioner

The Petitioner is a resident of the state of Washington.

2.2 Notice to the Respondent

The respondent appeared, responded or joined in the petition.

2.3 Basis of Personal Jurisdiction Over the Respondent

The facts below establish personal jurisdiction over the respondent.

The respondent is currently residing in Washington.

FINDINGS OF FACT AND CONCLUSIONS OF LAW



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FAMILY LAW ATTORNEYS
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(253) 395-1022 fax

The parties lived in Washington during their marriage and the petitioner continues to reside, or be a member of the armed forces stationed, in this state.

2.4 Date and Place of Marriage

The parties were married on September 8, 1979 in Fall City, King County, WA.

2.5 Status of the Parties

Husband and wife separated on September 30, 2010 when the Petitioner filed the Petition for Dissolution.

2.6 Status of Marriage

The marriage is irretrievably broken and at least 90 days have elapsed since the date the petition was filed and since the date the summons was served or the respondent joined.

2.7 Separation Contract or Prenuptial Agreement

Does not apply.

2.8 Community Property

The parties have the following real or personal community property:

See Exhibit A hereto.

2.9 Separate Property

The **husband** has the following real or personal separate property:

See Exhibit B hereto.

The **wife** has the following real or personal separate property:

See Exhibit C hereto.

2.10 Community Liabilities

The parties have the following community liabilities:

See Exhibit A hereto.

FINDINGS OF FACT AND CONCLUSIONS OF LAW



1 **2.11 Separate Liabilities**

2 See Exhibits B and C hereto.

3 **2.12 Maintenance**

4 Does not apply.

5 **2.13 Continuing Restraining Order**

6 Does not apply.

7 **2.14 Protection Order**

8 Does not apply.

9 **2.15 Fees and Costs**

10 The Petitioner's intransigence has caused the Respondent to incur additional attorney
11 fees. Further, the Petitioner has benefitted from the work performed by the Respondent's
12 counsel and it is fair and equitable that the Petitioner contributes to the Respondent's
13 attorney fees as ordered by the Court.

14 **2.16 Pregnancy**

15 The wife is not pregnant.

16 **2.17 Dependent Child**

17 The parties have no minor children of this marriage.

18 **2.18 Jurisdiction Over the Child**

19 Does not apply. The parties have no minor children of this marriage.

20 **2.19 Parenting Plan**

21 Does not apply.

22 **2.20 Child Support**

23 Does not apply.

24 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**



1 **2.21 Other**

2 Does not apply.

3 **III. Conclusions of Law**

4 The court makes the following conclusions of law from the foregoing findings of fact:

5 **3.1 Jurisdiction**

6 The court has jurisdiction to enter a decree in this matter.

7 **3.2 Granting a Decree**

8 The parties should be granted a decree.

9 **3.3 Pregnancy**

10 Does not apply.

11 **3.4 Disposition**

12 The court shall grant the decree of dissolution. The children of the marriage are adults
13 thus a parenting plan is not needed. The disposition of the property will be as outlined in
14 Exhibit # 49 as the disposition of property and liabilities of the parties. The distribution
of property and liabilities as set forth in the decree is fair and equitable.

15 **3.5 Continuing Restraining Order**

16 Does not apply.

17 **3.6 Protection Order**

18 Does not apply.

19 **3.7 Attorney Fees and Costs**

20 The Petitioner shall contribute to the Respondent's attorney fees and costs as provided in
21 the Decree of Dissolution.

22
23 **3.8 Other**

24 Does not apply.
25

FINDINGS OF FACT AND CONCLUSIONS OF LAW



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Dated: Sept 9, 2011

M. Benton
M. Benton

Judge Monica Benton

Presented by:

Approved for entry:
Notice of presentation waived:

Patricia A. Burnard
Petitioner Pro se

Virginia M. Amis, WSBA 31396
Attorney for Respondent Forrest M. Burnard

Forrest M. Burnard Date
Respondent

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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EXHIBIT A
FINDINGS OF FACT AND CONCLUSIONS OF LAW
IN RE MARRIAGE OF BURNARD
KING COUNTY SUPERIOR COURT CASE NO 10-3-07186-9 KNT

COMMUNITY PROPERTY

Real Property

Marital home located at 31402 SE Issaquah/Fall City Road, Issaquah, more fully described as
**SEC 16 TOWNSHIP 24 RANGE 07, Parcel no. 162407-9008 (See attached for full legal
description);**

Investments

Schwab *046 account
Schwab *057 account

Bank Accounts

Washington Fed/First Mutual Jt. Checking *17606
Washington Federal Burnard Ent. Checking *17-7
US Bank **886
US Bank *595

Retirement

Schwab Roth IRA *8434
Teacher's Retirement System Plan II

Cash

Cash in Wife's possession (\$4500)
Cash in Marital home (\$29,000)

FINDINGS OF FACT AND CONCLUSIONS OF LAW



1 **Personal Property**

2 Household furniture and Furnishings

3 Maxfield Parrish Art

4 Tack for horses

5 Husband's tools acquired during marriage

6 **Vehicles**

7 1990 Ford Truck

8 2007 Toyota Matrix

9 2005 Horse Trailer

10 1998 Car trailer

11 2002 Ford Focus

12 2008 Ford Truck

13 1953 Buick Roadmaster

14 1966 Ford Fairlane parts car

15 1972 Ford Ranchero

16 1969 BSA

17 2004 XT 225 Kawasaki

18 2006 Kawasaki

19 1965 Yamaha 250

20 1967 Honda S90

21 1966 Bridgestone Motorcycle

22 Kubota Lawn Tractor

23 50% interest in New Holland/Ford Tractor

24 **COMMUNITY DEBT**

25

FINDINGS OF FACT AND CONCLUSIONS OF LAW



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EXHIBIT B
FINDINGS OF FACT AND CONCLUSIONS OF LAW
IN RE MARRIAGE OF BURNARD
KING COUNTY SUPERIOR COURT CASE NO 10-3-07186-9 KNT

HUSBAND'S SEPARATE PROPERTY AWARDED TO HUSBAND

Bank accounts

Washington Federal/First Mutual Checking *133

Personal Property

Husband's tools acquired before marriage and after September 30, 2010;

All property acquired before the marriage and after September 30, 2010.

Husband's personal effects.

SEPARATE DEBT AWARDED TO THE HUSBAND

Washington Federal Visa *068

All debts acquired since September 30, 2010.

FINDINGS OF FACT AND CONCLUSIONS OF LAW



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EXHIBIT C
FINDINGS OF FACT AND CONCLUSIONS OF LAW
IN RE MARRIAGE OF BURNARD
KING COUNTY SUPERIOR COURT CASE NO 10-3-07186-9 KNT

WIFE'S SEPARATE PROPERTY

Personal Property

Wife's horses.

All property acquired before the marriage and after September 30, 2010.

Wife's personal effects.

DEBT AWARDED TO THE WIFE

All debts acquired since Sept. 30, 2010.

FINDINGS OF FACT AND CONCLUSIONS OF LAW



Legal Description

Borrower: Mike Burnard	File No.: 10-0120
Property Address: 31402 SE Issaquah Fall City Road	Case No.:
City: Fall City	State: WA Zip: 98024
Lender: Mike Burnard	

Legal Description



following description

THAT PORTION OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 24 NORTH, RANGE 7 EAST, COUNTY OF KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE CENTER OF SAID SECTION 16; THENCE NORTH 89° 07' 22" WEST ALONG THE EAST-WEST CENTERLINE OF SAID SECTION, A DISTANCE OF 730.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTHWEST ALONG SAID CENTERLINE A DISTANCE OF 20.76 FEET; THENCE SOUTH 89° 07' 22" WEST ALONG SAID CENTERLINE A DISTANCE OF 170.00 FEET TO A POINT; THENCE SOUTH 89° 07' 22" WEST ALONG THE WEST LINE OF THE EAST HALF OF SAID SECTION, A DISTANCE OF 281.04 FEET; THENCE NORTHWEST ALONG SAID LINE, A DISTANCE OF 170.00 FEET NORTH OF THE PARALLEL LINE; THENCE WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 281.04 FEET; THENCE SOUTH 89° 07' 22" WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 15.00 FEET; THENCE WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 281.04 FEET; THENCE SOUTH 89° 07' 22" WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 15.00 FEET; THENCE WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 281.04 FEET; THENCE SOUTH 89° 07' 22" WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 15.00 FEET; THENCE WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 281.04 FEET; THENCE SOUTH 89° 07' 22" WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 15.00 FEET; THENCE WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 281.04 FEET TO THE TRUE POINT OF BEGINNING.

TOGETHER WITH AN EASEMENT FOR EGRESS AND UTILITY OVER A PORTION OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 24 NORTH, RANGE 7 EAST, COUNTY OF KING COUNTY, WASHINGTON, AS SHOWN IN WIDTH, THE SOUTHEASTERLY LINE OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE CENTER OF SAID SECTION 16; THENCE NORTHWEST ALONG THE EAST-WEST CENTERLINE OF SAID SECTION, A DISTANCE OF 730.00 FEET TO THE POINT OF BEGINNING OF SAID SOUTHEASTERLY LINE; THENCE SOUTH 89° 07' 22" WEST TO THE NORTHERLY PORTION OF THE OLD ISSAQUAH RIVER, AS IT NOW EXISTS AND THE TERMINUS OF SAID SOUTHEASTERLY LINE.

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SUPERIOR COURT OF WASHINGTON
COUNTY OF KING

In re the Marriage of:

PATRICIA A. BURNARD

Petitioner,

and

FORREST M. BURNARD,

Respondent.

NO. 10-3-07186-9 KNT

DECREE OF DISSOLUTION OF
MARRIAGE

I. Judgment/Order Summaries

1.1 Restraining Order Summary:

Does not apply.

1.2 Real Property Judgment Summary:

Assessor's property tax parcel or account number: 162407-9008

Or

Legal description of the property awarded (including lot, block, plat, or section, township, range, county and state):

See Page YA for full legal description

1.3 Money Judgment Summary:

Judgment Summary is set forth below.

DECREE OF DISSOLUTION OF MARRIAGE



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1	A. Judgment creditor	<u>Forrest M. Burnard</u>	
	B. Judgment debtor	<u>Patricia A. Burnard</u>	
2	C. Principal judgment amount		\$ _____
	D. Interest to date of judgment		\$ _____
3	E. Attorney fees		\$ <u>10,000</u>
	F. Costs		\$ _____
4	G. Other recovery amount		\$ _____
5	H. Principal judgment shall bear interest at 12% per annum		
	I. Attorney fees, costs and other recovery amounts shall bear interest at 12% per annum		
6	J. Attorney for judgment creditor	<u>Virginia M. Amis</u>	
	K. Attorney for judgment debtor	<u>N/A</u>	
7	L. Other: N/A		

8
9 *End of Summaries*

10 **II. Basis**

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

12 **III. Decree**

13 *It Is Decreed* that:

14 **3.1 Status of the Marriage**

15 The marriage of the parties is dissolved.

16 **3.2 Property to be Awarded the Husband**

17 The husband is awarded as his separate property the property set forth in **Exhibit H** hereto.

18 **3.3 Property to be Awarded to the Wife**

19 The wife is awarded as her separate property the property set forth in **Exhibit W** hereto.

20 **3.4 Liabilities to be Paid by the Husband**

21 The husband shall pay the community or separate liabilities as set forth in **Exhibit H**
22 hereto.

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

24 **3.5 Liabilities to be Paid by the Wife**

25 The wife shall pay the community or separate liabilities as set forth in **Exhibit W** hereto.

DECREE OF DISSOLUTION OF MARRIAGE



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(253) 395-1022 fax

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

3 **3.6 Hold Harmless Provision**

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

7 **3.7 Maintenance**

8 Does not apply.

9 **3.8 Continuing Restraining Order**

10 Does not apply.

11 **3.9 Protection Order**

12 Does not apply.

13 **3.10 Jurisdiction Over the Child**

14 Does not apply. The parties have no minor children.

15 **3.11 Parenting Plan**

16 Does not apply. The parties have no minor children.

17 **3.12 Child Support**

18 Does not apply.

19 **3.13 Attorney Fees, Other Professional Fees and Costs**

20 The Respondent is awarded \$10,000 from the Petitioner for attorney fees and costs. These
21 fees and costs shall be paid from the Charles Schwab account funds awarded to the
22 Petitioner herein within ten (10) days of the entry of this Decree of Dissolution.

23 **3.14 Name Changes**

24 Does not apply.

25 **DECREE OF DISSOLUTION OF MARRIAGE**



GOURAS & AMIS P.L.L.C.

FAMILY LAW ATTORNEYS

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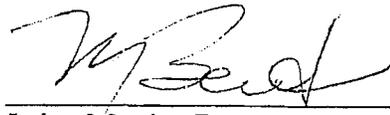
(253) 395-5552

(253) 395-1022 fax

1 3.15 Other

2 Does not apply.

3
4 Dated: Sept. 7, 2011



Judge Monica Benton

7 Presented by:

Approved for entry:
Notice of presentation waived:

11 Patricia A. Burnard, Petitioner
12 Petitioner

Virginia M. Amis, WSBA 31396
Attorney for Respondent

14 Forrest M Burnard
Respondent

Date

25 DECREE OF DISSOLUTION OF MARRIAGE



GOURAS & AMIS P.L.L.C.
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1 EXHIBIT H

2 DECREE OF DISSOLUTION

3 IN RE MARRIAGE OF BURNARD

4 KING COUNTY SUPERIOR COURT CASE NO 10-3-07186-9 KNT

5 PROPERTY AWARDED TO HUSBAND

6 Real Property

7 The marital home located at 31402 SE Issaquah/Fall City Road, Issaquah, more fully described
8 as SEC 16 TOWNSHIP 24 RANGE 07, Parcel no. 162407-9008 (See attached for full legal
9 description). The property shall be held by the parties as tenants in common for up to 36
10 months. During this time the Husband shall make efforts to obtain or borrow funds to pay the
11 Wife an equalization payment of \$163,084.

12 Husband shall have exclusive possession of the marital home and remain in the marital home.

13 Wife shall vacate the marital home within 30 days of the entry of the Decree.

14 At the time the Wife receives payment of the balancing payment, the Wife shall sign a Quit
15 Claim Deed which transfers all of Wife's interest in the marital home to the Husband. In the
16 event that the Wife fails or refuses to sign the Quit Claim Deed the court shall appoint a special
17 master to sign the Quit Claim Deed on the Wife's behalf and the court may award costs and
18 attorney fees as appropriate.

19 Investments

20 Schwab *3057 account

21 Bank Accounts

22 Washington Fed/First Mutual Jt. Checking *17606 – parties to split

23 Washington Fed/First Mutual Checking *133

24 Washington Federal Burnard Ent. Checking *17-7

25 DECREE OF DISSOLUTION OF MARRIAGE



GOURAS & AMIS P.L.L.C.

FAMILY LAW ATTORNEYS

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(253) 395-5552

(253) 395-1022 fax

1 **Cash**

2 Cash in marital home (\$29,000)

3 **Personal Property**

4 Household furniture and Furnishings – to be split equally. If the parties cannot agree the items in
5 dispute shall be placed in an auction and the parties shall divide the net proceeds after all costs of
6 the auction are paid.

7 Tools acquired during marriage **save where there are duplicates, the wife may have only one**
8 **of any duplicate;**

9 Husband's personal effects;

10 Husband's tools acquired prior to marriage.

11 **Retirement**

12 All benefits accrued to the Husband due to his employment

13 **Vehicles**

14 Husband is awarded his 2008 Ford Truck, 2002 Ford Focus; 1953 Buick Roadmaster ; 1966
15 Ford Fairlane parts car; 1972 Ford Ranchero; 1969 BSA; 2004 XT 225 Kawasaki; 2006
16 Kawasaki; 1965 Yamaha 250; 1967 Honda S90; 1966 Bridgestone Motorcycle ; 50% interest in
17 New Holland/Ford Tractor; Kubota Lawn Tractor.

18 **DEBT AWARDED TO THE HUSBAND**

19 Home Equity Line of Credit/Wash. Federal *702 in the amount of \$900;

20 Washington Federal VISA *068;

21 All debts associated with the property awarded to the Husband;

22 All debts acquired since Sept. 30, 2010.

23
24
25 **DECREE OF DISSOLUTION OF MARRIAGE**



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1
2 **EXHIBIT W**

3 **DECREE OF DISSOLUTION**

4 **IN RE MARRIAGE OF BURNARD**

5 **KING COUNTY SUPERIOR COURT CASE NO 10-3-07186-9 KNT**

6 **PROPERTY AWARDED TO WIFE**

7 **Equalization payment:** The Wife is awarded the sum of \$163,084 as an equalization payment.

8 The purpose of this payment is to equalize the value of the community property awarded to each
9 party. The equalization payment shall be paid to the Wife **as soon as practical, as a lump sum.**

10 **If the Respondent cannot obtain a loan to make the lump sum payment within 30 days,**
11 **then payments shall be made in annual installments over the next 36 months beginning**
12 **from the date the Decree of Dissolution is entered.** Until these funds are paid the marital
13 home property shall be held by the parties as tenants in common for up to 36 months. During
14 this time the Husband shall make efforts to obtain or borrow funds to pay the Wife the
15 equalization payment.

16 At the time the Wife receives payment of the balancing payment, the Wife shall sign a Quit
17 Claim Deed which transfers all of Wife's interest in the marital home to the Husband. In the
18 event that the Wife fails or refuses to sign the Quit Claim Deed the court shall appoint a special
19 master to sign the Quit Claim Deed on the Wife's behalf and the court may award costs and
20 attorney fees as appropriate.

21 Husband shall have exclusive possession of the marital home and remain in the marital home.

22 Wife shall vacate the marital home within 30 days of the entry of the Decree.

23 **Investments**

24 Schwab *5046 account
25

DECREE OF DISSOLUTION OF MARRIAGE



GOURAS & AMIS P.L.L.C.

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1 **Bank Accounts**

2 Washington Fed/First Mutual Jt. Checking *17606 – parties to split

3 Washington Fed/First Mutual *3510-01

4 US Bank account *0886

5 US Bank account *8595

6 **Retirement**

7 Schwab Roth IRA *8434

8 TRS Plan II

9 All benefits accrued to the Wife due to her employment

10 **Cash**

11 Cash in Wife's possession (\$4500)

12 **Personal Property**

13 Household furniture and Furnishings – to be split equally. If the parties cannot agree the items in
14 dispute shall be placed in an auction and the parties shall divide the net proceeds after all costs of
15 the auction are paid.

16 Wife's horses and tack

17 Maxfield Parrish Art

18 Wife's personal effects;

19 **Vehicles**

20 Wife is awarded her 2007 Toyota Matrix, 1990 Ford Truck; 2005 Horse Trailer; 1998 Car trailer.

21 **DEBT AWARDED TO THE WIFE**

22 All debts associated with the property awarded to Wife;

23 All debts acquired since Sept. 30, 2010.

24
25 **DECREE OF DISSOLUTION OF MARRIAGE**



GOURAS & AMIS P.L.L.C.
FAMILY LAW ATTORNEYS

Centerpoint, Cascade East Bldg.,

20819 72nd Ave. S.

Suite 650

Kent, WA 98032

(253) 395-5552

(253) 395-1022 fax

Borrower: Mike Burnard

File No.: 10-0120

Property Address: 31402 SE Issaquah Fall City Road

Case No.:

City: Fall City

State: WA

Zip: 98024

Lender: Mike Burnard

Legal Description supplied by borrower

31402

following description

THAT PORTION OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 24 NORTH, RANGE 7 EAST, HWY 1 IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE CENTER OF SAID SECTION 16; THENCE NORTH 89° 07' 22" WEST ALONG THE EAST-WEST CENTERLINE OF SAID SECTION A DISTANCE OF 726.40 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTH 89° 07' 22" WEST ALONG SAID CENTERLINE A DISTANCE OF 10.74 FEET; THENCE SOUTH 89° 07' 22" EAST A DISTANCE OF 176.46 FEET TO A LINE PARALLEL WITH AND 10 FEET WEST OF THE WEST LINE OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION; THENCE NORTHERLY ALONG SAID PARALLEL LINE NORTH 89° 07' 22" WEST A DISTANCE OF 75.24 FEET TO A LINE THAT IS PARALLEL WITH AND 10 FEET WEST OF THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION; THENCE EASTERLY ALONG SAID PARALLEL LINE SOUTH 89° 07' 22" WEST A DISTANCE OF 281.04 FEET; THENCE SOUTH 10° 23' 59" WEST A DISTANCE OF 15 FEET TO A POINT ON SAID PARALLEL LINE WITH AND A DISTANCE OF 15 FEET NORTH OF SAID EAST-WEST CENTERLINE; THENCE WESTERLY ALONG SAID PARALLEL LINE NORTH 89° 07' 22" WEST A DISTANCE OF 281.04 FEET; THENCE SOUTH 10° 23' 59" WEST A DISTANCE OF 15 FEET TO THE EAST-WEST CENTERLINE OF SAID SECTION; THENCE NORTH 89° 07' 22" WEST A DISTANCE OF 30 FEET TO THE TRUE POINT OF BEGINNING.

TOGETHER WITH AN EASEMENT FOR PROGRESS, EGRESS AND UTILITIES OVER A PORTION OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 24 NORTH, RANGE 7 EAST, HWY 1 IN KING COUNTY, WASHINGTON, 20 FEET IN WIDTH, THE SOUTHEASTERLY LINE OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE CENTER OF SAID SECTION 16; THENCE NORTH 89° 07' 22" WEST ALONG THE EAST-WEST CENTERLINE OF SAID SECTION A DISTANCE OF 726.40 FEET TO THE POINT OF BEGINNING OF SAID SOUTHEASTERLY LINE; THENCE SOUTH 89° 07' 22" WEST TO THE NORTHERLY MARGIN OF THE OLD ISSAQUAH FALL CITY ROAD AS IT NOW EXISTS AND THE TERMINUS OF SAID SOUTHEASTERLY LINE.

8A

DECLARATION OF SERVICE

On said day below I emailed and deposited in the U.S. Mail a true and accurate copy of the Brief of Respondent in Court of Appeals Cause No. 67918-0-I to the following parties:

H. Michael Finesilver
207 E. Edgar Street
Seattle, WA 98102-3108

Original and copy filed with:
Court of Appeals, Division I
Clerk's Office
600 University Street
Seattle, WA 98101-1176

I declare under penalty of perjury under the laws of the State of Washington and the United States that the foregoing is true and correct.

DATED: February 27, 2012, at Tukwila, Washington.



Christine Jones
Talmadge/Fitzpatrick