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No. 68053-6-I

King County Superior Court No. 10-3-05303-8 SEA

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

In Re the Marriage of:

ALEEN ADAMS,
Petitioner-Respondent,

v.

DOUGLAS MacKENZIE,
Respondent-Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE STATE OF
WASHINGTON FOR KING COUNTY

The Honorable James Doerty, Judge

BRIEF OF RESPONDENT

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TABLE OF CONTENTS

I. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR 1

II. STATEMENT OF THE CASE..... 1

III. ARGUMENT 4

 A. STANDARD OF REVIEW 4

 B. SUBSTANTIAL EVIDENCE SUPPORTS THE TRIAL COURT’S FINDING REGARDING THE AMOUNT OF TRAVEL EXPENSE THAT IS “REASONABLE AND NECESSARY.” THE COURT THEN APPORTIONED THAT EXPENSE IN THE SAME MANNER AS THE BASIC CHILD CARE EXPENSE, AS REQUIRED BY STATUTE..... 5

 1. The Trial Court Followed the Correct Legal Standards 5

 2. The Trial Court’s Factual Finding Regarding “Reasonable and Necessary” Visitation is Supported by Substantial Evidence 9

 3. The Trial Court did not “Implicitly” Find that Broader Visitation was Reasonable and Necessary 11

 C. SUBSTANTIAL EVIDENCE SUPPORTS THE TRIAL COURT’S FINDING THAT ADAMS IS NOT VOLUNTARILY UNDEREMPLOYED 15

 D. MACKENZIE IS CORRECT THAT THERE IS A CLERICAL ERROR ON THE JUDGMENT SUMMARY..... 20

 E. THE COURT SHOULD AWARD ATTORNEY FEES TO ADAMS 20

IV. CONCLUSION..... 22

TABLE OF AUTHORITIES

Cases

<i>Johnson v. Johnson</i> , 107 Wn. App. 500, 27 P.3d 654, 656 (2001).....	21
<i>Marriage of Littlefield</i> , 133 Wn.2d 39, 940 P.2d 1362 (1997).....	4
<i>Marriage of Peterson</i> , 80 Wn. App. 148, 906 P.2d 1009 (1995), <i>review denied</i> , 129 Wn.2d 1014, 917 P.2d 575 (1996)	19
<i>Marriage of Rideout</i> , 150 Wn.2d 337, 77 P.3d 1174 (2003).....	5
<i>Marriage of Schumacher v. Watson</i> , 100 Wn. App. 208, 997 P.2d 399 (2000).....	20
<i>Paternity of Hewitt</i> , 98 Wn. App. 85, 988 P.2d 496 (1999), <i>review</i> <i>denied</i> , 141 Wn.2d 1007, 10 P.3d 1073 (2000)	3, 5
<i>State ex rel. Carroll v. Junker</i> , 79 Wn.2d 12, 482 P.2d 775 (1971)	4
<i>State ex rel. J.V.G. v. Van Guilder</i> , 137 Wn. App. 417, 154 P.3d 243 (2007).....	4, 6, 14
<i>State v. Chapman</i> , 78 Wn.2d 160, 469 P.2d 883 (1970).....	4
<i>Sunnyside Valley Irrigation Dist. v. Dickie</i> , 149 Wn.2d 873, 73 P.3d 369 (2003).....	4
<i>Thorndike v. Hesperian Orchards, Inc.</i> , 54 Wn.2d 570, 343 P.2d 183 (1959).....	4

Statutes

RCW 26.09.140	21
RCW 26.19.071	16, 19
RCW 26.19.080	5, 7

Rules

CR 60	20, 21
-------------	--------

RAP 18.1.....	21
RAP 18.9.....	21

I.
ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. Is the trial court's factual finding regarding the "reasonable and necessary" amount of long distance travel for residential time supported by substantial evidence?
2. Is the trial court's factual finding that Adams is not "voluntarily underemployed" supported by substantial evidence?

II.
STATEMENT OF THE CASE

MacKenzie gives a lengthy and one-side history of the relationship between himself and Adams, little of which is relevant to the discrete issues raised in this appeal. Suffice it to say that the couple were together for a few years, never married, and had a child together. J.J.A.M. was three years old at the time of trial. CP 134-35 (Trial Declaration of Adams). At that time, Adams was living in Seattle, while MacKenzie maintained residences in Massachusetts and New York. CP 233. Adams filed this legal proceeding in July, 2010, because the two were unable to negotiate a "stable and predictable schedule for residential time and child support payments" despite months of trying. CP 135. MacKenzie initially refused to engage in mediation or to meet with a specialist who could help craft a plan. *Id.*

Ultimately, MacKenzie agreed to mediation, but this proved to be “an exhausting process.” RP 21. The parties engaged in mediation for 11 hours with Larry Besk in May, 2011, but reached no agreement. CP 137.

Later, portions of the parenting plan were settled through mediation with consultant Jude McNeil, M.Ed. Paragraph 3.1 set out an agreed framework for visitation. This was “primarily centered on what [MacKenzie] expressed he wanted in terms of a residential schedule.” RP 24. “I’ve always been under the belief that he should see [J.J.A.M.] as much as he wants to see [J.J.A.M.] and is . . . practical and affordable.” RP 24-25. But, as discussed in section III(B)(3), this did not amount to an agreement that all of the visitation was financially feasible.

Paragraph 3.11 contained Adams’s proposal for limiting the total amount of expense that would be shared by the parties, while still permitting MacKenzie to have further, optional visitation in Seattle at his own expense. MacKenzie did not agree to such limitations.

Part of the difficulty is that MacKenzie “has insisted that [J.J.A.M.] make at least four trips to the East Coast each year, which is excessively expensive (not to mention demanding for a 3-year-old) because it requires three round-trip cross-country tickets for each trip, rather than one round-trip ticket if he resides with [J.J.A.M.] in Seattle.” CP 138. *See also* RP 30. Adams repeatedly noted during negotiations that

the plan they were creating “was something that we couldn’t financially afford.” RP 25.

MacKenzie’s insistence on having his residential time in the East is apparently connected with his complaint that it is all Adams’s fault that the parties are on opposite sides of the country. *See, e.g.*, RP 46-48; CP 191. His trial testimony and opening brief argue at length that Adams agreed at some time in the past to live with him on the East Coast, and therefore she is to blame that transportation costs are necessary. Adams has a different account. *See, e.g.*, RP 21-24, 43; CP 190. But she will not waste the Court’s time with a counter-argument regarding the history of the relationship because a promise to live in a certain location is “immaterial.” *Paternity of Hewitt*, 98 Wn. App. 85, 90, 988 P.2d 496 (1999), *review denied*, 141 Wn.2d 1007, 10 P.3d 1073 (2000). Because the trial court cannot require a parent to live in a particular location, it cannot condition an award of travel expenses on the parent’s residential location. *Id.*

Ultimately, the parties and the trial court agreed to a hybrid trial process to resolve the issues of child support and the portion of the parenting plan setting out the reasonable and necessary travel expenses related to MacKenzie’s residential time. The Court considered the parties’

declarations and exhibits, in addition to brief testimony from Adams and MacKenzie and oral arguments from their lawyers. CP 5.

III. ARGUMENT

A. STANDARD OF REVIEW

Family law rulings regarding parenting plans and child support orders are reviewed for abuse of discretion. *Marriage of Littlefield*, 133 Wn.2d 39, 47, 940 P.2d 1362 (1997) (parenting ruling reviewed for abuse of discretion); *State ex rel. J.V.G. v. Van Guilder*, 137 Wn. App. 417, 154 P.3d 243 (2007) (child support ruling reviewed for abuse of discretion).

Abuse of discretion is generally defined as discretion manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons. *State ex rel. Carroll v. Junker*, 79 Wn.2d 12, 482 P.2d 775 (1971).

A trial court's factual findings must be upheld if they are supported by "substantial evidence." *Thorndike v. Hesperian Orchards, Inc.*, 54 Wn.2d 570, 343 P.2d 183 (1959). An appellate court will not ordinarily substitute its judgment for that of the trial court even though it might have resolved the factual dispute differently. *Sunnyside Valley Irrigation Dist. v. Dickie*, 149 Wn.2d 873, 73 P.3d 369 (2003). The trial court is generally free to believe or disbelieve a witness in reaching factual determinations. *State v. Chapman*, 78 Wn.2d 160, 469 P.2d 883 (1970). In family law

cases, this deferential standard of review applies even when the trial court relied solely on documentary evidence. *Marriage of Rideout*, 150 Wn.2d 337, 351-52, 77 P.3d 1174 (2003).

MacKenzie maintains that the standard of review in this case is *de novo* because the issues turn on statutory construction. In fact, as discussed below, the trial court scrupulously applied the same statutory standards relied on by MacKenzie. The true dispute is over the Court's factual findings regarding what travel expenses are "reasonable and necessary" and whether Adams is "voluntarily underemployed."

B. SUBSTANTIAL EVIDENCE SUPPORTS THE TRIAL COURT'S FINDING REGARDING THE AMOUNT OF TRAVEL EXPENSE THAT IS "REASONABLE AND NECESSARY." THE COURT THEN APPORTIONED THAT EXPENSE IN THE SAME MANNER AS THE BASIC CHILD CARE EXPENSE, AS REQUIRED BY STATUTE.

1. The Trial Court Followed the Correct Legal Standards

MacKenzie's discussion of the relevant legal standards is accurate but incomplete. As he notes, "special child rearing expenses, such as tuition and long-distance transportation costs to and from the parents for visitation purposes," must be shared "in the same proportion as the basic support allocation." RCW 26.19.080(3). This applies whether the child travels to visit the parent or the parent travels to visit the child. *Hewitt*, 98 Wn. App. at 89. The trial court has discretion to determine what travel

expenses are “reasonable and necessary.” *Id.* at 89, citing RCW 26.19.080(4).

MacKenzie leaves out an important factor, however: when determining what extraordinary costs are “reasonable and necessary” the court must take into account the parties’ ability to pay.

Part of determining which extraordinary expenses will be allowed must involve a determination of the objecting parent's ability to pay. The court cannot bleed a stone. But that is the result of support orders which require payment of extraordinary expenses beyond a parent's means.

State ex rel. J.V.G. v. Van Guilder, 137 Wn. App. at 430. In *Van Guilder*, the expense at issue was private school tuition which, as noted above, is treated the same as transportation costs.

Even if the trial court finds that there is sufficient evidence of J.V.G.’s need for private schooling, the inquiry cannot end there. On remand, the lower court must consider whether the father can afford to pay for private school before ordering him to do so.

Id.

Here, Judge Doerty followed the correct legal standards. First, he found the father’s proposed child support worksheets less credible than the mother’s. CP 298 (Finding of Fact 2.10). Then, based on the mother’s financial information (CP 283), he calculated the father’s proportional share of the basic child support obligation to be 45% and the mother’s to

be approximately 55%. CP 291 (worksheet at line 6). The Court did not deviate from the standard calculation. CP 284.

The trial court expressly recognized that “[l]ong-distance transportation costs to and from the parents for visitation purposes shall be shared by parents in the same proportion as the basic child support obligation.” CP 299, citing RCW 26.19.080(3). The Court also recognized it must “determine the necessity for and the reasonableness of all child support amounts ordered in excess of the basic child support obligation.” *Id.*, citing RCW 26.19.080(4).

In that regard, the Court made the following factual findings:

Neither parent can afford the cost of monthly cross-country airline travel to facilitate the father’s residential time with the child, and monthly residential time with the child is not necessary to maintain the father-child parental bond.

The transportation plan proposed by the mother is based on the parties’ actual financial circumstances, is reasonable, allocates the parties’ costs according to their proportionate share of child support, and adequately provides for the needs of the child to maintain her parental relationship with the father.

CP 298 (findings of fact 2.10). This transportation plan is set out in paragraph 3.11 of the parenting plan. *See* CP 299 (conclusion 3.3).

Because MacKenzie insisted on substantial residential time on the East Coast, the plan grants him three blocks of time on the East Coast each year. CP 305. Each visit will last a minimum of seven days, but the

period “may increase over the holidays or in the summer.” CP 302. In addition, MacKenzie has additional residential time with the child in Seattle. CP 305, referencing CP 302.

As Adams’s attorney explained at the trial, her proposal for reasonable and necessary travel provides for a 55/45 split of costs, but with the total expense capped at \$5,000 per year. RP 30¹. This means that MacKenzie will have at least four, lengthy blocks of time with the child each year. *See* CP 240. For each of the three visits to the East Coast, Adams pays for her own round-trip ticket to bring the child to MacKenzie and return home, while MacKenzie pays for his round-trip ticket to bring the child back to Seattle and then return to his home. The parents split the cost of the child’s round-trip flight. To further compensate MacKenzie, Adams credits him with \$50 per month (\$600 annually) off his child support transfer obligation. CP 305. Assuming – as Adams does² – that a round-trip ticket typically costs about \$500 at retail price (CP 139), Adams will end up paying \$2,850 per year for these three visits, while MacKenzie pays \$1,650 per year. When MacKenzie adds a trip to Seattle to visit the

¹ Adams’s trial attorney referred to the total as \$5,100 but, as discussed below, it is actually \$5,000.

² MacKenzie assumes a cost of \$468, which works out even more favorably for him. CP 88.

child there, he will pay a total of \$2,150 to Adams's \$2,850. That breaks down as 57% for Adams and 43% for MacKenzie, which is slightly more favorable to him than the 55/45 split set by the child support worksheets.

That MacKenzie would receive only four blocks of time assumes that all airfare is paid at full rate. As Adams's attorney pointed out at the hearing, the parties may be able to obtain substantial discounts through such things as mileage plans and "red-eye" flights. RP 62. That could easily yield six blocks of time within the total expense cap. *Id.*

MacKenzie is permitted additional residential time with J.J.A.M. in Seattle, but at his own expense. CP 302, 305.

2. The Trial Court's Factual Finding Regarding "Reasonable and Necessary" Visitation is Supported by Substantial Evidence

MacKenzie disagrees with the trial court's factual finding regarding how much visitation is "reasonable and necessary." There is substantial evidence, however, to support the trial court's finding that a minimum of four lengthy visits are sufficient.

As Adams explained in her trial declaration, "[c]ross-country travel is expensive and disruptive." CP 138. Regarding the amount necessary, Adams relied on the expert advice of psychologist Naomi Oderberg.

First, there is no empirical basis for the idea that increasing amounts of time with the non-residential parent necessarily leads to better outcomes for children (Smyth, 2009). Secondly, findings from a four year longitudinal suggest that it is the *quality* of the father-child relationship that preserves the relationship rather than the *contact arrangement* that creates or preserves the quality of the father-child relationship (McIntosh, Wells, Smyth & Long, forthcoming).

CP 150 (emphasis in original). Dr. Oderberg notes that some experts recommend for pre-schoolers (age 3-5) at least four blocks of routine parenting time with the non-residential parent each year, with additional time for vacations. CP 151. This assumes blocks of no more than four consecutive overnights. *Id.* Further,

[f]or parents of young children who live at great distances from each other, it is often optimal to have the majority of parenting time take place in the community of the custodial parent so that travel time is minimized. Full travel days including pre-boarding time, flight time and post flight travel to a parent's home can be exhausting for the young child and take up a full day on each end of the parenting plan.

Id.

Although the trial court's ruling in this case finds that as little as four visits may be reasonable and necessary, each block of time is significantly longer than four days. For example, Adams has agreed that MacKenzie may have the child with him for one block of 11 days and another of 12 days during the summer. CP 304. Thus, the Court's plan provides for at least as much time as experts believe to be needed. Further,

it minimizes the disruption to the child by limiting the number of times each year that she must make a round-trip transcontinental flight.

Of course, as the trial court found, limiting the number of flights also conserves the parties' finances. The worksheets approved by the Court clearly support the notion that neither party can afford the monthly visitation proposed by MacKenzie. Thus, the trial court's factual findings regarding reasonable and necessary visitation are thoroughly supported by substantial evidence.

3. The Trial Court did not "Implicitly" Find that Broader Visitation was Reasonable and Necessary

MacKenzie argues, however, that the trial court "implicitly" found that the broader residential provisions in paragraph 3.1 of the parenting plan were in the child's best interest. AOB at 14. He therefore concludes that those provisions must be reasonable and necessary. AOB at 15.

This reasoning ignores the trial court's finding of fact 2.6, which includes the following:

This residential schedule/parenting plan is the result of an agreement of the parties, but the parties expressly did not determine the costs of long distance travel and the reasonableness of the plan they devised based on their financial circumstances. Accordingly, the monthly residential schedule to which they agreed is aspirational, not mandatory, and is subject to transportation cost limitations imposed by the Court based on the parties' financial circumstances and the order of child support. . . . This residential schedule, as limited by transportation costs

Ultimately, the efforts to craft an agreed parenting plan fell through when MacKenzie refused to exchange financial information. CP

138. As Adams explained:

I have never believed that monthly cross-country flights would be financially feasible, but I know little about Doug's finances and I am happy for [J.J.A.M.] to see him this frequently if he can pay for it, which is what I consistently said when we met with Ms. McNeil. I am willing to share the cost of [J.J.A.M.] spending time with Doug in his community as I know that is important to him, but the frequency of those trips must be developmentally appropriate for [J.J.A.M.] and financially realistic for both Doug and me.

CP 143. *See also*, RP 25-29; 39 (testimony of Adams).

In her consultation report, Jude McNeil agreed with Adam's position. "[The parents] did not reach agreements as to financial issues and transportation which will need to be resolved in mediation or co-parenting counseling." CP 185.

Further, Adams presented e-mail correspondence between her and MacKenzie. Adams maintained that it was imperative to have updated financial information before agreeing on the residential portion of the parenting plan. She noted that, among the issues to be decided in mediation were how often the child would be expected to travel East each year "both in terms of what is reasonable for her and the cost of it", and "[t]he frequency of Doug's travel to Seattle and the cost of his

transportation.” CP 192. She reminded MacKenzie that, although she had no objection to him visiting as often as monthly, she had not agreed to the cost of such an arrangement. *Id.* In response, MacKenzie did not dispute that the parties had so far failed to reach agreement. He maintained, however, that they should first agree firmly on a residential schedule and then worry about how to pay for it. CP 191.

As discussed above, this Court has established that Adams’s approach is correct, that is, that finances must be taken into account when deciding what travel is reasonable and necessary. *See Van Guilder, supra.*

That paragraph 3.1 permits MacKenzie further residential time at his own expense does not contradict the trial court’s finding regarding what is reasonable and necessary. Mackenzie seems to argue that since Adams agreed in principle that MacKenzie could have monthly visits – and the Court’s ruling permits such visits – that means no other arrangement could be in the “best interest of the child.” In fact, as Dr. Oderberg explained, a variety of arrangements can be in the best interest of the child. Certainly there is almost always some way to craft a parenting plan that is somehow “better” for the child if money is no object. Perhaps a child would be better off in an expensive private school rather than in public school, taking piano lessons from a renowned concert pianist rather than from the teacher next door, and attending a select

soccer camp over the summer rather than playing in a city league. But that does not mean a judge should order a parent of moderate means to pay for such things. On the other hand, nothing prevents a court from *permitting* a parent to incur additional expense if he can somehow set aside extra money.⁴ In this case, paragraph 3.1 of the parenting plan provides a framework for MacKenzie to have additional residential time at his own expense. The additional time would not be adverse to the child's best interests, but that does not mean that it is "necessary" or that it is "reasonable" to require Adams to pay for that.

Thus, substantial evidence supports the trial court's ruling.

C. SUBSTANTIAL EVIDENCE SUPPORTS THE TRIAL COURT'S FINDING THAT ADAMS IS NOT VOLUNTARILY UNDEREMPLOYED

MacKenzie has correctly set out the relevant legal standards at AOB 19. These are the same standards Adams set out in her trial brief. CP 241-43.

⁴ In this case, it is not clear how MacKenzie could afford to pay more than \$2,150 per year on transportation. His financial declaration claims a negative cash flow even before taking into account the nearly \$1,200/month of child support payments which have been ordered. CP 84-92 (financial declaration); CP 284 (child support payment). It is true that MacKenzie's calculations assume more visits to Seattle than have been ordered, but even without those extra visits, his cash flow is significantly negative once child support is included.

The court shall impute income to a parent when the parent is voluntarily unemployed or voluntarily underemployed. The court shall determine whether the parent is voluntarily underemployed or voluntarily unemployed based upon that parent's work history, education, health, and age, or any other relevant factors.

RCW 26.19.071(6).

There is no evidence that the trial court applied any different standard. Rather, MacKenzie's dispute is solely with a portion of the trial court's finding of fact 2.10: "No grounds exist to impute income to Petitioner. Her current employment is consistent with her work history and, in fact, provides better job security, income, and benefits than her prior employment." CP 298.

Substantial evidence supports this finding. Adams clearly and concisely set out her work history at paragraph 17 of her trial declaration.

Since 1995, I have worked in the field of interactive media, product development, and museum exhibitions. In 2007, I began working as a self-employed Producer/Editor of interactive media and museum exhibitions, managing clients of my own, so I could work more flexibly as the parent of a young child. My work has been project-based and my income has fluctuated due to the completion of milestones in project cycles. In July 2010, I was hired on a temporary hourly contract with the Experience Music Project ("EMP") to manage the creation of interactive [sic] for two large-scale exhibitions and stopped taking personal clients due to EMP's work demands. My hourly contract with EMP was specifically tied to the production and opening of Avatar: The Exhibition, which opened June 2, 2011, and Can't Look Away: The Lure of Horror Film, which opened October 1, 2011. My work hours at EMP

varied based on the project cycle throughout 2010 and 2011, with some weeks billing as much as 40 hours and some weeks billing zero hours. Consequently, my income rose during the intensive Avatar production months, and declined when each project was completed. The opportunity to work on these large-scale, bigger budget exhibitions was highly situational and does not reflect my average normal income, which in 2008 and 2009 was less than \$30,000 annually. My Sealed Financial Source documents include my federal income tax returns 2008-2010, to show this pattern. After both exhibitions were completed at EMP, I was fortunate to be offered a regular, salaried position because EMP recognized my long-term value and contribution to the company. On November 1, 2011, I began a regular salaried, part-time position with EMP, which holds the potential for me to rise within the organization. This opportunity offers me job security, a stable work schedule, a bi-weekly salary of \$2,923, and excellent benefits for [J.J.A.M.] and me. My annual income will be good and predictable, without the stress and vagaries of finding clients. A true and correct copy of EMP's job offer is attached to this declaration as Exhibit 8.

CP 140-141. *See also*, CP 207 (job offer). When the contract projects ended, Adams had no work at all before she accepted the salaried position.

RP 33-34.

As Adams noted, she provided tax returns for 2008 through 2010.

See CP 344-492 (sealed financial documents). Her total income history (before adjustments) is as follows:

- 2008: \$30,265
- 2009: \$28,683
- 2010: \$107,046
- Average: \$55,331

CP 242.

This average is significantly less than her current salaried position which pays \$75,416 per year, plus generous benefits which she did not have as a contract worker. Her new position contemplates that she will work as much as 30 hours per week, but on slow weeks she may work as little as 20 hours. In either case, her pay is the same. RP 34-35. Even in her best year financially, Adams could not reliably obtain 40 hours per week of billable work. CP 140-41.

In addition, the current position gives Adams the prospect of moving upwards within the EMP organization. RP 35. The EMP created the position for Adams after her contract work ended because they valued her work for the company. RP 34. Adams felt “very fortunate” to get this position, “especially in this economy, where your next project, your next job is always under question.” RP 35. She had no offer of full-time employment. RP 42.⁵

⁵ MacKenzie repeatedly notes that Adams’s change from hourly to salaried employment took place “a few weeks” prior to trial, suggesting that she made the change to purposefully evade child support. In fact, Adams explained without contradiction that her hourly projects happened to end before trial, and that she was fortunate to be offered a new, salaried position after that. If Adams wished to evade child support, she could have simply rejected the offer for the salaried position and been completely unemployed at the time of trial. In any event, the trial court accepted Adams’s explanation of her current employment and MacKenzie provides no basis for this Court to overturn the trial court’s credibility finding.

In other words, Adams is currently *over*-employed in view of her work history and the available job prospects in her field of expertise.

MacKenzie focuses only on Adams's income from 2010, which is not at all representative of her work history. He also maintains that Adams could somehow take on additional contract work in addition to her salaried job, despite her testimony that no other work is currently available to her. In any event, RCW 26.19.071 creates no obligation to work as hard as possible or to make as much money as possible. It requires only that a parent maintain earnings commensurate with her "work history, education, health, and age, or any other relevant factors." In *Marriage of Peterson*, 80 Wn. App. 148, 906 P.2d 1009 (1995), *review denied*, 129 Wn.2d 1014, 917 P.2d 575 (1996), for example, the trial court improperly imputed income to a lawyer even though he was earning only about \$18,000 per year. *Id.* at 150. The Court of Appeals found that he was not underemployed because this salary was consistent with his work history. *Id.* at 154. "This conclusion is also consonant with the purpose of child support, which is to ensure that a child maintains a lifestyle commensurate with what the parents would have provided had they stayed together." *Id.* There is no general requirement that a parent work a 40-hour week or at

the highest possible rate of pay.⁶ It is ironic that MacKenzie would question Adams's choice of work when he claims to be earning less money than her.

D. MACKENZIE IS CORRECT THAT THERE IS A CLERICAL ERROR ON THE JUDGMENT SUMMARY

MacKenzie notes that the trial court rejected the portion of Adam's proposed findings and conclusions granting her a portion of her attorney fees. Yet the Court neglected to strike the attorney fees from the proposed judgment summary. Adams agrees that this clerical error should be corrected by the trial court. This could easily have been done through an agreed order under CR 60(a). The matter was not called to Adams's attention until MacKenzie filed his opening brief.

E. THE COURT SHOULD AWARD ATTORNEY FEES TO ADAMS

RCW 26.09.140 authorizes this Court to award reasonable attorney fees on appeal in a family law case. "In exercising our discretion under

⁶ The statute discusses full-time work only in the context of the burden of proof. When a parent is "gainfully employed on a full-time basis" the court may not impute income unless she is "purposely underemployed to reduce the parent's child support obligation." RCW 26.19.071(6). Arguably that standard applies to Adams, since "full-time" does not necessarily mean 40 hours per week. *Marriage of Schumacher v. Watson*, 100 Wn. App. 208, 215, 997 P.2d 399 (2000). But even if Adams's job is not considered "full-time", the Court may not impute income unless it finds her current income to be at odds with her background and work history.

that statute, we consider the arguable merit of the issues on appeal and the financial resources of the respective parties.” *Johnson v. Johnson*, 107 Wn. App. 500, 505, 27 P.3d 654, 656 (2001) (citations and internal quotations marks omitted). *See also*, RAP 18.1 (setting out procedure). In addition, RAP 18.9 authorizes an award of compensatory damages against a party who files a frivolous appeal.

In this case, the issues raised by MacKenzie have no merit because they attack factual findings that are clearly supported by substantial evidence. That the trial court did not award fees to either side has little relevance because both sides were entitled to present their version of the facts to the trial judge. It is frivolous, however, to argue that the trial court’s findings should be reversed simply because MacKenzie disagrees with them. As noted above, Judge Doerty found Adams more credible than MacKenzie.

Although MacKenzie correctly notes a clerical error in the judgment, that could have been corrected with an agreed order under CR 60(a) through a few minutes of attorney time.

Adams’s finances are modest, and the cost of responding to MacKenzie’s appeal has been a substantial burden to her. She should not be required to pay for MacKenzie’s litigiousness.

**IV.
CONCLUSION**

As discussed above, this Court should affirm the challenged rulings regarding the parenting plan and child support order. It should remand, however, for correction of the clerical error in the judgment. The Court should also require MacKenzie to pay all of Adams's attorney fees on appeal.

DATED this 17th day of July, 2012.

Respectfully submitted,



David B. Zuckerman, WSBA #18221
Attorney for Aleen Adams

CERTIFICATE OF SERVICE

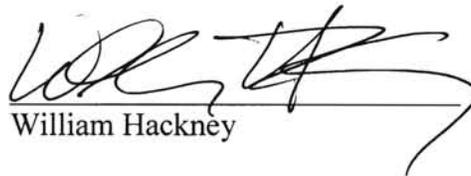
I hereby certify that on the date listed below, I served by First Class United States Mail, postage prepaid, one copy of this brief on the following:

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