

68507-4

68507-4

No. 68507-4-1

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

In re the Marriage of

SARA STEPHENSON
Appellant

and

SHATA STEPHENSON
Respondent

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

OPENING BRIEF OF APPELLANT

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I. ASSIGNMENTS OF ERROR

1. The trial court erred when it deviated from the basic child support obligation.

2. The trial court erred when it deviated from the basic child support obligation without conducting the analysis or making the findings required by statute.

3. The trial court erred when it made the following findings of fact or conclusions of law:

3.2 Person Paying Support (Obligor)

...

For purposes of this Order of Child Support, the support obligation is based upon the following income:

A. Actual Monthly Net Income: \$6,359^[PN1]¹

3.5 Transfer Payment

The obligor parent shall pay the following amounts per month for the following children:

<u>Name</u>	<u>Amount</u>
Shata Step[hen]son	\$250
Satchel Stephenson	\$250
Total Monthly Transfer Amount	\$500

Other: This transfer payment is based on the parties' 50/50 shared residential schedule. There is no primary residential parent who would be entitled to

¹ The amount on the worksheets is \$6,757.00. CP 132, 162.

child support sufficient to transfer the full amount of the basic obligation to that parent. Both parents provide equal amounts of residential care for the children, so the transfer payment should serve to equally apportion the Basic Support Obligation (line 5 of the worksheet) between the two households.

Basic support obligation: \$1866/mo. (\$933/mo. per child) (Worksheet, line 5)

Proportional Share of Income: Shata Stephenson 75% and Sara Stephenson 25% (Worksheet, line 6)

Proportional responsibility for basic support obligation: Shata Stephenson \$1399.50/mo. and Sara Stephenson \$466.50/mo. (Worksheet, line 7)

Transfer payment to equally allocate basic support obligation between the two households: Shata Stephenson \$500/mo.

3.6 Standard Calculation

\$ Does Not Apply per month. (See Worksheet, line 17.)

The Standard Calculation from line 17 of the Worksheet does not apply because there is no primary residential parent who is entitled to support based upon the Standard Calculation. See paragraph 3.5 for the court's allocation of the Basic Support Obligation between the two households based upon the parties' 50/50 shared residential schedule.

3.7 Reasons for Deviation From Standard Calculation

The Standard Calculation does not apply to this case [sic] because the parties have a 50/50 shared residential schedule where each parent provides an equal amount of residential care for the children. Therefore, the court's equal allocation of the Basic Support Obligation between the two households does not constitute a deviation.

3.8 Reasons why Request for Deviation Was Denied

Does not apply. The concepts of "Standard Calculation" and "deviation" therefrom do not apply to this case because there is a 50/50 shared residential schedule.

CP 75-77[PN2].

4. The trial court erred on lines 15 and 17 of the Child Support Worksheets, where Gross Child Support Obligation and the Standard Calculation should be \$1,399.50 and \$466.50 for the father and mother, respectively. CP 133-134.

5. The trial court erred when it held that a deviation was not a deviation. CP 77 (¶¶ 3.7 & 3.8).

6. The trial court erred by not signing the child support worksheets, nor attaching them to the order of child support.²

Issues Pertaining to Assignments of Error

1. Did the trial court deviate when it set child support at less than the amount derived by the standard calculation?

2. Does the child support schedule and standard calculation apply to all child support calculations, regardless of

² The worksheets do not appear to have been filed as an attachment to the Order of Child Support, contrary to RCW 26.19.035(3). CP 74-82. However, both parties include them in their notices of appeal and cross-appeal. CP 132-136, 162-167. The same is true of a spreadsheet for the property distribution (i.e., not attached to the orders, but included in the notices of appeal). CP 122, 150.

whether the residential time under the parenting plan is equally shared?

3. May the court deviate from the standard calculation only upon finding, based on substantial evidence, that doing so will not result in insufficient funds in the home of the receiving parent?

4. Should the mother receive her attorney fees on appeal based on relative resources, but, also, because the husband induced the court to err with respect to child support?

II. STATEMENT OF THE CASE

These parties divorced after eleven years of marriage. CP 84. They have two children, aged 8 and 10 at the time of trial. CP 86. The parties agreed to a residential schedule whereby the children spend equal amounts of time in each parent's household. CP 46-83. The only issue raised in this appeal regards an aspect of the court's child support order. CP 74-82.

The father is a captain in the Seattle Fire Department and earns a total annual income of \$123,895. CP 132, 162. The mother has been the primary caregiver with a part-time real estate business, which she intended to expand. RP 26-37. For purposes of child support, the court imputed income of \$38,388 to her. CP 75. However, the court also found she had a need for maintenance

and awarded her \$1,000 monthly for 30 months. CP 85. On the child support worksheets, the parties' incomes were adjusted to reflect this transfer of income (\$1,000 from father's income to mother's). CP 132, 162. The parties' proportional shares of child support are 75% for the father and 25% for the mother. CP 132, 162.

Under Washington's Child Support Schedule, the monthly basic support obligation for this family totals \$1,866, or \$933 per child. CP 76. The parties' proportional shares are \$1,395.50 for the father and \$466.50 for the mother. CP 76. These amounts also represent the standard calculation, since there are no adjustments.

The father argued the standard calculation did not apply because the children spend equal amounts of time in each parent's residence. RP 20, 370-375; CP 38-43. The court agreed and declined to use the standard calculation but also declined to deviate from it, finding the standard calculation simply did not apply to 50/50 residential plans. CP 76-77. The mother argued to the contrary. RP 335-337.

The mother timely appealed. CP 117-144. The father cross-appealed. CP 145-174.

III. ARGUMENT

A. THE COURT WAS REQUIRED TO APPLY THE STANDARD CALCULATION.

Generally, this Court reviews a trial court's child support determination for an abuse of discretion. *State ex rel. J.V.G. v. Van Guilder*, 137 Wn. App. 417, 154 P.3d 243 (2007). However, "[i]f the trial court's ruling is based on an erroneous view of the law or involves application of an incorrect legal analysis it necessarily abuses its discretion." *Dix v. ICT Group, Inc.*, 160 Wn.2d 826, 833, 161 P.3d 1016 (2007). That is the problem here.

Washington child support policy has two goals: to insure support adequate to meet the needs of children commensurate with the parents' income, resources, and standard of living and to equitably apportion that support obligation between the parents. RCW 26.19.001.³ In other words, the law aims to provide for the children and to do so fairly. To those ends, the Legislature devised a child support statutory scheme, which operates almost

³The statute provides:

The legislature intends, in establishing a child support schedule, to insure that child support orders are adequate to meet a child's basic needs and to provide additional child support commensurate with the parents' income, resources, and standard of living. The legislature also intends that the child support obligation should be equitably apportioned between the parents.

mechanically to allocate the child support obligation between parents.

The first step a trial court must take to comply with the statutory scheme is to set the “[b]asic child support obligation” and then determine the “[s]tandard calculation.” *State ex rel. M.M.G. v. Graham*, 159 Wn.2d 623, 627, 152 P.3d 1005 (2007). The Washington child support scheme mandates application of the child support schedule and of the standard calculation unless the court finds reasons to deviate from that amount. RCW 26.19.011(8) (“Standard calculation” means the presumptive amount of child support owed as determined from the child support schedule before the court considers any reasons for deviation”); RCW 26.19.011(4) (deviation “means a child support amount that differs from the standard calculation.”); RCW 26.19.035 (“The child support schedule shall be applied ...); *see, also* RCW 26.19.075 (“Standards for Deviation from the Standard Calculation”).

Thus, where combined income results in a presumptive child support obligation, as it does here, the court must order this amount unless it finds reason to deviate, upward or downward. For example, the statute authorizes the trial court to consider whether a “residential credit” justifies a deviation downward. However,

importantly, a deviation downward would be allowed only where it did not leave insufficient funds in the less affluent household. RCW 26.19.075(1)(d). Expressly, the statute requires that the court “shall consider the decreased expenses, if any, to the party receiving the support resulting from the significant amount of time the child spends with the parent making the support transfer payment.” *Id.*(emphasis added). In short, the trial court must use the standard calculation as the parents’ child support obligation unless, after making specific factual inquiries, the court finds reasons for deviation. *In re Marriage of Crosetto*, 82 Wn. App. 545, 560, 918 P.2d 953 (1996); *accord In re Marriage of Holmes*, 128 Wn. App. 727, 738, 117 P.3d 370 (2005) (court must “enter specific reasons for the deviation”).

Thus, contrary to the father’s arguments and the trial court’s holding, the standard calculation applies to all child support analyses in Washington, even where residential time is equally shared. There is no exception, other than as provided by the deviation analysis. This is simply the law in our state.

B. THE APPLICATION OF THE CHILD SUPPORT SCHEDULE TO EQUALLY SHARED RESIDENTIAL ARRANGEMENTS REFLECTS WASHINGTON POLICY ON MEETING THE CHILDREN'S NEEDS.

Moreover, our law makes sense. Implicitly, the statutory scheme acknowledges that, given the economies of shared (or dual) residential arrangements, such arrangements are unlikely to result in any savings to the obligee household. Rather, the overall cost of supporting the children in dual residences will necessarily be higher. Effectively, each parent is making a primary home for the same number of children. Each parent provides rooms, furnishings, clothing, toys and books for the children and pays their expenses while residing in his/her household. Effectively, there is more of everything: more bedrooms, more bicycles, more sets of clothing, larger houses that need rent or mortgages paid and heat paid, et cetera. In other words, there is unlikely to be any reduction in the costs of supporting the children in one residence simply because they spend half their time in another residence. For this reason, downward deviations will rarely, if ever, be justified because they will usually result in insufficient funds in the receiving parent's household.

Here, the father implies that the lack of a statutory provision for equally shared residential arrangements in Washington is some

kind of legislative oversight. In fact, the wisdom of such a provision is seriously in doubt. Rather, the method proposed by the father poses serious dangers to children in shared residential arrangements, as were enumerated by New York's highest court when it rejected a similar proposal. *Bast v. Rossoff*, 91 N.Y.2d 723, 697 N.E.2d 1009 (1998).

First, the court observed that such a formula "can greatly reduce the child support award and deprive the child of needed resources." *Bast v. Rosoff*, 697 N.E.2d at 1013. According to a commentator cited by the court, "many practitioners express the opinion that the amounts yielded by guidelines in shared custody cases are inequitable because they are too low."

Id., citing *Development of Guidelines for Child Support Orders*, *op. cit.*, at 11-58. See, also, Getman, *Changing Formulas for Changing Families: Shared Custody Must Not Shortchange Children*, 10 *Fam. Advoc.* 47, 49.

Second, because the offsetting formula is triggered by the amount of time a child spends in each household, a parent might seek more residential time in order to reduce the child support obligation. *Bast v. Rosoff*, 697 N.E.2d at 1013. In a view that Washington lawmakers are likely to share, "parents should seek

shared custody because they desire to spend more time with their children," not because they want to pay less child support.

Finally, the court observed, "the proportional offset formula has the undesirable potential of 'encouraging a parent to keep a stop watch on visitation' in order to increase his or her shared custody percentage." *Bast v. Rosoff*, 697 N.E.2d at 1014.

Providing support adequate to meet the needs of children whose parents do not live together is a national concern. See, e.g., 42 U.S.C. § 654 (Federal Government's mandate that States establish mandatory guidelines for determining child support awards). All fifty states have adopted child support guidelines to achieve this goal with predictability and consistency, rejecting the prior practice of child support decisions that were entirely discretionary. See *Bast v. Rosoff*, 91 N.Y.2d 723, 697 N.E.2d 1009 (1998). Beyond that fact, however, there is little uniformity. In particular, states have responded differently, both in terms of structuring residential time and in terms of calculating child support. Washington, for example, does not provide for "joint custody," as some other states do. See Giggetts, *Application of child-support guidelines to cases of joint-, split-, or similar shared-custody arrangements*, 57 A.L.R.5th 389 § II, D.

In some states, the legislature provides expressly for the circumstances in this case: where the parents share the children 50/50 in terms of residential time. See, e.g., Colo. Rev. Stat. § 14-10-115(8)(recent amendments not relevant to issue here); Vt. Stat. Ann., tit. 15, § 657.

Other states, including Washington, permit the trial court to deviate where the two parents each have substantial residential time with the child or children. RCW 26.19.075(1)(d). Significantly, Washington's statute does not require a deviation in such circumstances; the presumption is against deviation. Moreover, deviation is not permitted if it results in insufficient funds in the household receiving support. *Id.*

In short, the fact that Washington's legislature has not adopted an apportionment formula for shared residential arrangements can hardly be described as inadvertent. Indeed, the legislature is obviously aware of such residential arrangements, and aware that there might be special considerations affecting whether such arrangements best serve the interests of the children. RCW 26.09.187(3)(b)(specifically requiring court to consider whether equally shared residential arrangements are in best interests). A financial incentive to enter into such arrangements in

the form of a guaranteed child support offset would seriously undermine this legislative judgment.

At least one commentator has urged the Legislature to alter the formula for shared residential arrangements. See, e.g., 20 Kenneth W. Weber, *Washington Practice: Family and Community Property Law* § 37.6, at 428-30, 428 n.12, 429 nn.13-14 (1997). Indeed, Shata's argument echoes those of the commentator. However, the Supreme Court expressed disagreement with the commentator's reasoning, albeit in *dicta*. *M.M.G.*, 159 Wn.2d at 635, n. 4.

The reason for the Supreme Court's skepticism is embodied in this case. The mother and father have very disparate incomes with which to support their households, at least presently. For the mother, this means she has two distinct needs: a need for maintenance, to support her while she turns her business into a going concern, and a need for child support, to support the children while in her household. Here, the father urged the trial court to conflate those separate issues, by arguing the maintenance award somehow vitiated the need for child support. See, e.g., RP 373-374. But this merely robs Peter to pay Paul, a problem further exacerbated by the father's argument that the disproportionate

property distribution could also be considered as a reason not to award the mandatory child support amount. See, e.g., RP 375. This is not how it works. The children's need for support is calculated according, in part, to the parents' income. The parents' income, here, includes the award of maintenance to the mother, an award justified by her need, which exists despite the property distribution. The maintenance award is part of the standard calculation. Even so, the mother's income is 25% of the parents' total income, while the father's (after a deduction for the maintenance he pays) is 75%. Because these factors are already part of the standard calculation, the standard calculation applies unless a deviation is justified. No effort was made here to justify a deviation, understandably, since there were no facts to suggest there were sufficient funds in the mother's household otherwise. Rather, the court left her in the position of supporting the children while in her care on a substantially reduced income, as compared to the father. The legislature has determined that the mother needs nearly \$1,400 in monthly child support; the court ignored the legislature and awarded \$500. This is insufficient.

The father and the trial court were wrong to evade the mandatory analysis under Washington's child support statutes.

IV. MOTION FOR ATTORNEY FEES

Because of the disparity in financial resources, Sara seeks attorney fees on the authority of RAP 18.1 and RCW 26.09.140.

The statute provides that:

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

The parties' financial circumstances, including their very disparate earning capacities, are described in the Statement of Facts above. The trial court expressly found Sara had a need for support in the form of maintenance. Her need is exacerbated by the trial court's failure to set child support at a level the legislature deems essential to meet the basic needs of the children while in her household. Shata instigated that error, and he has far greater earning capacity. Until Sara can make some headway in her real estate business, she and the children remain dependent on Shata. Accordingly, Sara asks this Court to award her attorney fees on appeal.

V. CONCLUSION

For the foregoing reasons, the court's child support order should be vacated and the matter remanded for entry of an order in compliance with the mandatory support tables. The father's income should be corrected to match the amount in the worksheets. The worksheets should be attached as required by statute. The father should be ordered to pay the amount of child support derived by the standard calculation. The wife should receive her attorney fees and costs on appeal.

Dated this 14th day of September 2012.

RESPECTFULLY SUBMITTED,

for Patricia Novotny #14950

PATRICIA NOVOTNY

WSBA #13604

Attorney for Appellant

APPENDIX: RELEVANT STATUTES

RCW 26.09.140. Attorney Fees

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

RCW 26.09.187. Criteria for establishing permanent parenting plan

...

(3) RESIDENTIAL PROVISIONS.

...

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

RCW 26.19.001

The legislature intends, in establishing a child support schedule, to insure that child support orders are adequate to meet a child's basic needs and to provide additional child support commensurate with the parents' income, resources, and standard of living. The legislature also intends that the child support obligation should be

equitably apportioned between the parents.

RCW 26.19.035

(3) Worksheets in the form developed by the administrative office of the courts shall be completed under penalty of perjury and filed in every proceeding in which child support is determined. ...

RCW 26.19.071(6)

(6) *Imputation of income.* 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. A court shall not impute income to a parent who is gainfully employed on a full-time basis, unless the court finds that the parent is voluntarily underemployed and finds that the parent is purposely underemployed to reduce the parent's child support obligation. Income shall not be imputed for an unemployable parent. Income shall not be imputed to a parent to the extent the parent is unemployed or significantly underemployed due to the parent's efforts to comply with court-ordered reunification efforts under chapter 13.34 RCW or under a voluntary placement agreement with an agency supervising the child. In the absence of records of a parent's actual earnings, the court shall impute a parent's income in the following order of priority:

(a) Full-time earnings at the current rate of pay;
(b) Full-time earnings at the historical rate of pay based on reliable information, such as employment security department data;

(c) Full-time earnings at a past rate of pay where information is incomplete or sporadic;

(d) Full-time earnings at minimum wage in the jurisdiction where the parent resides if the parent has a recent history of minimum wage earnings, is recently coming off public assistance, aged, blind, or disabled assistance benefits, pregnant women assistance benefits, essential needs and housing support, supplemental security income, or disability, has recently been

released from incarceration, or is a high school student;

(e) Median net monthly income of year-round full-time workers as derived from the United States bureau of census, current population reports, or such replacement report as published by the bureau of census.

RCW 26.19.075. Standards for deviation from the standard calculation

(1) Reasons for deviation from the standard calculation include but are not limited to the following:

(a) Sources of income and tax planning. The court may deviate from the standard calculation after consideration of the following:

(i) Income of a new spouse or new domestic partner if the parent who is married to the new spouse or in a partnership with a new domestic partner is asking for a deviation based on any other reason. Income of a new spouse or new domestic partner is not, by itself, a sufficient reason for deviation;

(ii) Income of other adults in the household if the parent who is living with the other adult is asking for a deviation based on any other reason. Income of the other adults in the household is not, by itself, a sufficient reason for deviation;

(iii) Child support actually received from other relationships;

(iv) Gifts;

(v) Prizes;

(vi) Possession of wealth, including but not limited to savings, investments, real estate holdings and business interests, vehicles, boats, pensions, bank accounts, insurance plans, or other assets;

(vii) Extraordinary income of a child;

(viii) Tax planning considerations. A deviation for tax planning may be granted only if the child would not receive a lesser economic benefit due to the tax planning; or

(ix) Income that has been excluded under *RCW 26.19.071(4)(h) if the person earning that income asks for a deviation for any other reason.

(b) Nonrecurring income. The court may deviate from the standard calculation based on a finding that a particular source of income included in the calculation of the basic support obligation is not a recurring source of income. Depending on the circumstances, nonrecurring income may include overtime, contract-related benefits, bonuses, or income from second jobs. Deviations for nonrecurring income shall be based on a review of the nonrecurring income received in the previous two calendar years.

(c) Debt and high expenses. The court may deviate from the standard calculation after consideration of the following expenses:

(i) Extraordinary debt not voluntarily incurred;

(ii) A significant disparity in the living costs of the parents due to conditions beyond their control;

(iii) Special needs of disabled children;

(iv) Special medical, educational, or psychological needs of the children; or

(v) Costs incurred or anticipated to be incurred by the parents in compliance with court-ordered reunification efforts under chapter 13.34 RCW or under a voluntary placement agreement with an agency supervising the child.

(d) Residential schedule. The court may deviate from the standard calculation if the child spends a significant amount of time with the parent who is obligated to make a support transfer payment. The court may not deviate on that basis if the deviation will result in insufficient funds in the household receiving the support to meet the basic needs of the child or if the child is receiving temporary assistance for needy families. When determining the amount of the deviation, the court shall consider evidence concerning the increased expenses to a parent making support transfer payments resulting from the significant amount of time spent with that parent and shall consider the decreased expenses, if any, to the party receiving the support resulting from

the significant amount of time the child spends with the parent making the support transfer payment.

(e) Children from other relationships. The court may deviate from the standard calculation when either or both of the parents before the court have children from other relationships to whom the parent owes a duty of support.

(i) The child support schedule shall be applied to the mother, father, and children of the family before the court to determine the presumptive amount of support.

(ii) Children from other relationships shall not be counted in the number of children for purposes of determining the basic support obligation and the standard calculation.

(iii) When considering a deviation from the standard calculation for children from other relationships, the court may consider only other children to whom the parent owes a duty of support. The court may consider court-ordered payments of child support for children from other relationships only to the extent that the support is actually paid.

(iv) When the court has determined that either or both parents have children from other relationships, deviations under this section shall be based on consideration of the total circumstances of both households. All child support obligations paid, received, and owed for all children shall be disclosed and considered.

(2) All income and resources of the parties before the court, new spouses or new domestic partners, and other adults in the households shall be disclosed and considered as provided in this section. The presumptive amount of support shall be determined according to the child support schedule. Unless specific reasons for deviation are set forth in the written findings of fact and are supported by the evidence, the court shall order each parent to pay the amount of support determined by using the standard calculation.

(3) The court shall enter findings that specify reasons for any deviation or any denial of a party's request for any deviation from the standard calculation made by the court. The court shall not

consider reasons for deviation until the court determines the standard calculation for each parent.

(4) When reasons exist for deviation, the court shall exercise discretion in considering the extent to which the factors would affect the support obligation.

(5) Agreement of the parties is not by itself adequate reason for any deviations from the standard calculation.

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

In re the Marriage of:

SARA STEPHENSON,

Petitioner,

and

SHATA STEPHENSON,
Respondent.

No. 10-3-06746-2SEA

**Order of Child Support
Final Order (ORS)**

Clerk's Action Required

I. Judgment Summary

- 1.1 **Judgment Summary for Non-Medical Expenses.** Does not apply.
- 1.2 **Judgment Summary for Medical Support.** Does not apply.

II. Basis

2.1 Type of Proceeding

This order is entered under a petition for dissolution of marriage.

2.2 Child Support Worksheet

The child support worksheet which has been approved by the court is attached to this order and is incorporated by reference or has been initialed and filed separately and is incorporated by reference.

2.3 Other.

None.

III. Findings and Order

It Is Ordered:

*Order of Child Support (TMORS, ORS)
WPF DR 01.0500 Mandatory (6/2010)
RCW 26.09.175; 26.26.132 – Page 1*

LAW OFFICES OF CARL T. EDWARDS, P.S.
419 OCCIDENTAL AVENUE SOUTH, SUITE 407
SEATTLE, WASHINGTON 98104
(206) 467-6400

1 **3.1 Children for Whom Support is Required**

2

<u>Name (first/last)</u>	<u>Age</u>
3 Shata Stephenson	10
4 Satchel Stephenson	8

5 **3.2 Person Paying Support (Obligor)**

6 Name (first/last): Shata Stephenson
7 Birth date: 9/16/1972
8 Service Address: 3203 37th Ave. S., Seattle, WA 98144

9 *The Obligor Parent Must Immediately File With the Court and the Washington State Child Support Registry, and Update as Necessary, the Confidential Information Form Required by RCW 26.23.050.*

10 *The Obligor Parent Shall Update the Information Required by Paragraph 3.2 Promptly After any Change in the Information. The Duty to Update the Information Continues as long as any Support Debt Remains due Under This Order.*

11
12 For purposes of this Order of Child Support, the support obligation is based upon the following income:

13
14 A. Actual Monthly Net Income: \$ 6,359

15 **3.3 Person Receiving Support (Obligee)**

16 Name (first/last): Sara Stephenson
17 Birth date: 11/24/1970
18 Service Address: 3319 Hunter Blvd. S., Seattle, WA 98144

19 *The Obligee Must Immediately File With the Court and the Washington State Child Support Registry and Update as Necessary the Confidential Information Form Required by RCW 26.23.050.*

20
21 *The Obligee Shall Update the Information Required by Paragraph 3.3 Promptly After any Change in the Information. The Duty to Update the Information Continues as Long as any Monthly Support Remains Due or any Unpaid Support Debt Remains Due Under This Order.*

22
23 For purposes of this Order of Child Support, the support obligation is based upon the following income:

24
25 The net income of the obligee is imputed at \$ 3,199/mo. because:
The obligee is voluntarily unemployed or voluntarily underemployed.

1 The amount of imputed income is based on the following information in order of
2 priority. The court has used the first option for which there is information:

3 Median Net Monthly Income Table.

4 The obligor may be able to seek reimbursement for day care or special child rearing
5 expenses not actually incurred. RCW 26.19.080.

6 **3.4 Service of Process**

7 *Service of Process on the Obligor at the Address Required by Paragraph 3.2 or any*
8 *Updated Address, or on the Obligee at the Address Required by Paragraph 3.3 or any*
9 *Updated Address, may Be Allowed or Accepted as Adequate in any Proceeding to*
10 *Establish, Enforce or Modify a Child Support Order Between the Parties by Delivery of*
11 *Written Notice to the Obligor or Obligee at the Last Address Provided.*

12 **3.5 Transfer Payment**

13 The obligor parent shall pay the following amounts per month for the following children:

<u>Name</u>	<u>Amount</u>
Shata Stephenson	-\$163.50 \$250-
Satchel Stephenson	-\$163.50 \$250-
Total Monthly Transfer Amount	\$327 \$500

Handwritten signature/initials: MS

14 Other: This transfer payment is based on the parties' 50/50 shared residential schedule.
15 There is no primary residential parent who would be entitled to child support sufficient to
16 transfer the full amount of the basic obligation to that parent. Both parents provide equal
17 amounts of residential care for the children, so the transfer payment should serve to
18 equally apportion the Basic Support Obligation (line 5 of the worksheet) between the two
19 households.

20 Basic support obligation: \$1,978/mo. (~~\$989~~ \$933/mo. per child) (Worksheet, line 5)

21 Proportional Share of Income: Shata Stephenson ~~66.5%~~ 75% and Sara Stephenson ~~33.5%~~ 25%
22 (Worksheet, line 6)

23 Proportional responsibility for basic support obligation: Shata Stephenson ~~\$1,316~~ \$1,399⁵⁰/mo.
24 and Sara Stephenson ~~\$662~~ \$662/mo. (Worksheet, line 7)

25 Transfer payment to equally allocate basic support obligation between the two
households: Shata Stephenson pays Sara Stephenson ~~\$327~~ \$327/mo., leaving each party with
\$500

1 ~~.\$989/mo. from the basic support obligation to provide for the children's basic needs~~
2 ~~during each parent's residential time.~~

3 *The Obligor Parent's Privileges to Obtain or Maintain a License, Certificate,*
4 *Registration, Permit, Approval, or Other Similar Document Issued by a Licensing*
5 *Entity Evidencing Admission to or Granting Authority to Engage in a Profession,*
6 *Occupation, Business, Industry, Recreational Pursuit, or the Operation of a Motor*
7 *Vehicle may Be Denied or may Be Suspended if the Obligor Parent is not in*
8 *Compliance With This Support Order as Provided in Chapter 74.20A Revised Code of*
9 *Washington.*

10 **3.6 Standard Calculation**

11 \$ Does Not Apply per month. (See Worksheet line 17.)

12 The Standard Calculation from line 17 of the Worksheet does not apply because there is
13 no primary residential parent who is entitled to support based upon the Standard
14 Calculation. See paragraph 3.5 above for the court's allocation of the Basic Support
15 Obligation between the two households based upon the parties' 50/50 shared residential
16 schedule.

17 **3.7 Reasons for Deviation From Standard Calculation**

18 The Standard Calculation does not apply to this case because the parties have a 50/50
19 shared residential schedule where each parent provides an equal amount of residential
20 care for the children. Therefore, the court's equal allocation of the Basic Support
21 Obligation between the two households does not constitute a deviation.

22 **3.8 Reasons why Request for Deviation Was Denied**

23 Does not apply. The concepts of "Standard Calculation" and "deviation" therefrom do not
24 apply to this case because there is a 50/50 shared residential schedule.

25 **3.9 Starting Date and Day to Be Paid**

Starting Date: December 1, 2011
Day(s) of the month support is due: 1st day of the month

3.10 Incremental Payments

Does not apply.

3.11 Making Support Payments

Select Enforcement and Collection, Payment Services Only, or Direct Payment:

1 Enforcement and collection: The Division of Child Support (DCS) provides support
2 enforcement services for this case because: this is a case in which a parent has requested
3 services from DCS, and a parent has **signed** the application for services from DCS **on the**
4 **last page of this support order**. Support payments shall be made to:

5 Washington State Support Registry
6 P. O. Box 45868
7 Olympia, WA 98504
8 Phone: 1-800-922-4306 or
9 1-800-442-5437

10 A party required to make payments to the Washington State Support Registry will not
11 receive credit for a payment made to any other party or entity. The obligor parent shall
12 keep the registry informed whether he or she has access to health insurance coverage at
13 reasonable cost and, if so, to provide the health insurance policy information.

14 Any time the Division of Child Support is providing support enforcement services under
15 RCW 26.23.045, or if a party is applying for support enforcement services by signing the
16 application form on the bottom of the support order, the receiving parent might be
17 required to submit an accounting of how the support, including any cash medical support,
18 is being spent to benefit the children.

19 **3.12 Wage Withholding Action**

20 Withholding action may be taken against wages, earnings, assets, or benefits, and liens
21 enforced against real and personal property under the child support statutes of this or any
22 other state, without further notice to the obligor parent at any time after entry of this order
23 unless an alternative provision is made below:

24 There is no alternative provision.

25 **3.13 Termination of Support**

Support shall be paid until the children reach the age of 18 or as long as the children
remain enrolled in high school, whichever occurs last, except as otherwise provided
below in Paragraph 3.14.

3.14 Post Secondary Educational Support

The parents shall pay for the post secondary educational support of the children. Post
secondary support provisions will be decided by agreement or by the court, but in any
case the parents' total obligation for post secondary expenses shall be capped at the cost
for tuition, books, and fees for a resident student at the University of Washington at the
time the expenses are incurred.

1 **3.15 Payment for Expenses not Included in the Transfer Payment**

2 The petitioner shall pay ^{25%}~~33.5%~~ and the respondent ^{75%}~~66.5%~~ (each parent's proportional
3 share of income from the Child Support Schedule Worksheet, line 6) of the following
4 expenses incurred on behalf of the children listed in Paragraph 3.1:

- 5 Educational expenses.
6 Agreed extracurricular activities

7 Payments shall be made to the provider of the service whenever it is practical to do so. If
8 that is not practical, one parent will pay the provider, and the other parent will reimburse
9 the paying parent within 30 days.

10 **3.16 Periodic Adjustment**

11 Does not apply.

12 **3.17 Income Tax Exemptions**

13 Tax exemptions for the children shall be allocated as follows: one to each parent as long
14 as two exemptions are available; alternates between parents when there is only one, with
15 the father having the exemption the first year there is only one. The parents shall sign the
16 federal income tax dependency exemption waiver promptly upon request by the other
17 parent.

18 **3.18 Medical Support – Health Insurance**

19 Each parent shall provide health insurance coverage for the children listed in paragraph
20 3.1, as follows:

21 **3.18.1 Health Insurance** (either check box A(1), or check box A(2) and complete
22 sections B and C. *Section D applies in all cases.*)

23 A. Evidence:

24 There is sufficient evidence for the court to determine which parent must provide
25 coverage and which parent must contribute a sum certain. Fill in B and C below.

B. Findings about insurance: The court makes the following findings:

Shata Stephenson	Sara Stephenson	Check at least one of the following findings for each parent.
[X]		Insurance coverage for the children is available <u>and</u> accessible to this parent at \$ <u>0.00</u> cost (children's portion of the premium, only).

	[X]	Other: Insurance coverage is not available to this parent through employment or union-related sources.
--	-------	--

C. Parties' obligations:

The court makes the following orders:

Shata Stephenson	Sara Stephenson	Check at least one of the following options for each parent.
[X]	[]	This parent shall provide health insurance coverage for the children that is available through employment or is union-related as long as the cost of such coverage <u>does not exceed</u> 25% of this parent's basic support obligation.
[]	[X]	This parent shall be excused from the responsibility to provide health insurance coverage and from the responsibility to provide monthly payment towards the premium <i>because</i> : the other parent provides health insurance coverage.

D. Both parties' obligation:

If the children are receiving state financed medical coverage, the Division of Child Support may enforce the responsible parent's monthly premium.

The parent(s) shall maintain health insurance coverage, if available for the children listed in paragraph 3.1, until further order of the court or until health insurance is no longer available through the parents' employer or union and no conversion privileges exist to continue coverage following termination of employment.

A parent who is required under this order to provide health insurance coverage is liable for any covered health care costs for which that parent receives direct payment from an insurer.

A parent who is required under this order to provide health insurance coverage shall provide proof that such coverage is available or not available within 20 days of the entry of this order to the other parent or the Washington State Support Registry if the parent has been notified or ordered to make payments to the Washington State Support Registry.

If proof that health insurance coverage is available or not available is not provided within 20 days, the parent seeking enforcement or the Department of Social and Health Services may seek direct enforcement of the coverage through the other

1 parent's employer or union without further notice to the other parent as provided
2 under Chapter 26.18 RCW.

3 **3.18.2 Change of Circumstances and Enforcement**

4 A parent required to provide health insurance coverage must notify both the Division of
5 Child Support and the other parent when coverage terminates.

6 If the parents' circumstances change, or if the court has not specified how medical
7 support shall be provided, the parents' medical support obligations will be enforced as
8 provided in RCW 26.18.170. If a parent does not provide proof of accessible coverage for the
9 children through private insurance, a parent may be required to satisfy his or her medical
10 support obligation by doing one of the following, listed in order of priority:

- 11 1) Providing or maintaining health insurance coverage through the parent's
12 employment or union at a cost not to exceed 25% of that parent's basic support
13 obligation;
- 14 2) Contributing the parent's proportionate share of a monthly premium being paid by
15 the other parent for health insurance coverage for the children listed in paragraph
16 3.1 of this order, not to exceed 25% of the obligated parent's basic support
17 obligation; or
- 18 3) Contributing the parent's proportionate share of a monthly premium paid by the
19 state if the children receives state-financed medical coverage through DSHS under
20 RCW 74.09 for which there is an assignment.

21 A parent seeking to enforce the obligation to provide health insurance coverage may
22 apply for support enforcement services from the Division of Child Support; file a motion
23 for contempt (use form WPF DRPSCU 05.0100, Motion/Declaration for an Order to
24 Show Cause re Contempt); or file a petition.

25 **3.19 Uninsured Medical Expenses**

Both parents have an obligation to pay their share of uninsured medical expenses.

The petitioner shall pay ^{25%}~~33%~~ of uninsured medical expenses (unless stated
21 otherwise, the petitioner's proportional share of income from the Worksheet, line
22 6) and the respondent shall pay ^{66.5%}~~66.5%~~ of uninsured medical expenses (unless
23 stated otherwise, the respondent's proportional share of income from the
24 Worksheet,
25 line 6).

3.20 Back Child Support

No back child support is owed at this time.


12-27-11

1 **3.21 Past Due Unpaid Medical Support**

2 No past due unpaid medical support is owed at this time.

3 **3.22 Other Unpaid Obligations**

4 No other obligations are owed at this time.

5 **3.23 Other**

6 None.

7 Dated: December 22, 2011

8 
9 Judge/Commissioner

10 Presented by:
11 LAW OFFICES OF
12 CARL T. EDWARDS, P.S.

Approved for entry:
Notice of presentation waived:
LASHER HOLZAPFELL SPERRY
& EBBERSON, PLLC

13
14 Carl T. Edwards
15 WSBA No. 23316
16 Attorney for Respondent

Delney N. Hilen
WSBA No. 17182
Attorney for Petitioner

17 I apply for full support enforcement services from the DSHS' Division of Child Support
18 (DCS).
19 (Note: If you never received TANF, tribal TANF, or AFDC, an annual \$25 fee applies if
20 over \$500 is disbursed on a case, unless the fee is waived by DCS.)

21 Sara Stephenson

Washington State Child Support Schedule Worksheets

[X] Proposed by [X] Sara Stephenson [] State of WA [] Other (CSWP)
 Or, [] Signed by the Judicial/Reviewing Officer. (CSW)

Mother Sara Stephenson
 County King

Father Shata Stephenson
 Case No. 10-3-06746-2 SEA

Child(ren) and Age(s): Shata Liam Stephenson, 10; Satchel Gray Stephenson, 8			
Part I: Income (see Instructions, page 6)			
1. Gross Monthly Income	Father	Mother	
a. Wages and Salaries	\$10324.55	-	
b. Interest and Dividend Income	-	-	
c. Business Income	-	\$2,276.00	
d. Maintenance Received	-	-\$2,400.00	1,000
e. Other Income	-	-	
f. Imputed Income	-	\$3,276.00	
g. Total Gross Monthly Income (add lines 1a through 1f)	\$10324.55	\$4,376.00	
2. Monthly Deductions from Gross Income			
a. Income Taxes (Federal and State) Tax Year: Manual	\$1,462.96	\$324.83	
b. FICA (Soc. Sec. + Medicare)/Self-Employment Taxes	\$120.70	\$212.24	
c. State Industrial Insurance Deductions	-	-	
d. Mandatory Union/Professional Dues	\$97.40	-	
e. Mandatory Pension Plan Payments	\$867.26	-	
f. Voluntary Retirement Contributions	\$20.00	-	
g. Maintenance Paid	-\$2,100.00	-	9,000
h. Normal Business Expenses	-	\$548.00	
i. Total Deductions from Gross Income (add lines 2a through 2h)	\$3,568.32	\$1,085.07	
3. Monthly Net Income (line 1g minus 2i)	\$6,757	-\$3,290.93	\$2191
4. Combined Monthly Net Income (line 3 amounts combined)		\$8,947.16	
5. Basic Child Support Obligation (Combined amounts →)			
Shata Liam Stephenson	\$933.00		
Satchel Gray Stephenson	\$933.00	\$1,866.00	
	-		
	-		
6. Proportional Share of Income (each parent's net income from line 3 divided by line 4)	.75	.25	
	.832	.368	

Part II: Basic Child Support Obligation (see Instructions, page 7)			
7. Each Parent's Basic Child Support Obligation without consideration of low income limitations (Each parent's Line 6 times Line 5.)	\$ 1399.50 \$1,179.31	\$ 466.50 \$686.69	
8. Calculating low income limitations: Fill in only those that apply.			
Self-Support Reserve: (125% of the Federal Poverty Guideline.)		\$1,134.00	
a. Is combined Net Income Less Than \$1,000? If yes, for each parent enter the presumptive \$50 per child.	-	-	
b. Is Monthly Net Income Less Than Self-Support Reserve? If yes, for that parent enter the presumptive \$50 per child.	-	-	
c. Is Monthly Net Income Greater Than Self-Support Reserve? If yes, for each parent subtract the self-support reserve from line 3. If that amount is less than line 7, then enter that amount or the presumptive \$50 per child, whichever is greater.	-	-	
9. Each parent's basic child support obligation after calculating applicable limitations. For each parent, enter the lowest amount from line 7, 8a - 8c, but not less than the presumptive \$50 per child.	\$ 1399.50 \$1,179.31	\$ 466.50 \$686.69	
Part III: Health Care, Day Care, and Special Child Rearing Expenses (see Instructions, page 8)			
10. Health Care Expenses		Father	Mother
a. Monthly Health Insurance Paid for Child(ren)		-	-
b. Uninsured Monthly Health Care Expenses Paid for Child(ren)		-	-
c. Total Monthly Health Care Expenses (line 10a plus line 10b)		-	-
d. Combined Monthly Health Care Expenses (line 10c amounts combined)		-	-
11. Day Care and Special Expenses			
a. Day Care Expenses		-	-
b. Education Expenses		-	-
c. Long Distance Transportation Expenses		-	-
d. Other Special Expenses (describe)		-	-
		-	-
		-	-
e. Total Day Care and Special Expenses (Add lines 11a through 11d)		-	-
12. Combined Monthly Total Day Care and Special Expenses (line 11e amounts Combined)		-	-
13. Total Health Care, Day Care, and Special Expenses (line 10d plus line 12)		-	-
14. Each Parent's Obligation for Health Care, Day Care, and Special Expenses (multiply each number on line 6 by line 13)		-	-
Part IV: Gross Child Support Obligation			
15. Gross Child Support Obligation (line 9 plus line 14)	\$1,179.31		\$686.69
Part V: Child Support Credits (see Instructions, page 9)			
16. Child Support Credits			
a. Monthly Health Care Expenses Credit		-	-
b. Day Care and Special Expenses Credit		-	-

c. Other Ordinary Expenses Credit (describe)	-	-
	-	-
	-	-
d. Total Support Credits (add lines 16a through 16c)	-	-
Part VI: Standard Calculation/Presumptive Transfer Payment (see Instructions, page 9)		
17. Standard Calculation (line 15 minus line 16d or \$50 per child whichever is greater)	\$1,179.31	\$686.69
Part VII: Additional Informational Calculations		
18. 45% of each parent's net income from line 3 (.45 x amount from line 3 for each parent)	\$2,545.30	\$1,480.92
19. 25% of each parent's basic support obligation from line 9 (.25 x amount from line 9 for each parent)	\$294.83	\$171.67
Part VIII: Additional Factors for Consideration (see Instructions, page 9)		
20. Household Assets (List the estimated value of all major household assets.)	Father's Household	Mother's Household
a. Real Estate	-	-
b. Investments	-	-
c. Vehicles and Boats	-	-
d. Bank Accounts and Cash	-	-
e. Retirement Accounts	-	-
f. Other: (describe)	-	-
	-	-
	-	-
	-	-
21. Household Debt (List liens against household assets, extraordinary debt.)		
a.	-	-
b.	-	-
c.	-	-
d.	-	-
e.	-	-
f.	-	-
22. Other Household Income		
a. Income Of Current Spouse or Domestic Partner (if not the other parent of this action)		
Name	-	-
Name	-	-
b. Income Of Other Adults in Household		
Name	-	-
Name	-	-
c. Gross Income from overtime or from second jobs the party is asking the court to exclude per Instructions, page 8	-	-
d. Income Of Child(ren) (if considered extraordinary)		
Name	-	-
Name	-	-

Other Factors For Consideration (continued) (attach additional pages as necessary)

Signature and Dates

I declare, under penalty of perjury under the laws of the State of Washington, the information contained in these Worksheets is complete, true, and correct.

FACSIMILE SIGNATURE ATTACHED

Mother's Signature

Father's Signature

Date

City

Date

City

Judicial/Reviewing Officer

Date

Worksheet certified by the State of Washington Administrative Office of the Courts.

Photocopying of the worksheet is permitted.

WSCSS-Worksheets - Mandatory (CSW/CSWP) 07/2011 Page 5 of 5

SupportCalc® 2011

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

In re the Marriage of:

SARA STEPHENSON

Appellant/Cross-Respondent

and

SHATA STEPHENSON

Respondent/Cross-Appellant

No. 68507-4-1

DECLARATION
OF SERVICE

Jayne Hibbing certifies as follows:

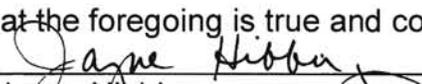
On September 14, 2012, I served upon the following true and correct copies of the Motion to Continue, Opening Brief of Appellant, and this Declaration, by:

depositing same with the United States Postal Service, postage paid
 arranging for delivery by legal messenger.

Carl Edwards
419 Occidental Ave. S.
Suite 407
Seattle WA 98104-3853

Delney Hilen
Lasher Holzappel
601 Union, Ste 2600
Seattle WA 98101

I certify under penalty of perjury that the foregoing is true and correct.



Jayne Hibbing
3418 NE 65th Street, Suite A
Seattle, WA 98115
206-781-2570