

No. 74318-0-1

COURT OF APPEALS OF
THE STATE OF WASHINGTON
DIVISION ONE

KATHRYN SUZANNE WARD,

Appellant

v.

KENNETH EUGENE WARD,

Respondent

ON APPEAL FROM
KING COUNTY SUPERIOR COURT
(The Honorable Julia L. Garrett)

APPELLANT'S OPENING BRIEF

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I. INTRODUCTION

This appeal focuses primarily on a trial court's inability to modify or adjust a parenting plan after it denies a petition to modify the parenting plan. Simply, the parenting plan modification statute, RCW 26.09.260, limits a court's discretion to modify an otherwise final permanent parenting plan. Once a court denies a properly filed modification petition, then it is without statutory authority to modify the parenting plan. Here, the trial court exceeded its statutory authority when it modified the non-residential provisions in the parties' Agreed November 2013 Permanent Parenting Plan after it denied Appellant's (Mother's) modification petition.

The only twist to this case is that in 2013 the parties agreed, and the court ordered, that only the November 2013 Parenting Plan's residential provisions could be reviewed under *Possinger* using the criteria set forth in RCW 26.09.191. The record is clear, however, that this *Possinger* review was limited to only the residential provisions in the November 2013 Parenting Plan and not the non-residential provisions in the November 2013 Parenting Plan. Respondent (Father) filed a Motion/Declaration that clearly articulated that was the parties' intent when they agreed to the

November 2013 Parenting Plan. Moreover, the Court determined that was the intent of the review provision.

Mother does not contest the review the trial court made or the changes the trial court made to the November 2013 Parenting Plan's residential provisions the trial court made. Rather, she limits her appeal to the changes to the non-residential provisions that were not part of the contemplated *Possinger* review.

Finally, the trial court made a bizarre evidentiary ruling that affected Mother's right to preserve the record for appeal. During the children's nanny's testimony where the nanny was describing Father's abusive behavior, the trial court sustained Father's objection to Ms. Thompson's testimony. In an effort to preserve the record for meaningful appellate review, Mother's counsel tried to proffer the nanny's expected testimony. Surprisingly, Father's counsel again objected while Mother's counsel was making the proffer. Even more surprisingly, the Court sustained the objection and made it impossible for Mother's counsel to complete the proffer. This was error.

Mother requests this Court reverse the trial court's modification of the November 2013 Parenting Plan's non-residential provisions, vacate the trial court's October 27, 2015

Parenting Plan's non-residential provisions, and either reinstate the non-residential provisions in the original November 2013 Parenting Plan or remand this matter to the trial court with instructions to do so.

Mother also requests this Court to overrule Father's objection to the nanny's testimony and have the trial court consider the nanny's testimony or, at the very least, allow Mother's counsel to make an uninterrupted proffer so this Court can have a meaningful review to determine if the evidence should have been considered.

II. ASSIGNMENTS OF ERROR

1. The trial court exceeded its statutory authority when it modified the non-residential provisions in the parties' 2013 Parenting Plan after denying the only petition to modify that was pending.

2. The trial court abused its discretion when it sustained objections to evidence regarding Father's abusive behavior

3. The trial court abused its discretion when it prevented Mother's counsel from making an offer of proof for the purpose of preserving an evidentiary ruling for appeal.

III. ISSUES

1. Whether the trial court exceeded its statutory authority when it modified the nonresidential provisions in the 2013 Parenting Plan after denying Mother's modification petition.

2. Whether the trial court erred when it sustained Father's objection to evidence regarding Father's abusive behavior.

3. Whether the trial court erred when it sustained Father's objection to Mother proffering evidence and thereby preventing Mother from providing proffered testimony to this Court.

IV. STATEMENT OF THE CASE

On August 31, 2012, Mother, a parent to three young children, filed a Petition to dissolve her marriage to the children's Father.¹ Prior to trial, the parents reached agreement on all issues, including parenting. Their agreement regarding parenting issues was reviewed by the Court and made part of a November 2013 Permanent Parenting Plan.² At that time the parents' three children were 4 years old, 2 years old, and 1 year old.

Because Father had a considerable drinking and substance abuse problem, the 2013 Parenting Plan substantially initially

¹ CP 1-7.

² CP 126-29 (Dissolution Decree) and 517-34 (Parenting Plan).

limited his residential time with the children and increased his residential time as he met benchmarks in his recovery and completed a one-year substance abuse program.³ The November 2013 Parenting Plan recognized that Father was in “early sobriety” and contained substantial mandatory provisions to ensure that he received treatment for his addictions and abstained from drugs and alcohol. Among other things, the November 2013 Parenting Plan required Father to submit to twice weekly “random” UA monitoring⁴ and it further required him to submit to UA testing within 16 hours of a request by Mother should she suspect that he was drinking again.⁵

Moreover, regarding each UA test, Father was required to arrange for a copy of the complete urinalysis test results to be provided directly to Mother from the testing facility or the lab as soon as such results were available.⁶ Finally, if Father tested positive for alcohol or nonprescription medication or the sample was low in creatinine or specific gravity, then the automatic supervision requirements set forth therein would automatically

³ CP 519 and CP 520, lines 2-19, PARENTING PLAN, ¶ 3.1.

⁴ CP 523, lines 15-16, PARENTING PLAN, ¶ 3.10.

⁵ CP 523, lines 20-21, PARENTING PLAN, ¶ 3.10.

⁶ CP 523, lines 21-23, PARENTING PLAN, ¶ 3.10.

apply, subject to review by either party on the Family Law Motions Calendar.⁷

Under the school schedule residential provisions in Section 3.2 of the November 2013 Parenting Plan there was a limited reservation for a *Possinger* review that read:

This parenting plan is entered under the procedure utilized in *In re Marriage of Possinger* and will be reviewed pursuant to *Possinger* the August prior to [the oldest child] beginning kindergarten.”

On April 18 2015, Mother filed a Petition for Modification of Parenting Plan⁸ that asserted various facts:

- A substantial change of circumstances had occurred because Father had moved to his grandfather’s home on the shores of Lake Tapps in Pierce County which is not a safe environment for children.⁹
- Mother sought a reduction or restrictions in Respondent’s residential time because Mother was aware of circumstantial evidence that Father was drinking alcohol again and that his urinalysis results were not trustworthy.¹⁰
- Father had not been following the mandatory provisions of the parenting plan and has been hostile and aggressive toward Mother during exchanges.¹¹

On June 3, 2014, Father responded to Mother’s modification petition and denied Mother’s factual allegations and stating that no

⁷ CP 523, lines 16-18, PARENTING PLAN, ¶ 3.10.

⁸ CP 130 – 138.

⁹ CP 134: 11 - 24.

¹⁰ CP 133: 23 – 134: 11.

¹¹ CP 135: 4 – 15.

substantial change of circumstances has occurred.¹² He did not file a counter-petition to modify the November 2013 Parenting Plan. To be sure, the only relief he requested in his Response was that Mother's modification petition be dismissed.¹³ In his Response, Father also specifically stated that any requests he might have had to modify or adjust the November 2013 Parenting Plan did not apply.¹⁴

Over six months later, Father filed a Motion and Declaration for Parenting Plan Review per *In re Marriage of Possinger*.¹⁵ In his Motion/Declaration Father correctly stated, "the parties here specifically reserved the issue of the *school schedule portion of the residential plan* until their oldest child started kindergarten."¹⁶ Father attached a proposed parenting plan as Exhibit 5 to his Motion/Declaration.¹⁷ His proposed parenting plan only adjusted the residential provisions for the children both for children under school age and the school schedule. It did nothing to adjust or modify the other provisions in the November 2013 Parenting Plan. In fact, it specifically referenced the November 2013 Parenting

¹² CP 139 – 142.

¹³ CP 142, Par. 2.1

¹⁴ CP 142, Par. 2.2

¹⁵ CP 488-516

¹⁶ CP 488 (emphasis added).

¹⁷ CP 558-64.

Plan in all other sections and stated, “Same as is set forth in the November 14, 2013 Parenting Plan, which is attached hereto.”¹⁸

Mother never amended or modified her modification petition and Father never amended or modified his Motion/Declaration or his Proposed Parenting Plan.

On November 7, 2014, the trial court denied Respondent’s Motion to Adjust the Parenting Plan.¹⁹ That same day, the trial court issued an order finding adequate cause to hear Mother’s Modification Petition and allowed Father’s motion requesting a *Possinger* review to proceed to trial at the same time Mother’s Modification Petition was tried.²⁰

Prior to trial, the Guardian *ad litem*, Lynn C. Tuttle (hereinafter “GAL Tuttle”), submitted a voluminous report that went far afield of the issues presented in Mother’s motion for modification and a *Possinger* review of the school-age residential provisions.²¹ Prior to positing her recommendations at the end of her report, GAL Tuttle wrote the following qualification: “**The 11/14/13 Final Parenting Plan provisions to remain in effect**

¹⁸ CP 560–63.

¹⁹ CP 166–67.

²⁰ CP 168–70.

²¹ CP 452–487 (Sealed).

except as modified by the recommendations below.²² Among other recommendations, GAL Tuttle made four recommendations that went beyond the limited review of the residential issues reserved by the parties and the trial court when they agreed to and entered the November 2013 Parenting Plan: (1) She recommended counseling treatment for both parents²³; (2) Joint decision making on all major decisions²⁴; (3) Joint decision-making regarding extracurricular activities if the activity imposed a financial obligation or infringed on time²⁵; and (4) that Mother should not have authority to request UAs from Respondent.²⁶

At trial, GAL Tuttle made even more recommendations that went beyond the limited review of the residential provisions in the November 2013 Parenting Plan.

- GAL Tuttle recommended that there be no more regular UAs because Father has proven his sobriety and it is a huge cost to the parents.²⁷
- She advocated taking away the right to request UAs from Mother and giving it to the case manager even though it is Mother who has experience reading the signs that Father is inebriated.²⁸

²² CP 485 (Emphasis added).

²³ CP 485

²⁴ CP 486

²⁵ *Id.*

²⁶ *Id.*

²⁷ RP 583: 3 – 15.

²⁸ RP 603: 12 – RP 604: 13.

- She recommended that Mother have no sole decision-making authority.²⁹
- She proposed the parties hire a post-decree case manager to resolve disputes over decision-making.³⁰
- She recommended the parents participate in the family in transition program training.³¹

Significantly, GAL Tuttle did not recommend any change to the restrictions in the November 2013 Parenting Plan requiring no contact between James Ward and the children³² in either her written report or her testimony. In fact, no evidence was presented on the issue at trial.³³

During trial Mother offered the testimony of Mikayla Thompson (“Ms. Thompson”), the children’s nanny; Mother’s counsel attempted to draw out testimony from the witness regarding a disturbing sequence of abusive incidents that occurred between Father and Ms. Thompson.³⁴ The trial court cut the testimony short and sustained Father’s counsel’s objection to such testimony.³⁵ Mother’s counsel then attempted to proffer Ms. Thompson’s anticipated testimony for the appellate record. While

²⁹ RP 680: 11 -14.

³⁰ RP 591: 13 – 24 and RP 698: 23 – 699: 2.

³¹ RP 699: 15 – 18.

³² CP 485 – 487.

³³ RP 1070

³⁴ RP 349: 2 – 350: 5.

³⁵ RP 350: 6 – 19.

making the proffer, Father's counsel objected to the proffer and the trial court sustained Father's counsel's objection to the proffer, and refused to allow Mother's counsel an opportunity to proffer Ms. Thompson's anticipated testimony. The court stated, "Yeah. I'm going to sustain the objection, Counsel. You're testifying for somebody else at this point."³⁶ Mr. McGlothlin responded: "Well, that's how I -- that's how you make the proffer for the appellate court."³⁷ The trial court responded: "I understand that, Counsel. I understand what you're trying to do and I'm finding it inappropriate and I'm not going to listen." Though the written transcript does not comment on it, she then turned –off the trial courtroom microphones.³⁸ The trial judge completely prevented Mother's counsel from making a proffer.

During closing argument, Mr. Hendry, on behalf of Respondent, adopted all of the recommendations made by GAL Tuttle.³⁹

Following closing arguments, the trial court summarily denied Mother's Modification Petition in an oral ruling. The trial court ruled the issue of Father's move to Lake Tapps was moot

³⁶ RP 357: 4 – 6.

³⁷ RP 357: 8 - 9.

³⁸ RP 357: 10 - 12.

³⁹ RP 1018: 5 - 6.

because he had already moved closer to Mother by the time of the trial.⁴⁰ The trial court found the allegations of noncompliance with the provisions of the November 2013 Parenting Plan were a basis for contempt, but not for adequate cause to modify the November 2013 Parenting Plan.⁴¹ Finally, the trial court concluded that “after reviewing all available evidence that I’m satisfied [Father] has maintained sobriety and that there has been substantial compliance with the Court’s directive from the parenting plan in 2013. I simply don’t believe that if the Father had engaged in resuming alcohol consumption that it would not have been apparent.”⁴²

The trial court then ruled on Father’s Motion/Declaration to Adjust Parenting Plan pursuant to *In re Marriage of Possinger* and stated:

So for a variety of reasons, I’m going to generally follow Ms. Tuttle’s recommendations with a number of amendments, and we’ll talk about those. And I think some of those amendments will give the mother some security. I think it’s important to note that I’m not just rubber stamping her recommendation.⁴³

⁴⁰ RP 1027: 23 – 25.

⁴¹ RP 1027: 25 – 1028: 3.

⁴² RP 1032: 7 – 12.

⁴³ RP 1033: 12 – 17.

Unfortunately the trial court then adopted recommendations that went well beyond the Motion/Declaration and proposed parenting plan Father previously filed. It went far beyond the limited issues the parties agreed would be reserved or that the judicial officer agreed would be reserved when the November 2013 Parenting Plan was agreed to and entered. Remember Father's own motion stated "the parties here specifically reserved the issue of the *school portion of the residential plan* until their oldest child started kindergarten."⁴⁴ To be sure, the trial court specifically found, "[t]he November 2013 Permanent parenting Plan allows this Court to review the *residential schedule* for the children once the oldest child commenced kindergarten..."⁴⁵

Specifically:

- The trial court amended the provisions in the 2013 parenting plan giving Mother the right to request Father obtain a UA. The trial court continued to allow Mother to request UAs, but only 3 per year. The trial court also removed the mandatory supervision requirement.⁴⁶
- The trial court mandated common courtesy during exchanges.⁴⁷
- The trial court ordered Father and Mother to get counseling through New Ways for Families.⁴⁸

⁴⁴ CP 488. (emphasis added).

⁴⁵ CP 414, ln12-14.

⁴⁶ RP 1039: 14 – 21.

⁴⁷ RP 1040: 16 – 20.

- The trial court ordered Father and Mother to hire a case manager to help them manage disputes.⁴⁹

What is the most perplexing is that the trial court acknowledged its limitations on modifying or adjusting the non-residential provisions of the November 2013 Parenting Plan under a *Possinger* review and then adjusted the provisions anyway.

Joint decision making versus sole decision making. I've thought long and hard about this. I understand why the original parenting plan was structured the way that it was, and I also have looked at the difficulty in communication between the two parents. **Because I am not finding adequate cause, I'm looking at this under a *Possinger* review, I don't think I have the authority under that review to alter the section of the decision making.**⁵⁰

Even though the trial court recognized the limitations on its authority to modify or adjust the November 2013 Parenting Plan's non-residential provisions, it then proceeded to modify the decision-making provisions regarding counseling for the children.⁵¹ The trial court removed this from Mother's purview and put it in the hands of a case manager that GAL Tuttle first recommended at trial and not even in her report.

⁴⁸ RP 1046: 16 – RP 1047: 2.

⁴⁹ RP 1047: 2 – 6.

⁵⁰ RP 1042: 14 - 21.

⁵¹ RP 1042: 22 – RP 1043: 11.

On October 15, 2015, there was a notice of presentation of the trial court's ruling and Father's counsel successfully further modified the November 2013 Parenting Plan's non-residential provisions despite there being no evidence at trial to support the requested modification. A presentation hearing was held on October 15, 2015.⁵² During the course of the hearing, Father's counsel raised a last minute request to further modify the November 2013 Parenting Plan's non-residential provisions:

One of the issues standing between us is a restriction that Mother proposes regarding the paternal sister and paternal grandfather. In Mr. McGlothin's proposed parenting plan, there is a restriction that there be no unsupervised time with the sister and that there be no contact at all with the grandfather.⁵³

Father's counsel made his request despite him having previously argued that Father was adopting the GAL's recommendations in their entirety and there was no GAL recommendation to remove the restriction on the children's contact with the grandfather;⁵⁴ and despite Father's counsel acknowledging there was no evidence adduced at trial to support his requested modification.⁵⁵

⁵² RP 1062: 11 -15.

⁵³ RP 1069: 22 – 1070: 3.

⁵⁴ CP 485.

⁵⁵ RP 1053: 18 - 20.

Instead, Father's counsel, with only *argument* and not *evidence*, stated

And the likelihood that the grandfather would ever be unsupervised or around other family with the children is unlikely. The only possible objection is that the [grandfather] has a history with alcohol and might be inebriated at the time of the contact with the children. Hardly an issue. He's certainly not going -- he's not a danger to the children.⁵⁶

Perplexed by Father's eleventh hour request for a further modification during a presentation hearing after the trial court already ruled, the trial court responded: "Well, and it's a little -- I mean, from the Court's perspective, I didn't hear any testimony or any evidence concerning this matter."⁵⁷

Mother's counsel appropriately then pointed out, "And it was in the original parenting plan. And the GAL said the original parenting plan stays except for these modifications, and she didn't recommend a modification to those provisions."⁵⁸

Despite having been informed that it was in the original parenting plan and acknowledging that she had heard no evidence regarding the matter, the trial court responded: "I'm going to do it

⁵⁶ Emphasis added; RP 1069-1070.

⁵⁷ RP 1070.

⁵⁸ RP 1070.

anyway....”⁵⁹ The trial court based its decision on a hypothetical of its own creation that the children’s grandfather must be an aging parent and may even be sick and dying.⁶⁰ She did not make a finding to this effect, and if such a finding was implicit, then it was not supported by any evidence, as the trial court acknowledged. The trial court further justified its ruling on the fact that the GAL did not mention it in her report.⁶¹

On November 2, 2015, the trial court signed and filed its Order Re Modification/ Adjustment of Custody Decree/Parenting Plan/Residential Schedule and *Possinger* Review. The trial court held that Mother had failed to meet her burden to prove the elements of a major modification.⁶² The trial court then directed several modifications to the 2013 Parenting Plan:

The trial court wrote in paragraph 2.5.1 of the Order:

The residential time of Respondent is subject to discretionary limitations as set forth in the November 2013 Permanent Parenting Plan. He has substantially complied with the provisions in Paragraph 3.10 of the November 2013 Permanent Parenting Plan. Despite this, the Court has changed the restrictions to assure his continued abstinence from alcohol or non-prescribed medicines.⁶³

⁵⁹ RP 1072: 1.

⁶⁰ RP 1072: 6 – 19.

⁶¹ RP 1073: 22 – 24.

⁶² CP 449: 14 – 21.

⁶³ Emphasis added ;CP 450: 4 – 8.

The trial court then stated the following in paragraph 2.6 of the

Order:

The custody decree/parenting plan/residential schedule should not be adjusted because none of the statutory reasons set forth in RCW 26.09.260(10) apply.

Despite this, both parents are ordered to participate in classes/coaching to assist them in their communication with each other and to alleviate the acrimony between the parents, especially during child exchanges. A post-decree case manager is also appointed to assist the parents. Finally, this Court has ordered certain conduct during exchanges. These provisions are in the children's best interests.⁶⁴

At the close of its Order, the trial court admitted:

Other: The court has reviewed the residential provisions of the November 2013 Permanent Parenting Plan pursuant to *In Re Possinger*, as contemplated and set forth in the November 2013 Permanent Parenting Plan.

This Court does not have authority to modify the Decision Making Provisions in the November 2013, Permanent Parenting Plan.⁶⁵

The Court signed and filed a final parenting plan on October 27, 2015.⁶⁶ Consistent with its oral rulings, the final version contained numerous changes to the non-residential provisions.

⁶⁴ CP 450: 12 – 17.

⁶⁵ Emphasis added; CP 451: 8 -13.

⁶⁶ CP 417 – 429.

3.10 Restrictions. The Court replaced Mother's broad right to request Father obtain a UA test with a much more limited right to 3 requests per year that ended in 2 years. Moreover, the Court removed the mandatory supervision requirement and removed Mother's right to temporarily suspend residential time until Father obtains his test.⁶⁷

The Court revised the provision in the 2013 Parenting Plan prohibiting contact between James Ward and the children to: "Both parties are restrained and enjoined from allowing any unsupervised contact whatsoever between the children and James ("Jim") Ward. The parents shall take all precautions and actions necessary so that the children do not have any unsupervised contact with James Ward."⁶⁸

3:11 Transportation Arrangements. The Court added the following transportation provision: "Any person providing transportation for the children shall be a properly licensed, insured adult known to the children and the other party. At all times size, weight, age appropriate car seats, boosters and restraints shall be provided by the transporting adult for the children's' use."⁶⁹

⁶⁷ CP 523-24, ORIGINAL PARENTING PLAN PROVISION Section 3.10.

⁶⁸ CP 422: 17 -19.

⁶⁹ CP 423: 2 -3.

3.13 Other. The Court modified the timing for Father providing Mother his work schedule and the Court ordered Father and Mother to New Ways for Families Program and gave Father first pick of the providers.⁷⁰

4.2 Major Decisions: The Court substantially modified the Major Decisions section of the Parenting Plan: (1) decision-making regarding counseling was changed from Mother to a joint decision; (2) decision regarding religious upbringing was changed from Mother to either parent's decision; (3) Provisions for Tattoos prior to 18, Body piercing prior to 18, Marriage prior to 18, Military prior to 18 and Driver's License were added and made joint decisions; (5) the provision regarding Mother's required notice to Father for non-emergency decisions was changed to include reference to a new alternate dispute mechanism in the parenting plan and a provision in the old plan was removed.⁷¹

Dispute Resolution: The Court replaced the mediation-centered approach in the 2013 Parenting Plan to a case manager – centered approach. The Court ordered the parties to engage a post-decree case manager who would assist them with resolving disputes between the parties. The post-decree case manager

⁷⁰ CP 423: 8 – 15.

⁷¹ CP 424: 19 – 423: 13.

makes recommendations that will either be followed or an objection can be filed with the Court on the King County Motions Calendar.⁷²

Other Provisions: The Court modified the telephone access provision to read: “When a child of the parties is not residing with a given parent that parent shall be permitted unimpeded and unmonitored telephone access with the child at reasonable times and for reasonable durations. Such reasonable contact shall be extended to reasonable texts, e mails, video contact or other technology as may come available and is appropriate for the children's use.”⁷³

Finally, the court added a firearm safety provision, a provision instructing Mother not reminding Father about the children’s activities and a provision requiring the parties to act with civility during exchanges.⁷⁴

Mother timely appealed the trial court’s decision.⁷⁵ Father did not file a cross appeal.

⁷² CP 426: 1 – 13.

⁷³ CP 427: 4 – 5.

⁷⁴ CP 429: 1 – 5.

⁷⁵ CP 434 – 451.

V. ARGUMENT

A. The Court exceeded its statutory authority when it modified the November 2013 Parenting Plan's non-residential provisions after denying Mother's Modification Petition.

1. Standard of Review

The Court of Appeals reviews a lower court's modification of a parenting plan for an abuse of discretion. A "court abuses its discretion if it fails to follow the statutory procedures or modifies a parenting plan for reasons other than the statutory criteria."⁷⁶ Statutory construction, however, is a question of law requiring a *de novo* review.⁷⁷

2. Mother was the only party who properly sought to modify the November 2013 Parenting Plan.

The procedures relating to parenting plan modifications are statutorily prescribed and compliance with the criteria set forth in RCW 26.09.260 is mandatory.⁷⁸ Mother was the only party to file a *petition* to modify the November 2013 Parenting Plan. She was the only one who had a summons issued and she is the only one

⁷⁶ *In re Marriage of Watson*, 132 Wash. App. 222, 230, 130 P.3d 915, 918 (2006)

⁷⁷ *Watson*, 132 Wash. App. at 230.

⁷⁸ *In re Marriage of Stern*, 57 Wn. App. 707, 711, 789 P.2d 807, *review denied*, 115 Wn.2d 1013, 797 P.2d 513 (1990).

to serve her petition and summons in the manner specified in CR 4 (service of process).

Father, in contrast, filed a Response that specifically stated a counter-request for modification or adjustment did “not apply.” All he did was file a Motion/Declaration to review the regular residential schedule for the children once the oldest child started kindergarten. His proposed parenting plan sought to review and adjust only Paragraphs 3.1 (residential schedule for children under school age) and 3.2 (school schedule).

Mother was the only one to have properly invoked the statutory authority that would have allowed the trial court to modify or adjust the November 2013 Parenting Plan.

3. The November 2013 Parenting Plan provided for only a limited *Possinger* review to adjust only the residential provision in the November 2013 Parenting Plan

Generally, this Court reviews the language in a court order *de novo*.⁷⁹ Despite this general rule, when an order is entered by agreement, like the November 2013 Parenting Plan, a court should ascertain the parties’ intent when they executed the agreement even if it is later incorporated into a court order because the

⁷⁹ *In re Marriage of Smith*, 158 Wash. App. 248, 255, 241 P.3d 449, 452-53 (2010).

parties' intent will be the court's intent.⁸⁰ If the agreement has more than one reasonable meaning, then the court should adopt the meaning that best reflects the parties' intent.⁸¹ In that situation, a question of fact is presented to the trial court and the appellate court reviews the trial court's determination only for substantial evidence.⁸²

The *Possinger* Review provision in the November 2013 Parenting Plan reserved an opportunity to review only the residential schedule provisions: It provided:

3.2 School Schedule

This parenting plan is entered under the procedure utilized in *In Re Marriage of Possinger* and will be reviewed pursuant to *Possinger* the August prior to Kelan going to kindergarten.⁸³

Here, it is clear that the parties intended to limit the *Possinger*⁸⁴ review to only the residential provisions in the November 2013 Parenting Plan. First, Father acknowledged this was the parties' intent in his Motion/Declaration for Parenting Plan Review per *In Re Possinger*.⁸⁵ He stated, "the parties here specifically reserved the issue of the *school schedule portion of*

⁸⁰ *Boisen v. Burgess*, 87 Wash. App. 912, 920, 943 P.2d 682, 686 (1997)

⁸¹ *Boisen*, 87 Wash. App at 920-21

⁸² *Boisen*, 87 Wash. App at 921

⁸³ CP 520.

⁸⁴ *In re Marriage of Possinger*, 105 Wash. App. 326, 19 P.3d 1109 (2001).

⁸⁵ CP 488.

the residential plan until their oldest child started kindergarten.”⁸⁶

Second, the trial court determined, “The November 2013 Permanent Parenting Plan allows this Court to review *the residential schedule* for the children once the oldest child commenced kindergarten.”⁸⁷ Finally, the trial court determined “This Court does not have authority to modify the Decision Making Provisions in the November 2013 Permanent Parenting Plan.”

Under these circumstances, the *Possinger* review provision was limited to reviewing only the residential provisions in the November 2013 Parenting Plan.

4. The Court denied Mother’s motion for modification.

Here, it is undisputed the trial court denied Mother’s Modification Petition because Mother did not meet her burden to show a substantial change of circumstances occurred.

5. The trial court then, pursuant to *Possinger*, reviewed and adjusted the residential provisions using the criteria in RCW 26.09.187.

It is similarly undisputed that the trial court reviewed the residential provisions in the November 2013 Parenting Plan and adjusted them. In doing so, it was authorized to

⁸⁶ *Id.*

⁸⁷ CP 413, ln 20-21 and CP 414, ln 12-14.

use the parenting criteria in RCW 26.09.187.⁸⁸ Mother does not challenge the trial court's adjustments to the residential schedule that it made pursuant to *Possinger*.

6. Despite having denied Mother's Modification Petition and having already completed its *Possinger* review of the residential schedule, the Court exceeded its statutory authority to make numerous changes to the non-residential provisions in the November 2013 Parenting Plan.

A trial court exceeds its statutory authority and, thus, abuses its discretion, when it modifies a parenting plan after it denies a parent's modification petition.⁸⁹ In *In re Marriage of Shryock*⁹⁰ a father petitioned to modify a permanent parenting plan based on the child allegedly being integrated into his home with the mother's consent.⁹¹ After a trial, the trial court found the child was not integrated into the father's home with the mother's consent.⁹² Despite denying the father's modification petition, the court went ahead and modified the parenting plan by making

⁸⁸ *In re Marriage of Possinger*, 105 Wash. App. 326, 337, 19 P.3d 1109, 1115-16 (2001), as corrected on denial of reconsideration (May 16, 2001)

⁸⁹ *In re Marriage of Shryock*, 76 Wash. App. 848, 852, 888 P.2d 750, 752 (1995)

⁹⁰ 76 Wash. App. 848, 888 P.2d 750 (1995)

⁹¹ *In re Marriage of Shryock*, 76 Wash. App. 848, 849, 888 P.2d 750, 751 (1995)

⁹² *Shryock*, 76 Wash. App. at 850.

changes to the decision making provisions and reducing father's residential time with the child.⁹³

The *Shryock* analysis was adopted by this Court in *In re Marriage of Watson*.⁹⁴ There, this Court held that RCW 26.09.260 sets forth the exclusive procedures to modify a parenting plan and that failure to follow the statutory procedures or modifying a parenting plan for reasons other than the statutory criteria is an abuse of discretion.⁹⁵

Here, as set forth in detail above, the trial court not only reviewed and adjusted the residential provisions that it was authorized to do under the November 2013 Parenting Plan, it went further and modified the parenting plan's non-residential provisions, including decision making, after it denied Mother's Modification Petition. This exceeded its statutory authority and was an abuse of discretion. These modifications included changing decision making for counseling to be made by a case manager instead of by Mother, replacing the mediation provision in the 2013 Parenting Plan with a system whereby a post-decree case manager is the primary mediator between the parents;

⁹³ *Id.* at 852.

⁹⁴ 132 Wash. App. 222, 130 P.915 (2006)

⁹⁵ *In re Marriage of Watson*, 132 Wash. App. 222, 230, 130 P.3d 915, 918 (2006)

removing the no-contact provision regarding James Ward; and substantially changing the Mother 's ability to request spontaneous UAs if she reasonably suspects Father is, once again, drinking or using drugs.

Reversal with instructions to amend the latest Parenting Plan to reinstate the non-residential provision in the November 2013 Parenting Plan is required.

7. The Court admitted on several occasions that it lacked the authority to make the changes it was making.

The trial court implemented these sweeping changes to the nonresidential provisions of the November 2013 Parenting Plan despite having determined on more than one occasion that it lacked the authority to make such changes. Both during its oral ruling and in its Order Re Modification/ Adjustment Of Custody Decree/Parenting Plan/Residential Schedule and *Possinger* Review, the Court admitted that it lacked the authority to make changes, but made them anyway.

When making its oral ruling the trial court stated:

Joint decision making versus sole decision making. I've thought long and hard about this. I understand why the original parenting plan was structured the way that it was, and I also have looked at the difficulty in communication between the two parents. Because I

am not finding adequate cause, I'm looking at this under a Possinger review, I don't think I have the authority under that review to alter the section of the decision making.⁹⁶

In its Order Re Modification/ Adjustment Of Custody Decree/Parenting Plan/Residential Schedule and *Possinger* Review, the Court wrote:

2.6 Adjustments to Nonresidential Provisions Under RCW 26.09:260(10)

The custody decree/parenting plan/residential schedule should not be adjusted because none of the statutory reasons set forth in RCW 26.09.260(10) apply.

Despite this, both parents are ordered to participate in classes/coaching to assist them in their communication with each other and to alleviate the acrimony between the parents, especially during child exchanges. A post-decree case manager is also appointed to assist the parents. Finally, this Court has ordered certain conduct during exchanges. These provisions are in the children's best interests.⁹⁷

In the Section titled ORDER, of the Order Re Modification/ Adjustment Of Custody Decree/Parenting Plan/Residential Schedule and *Possinger* Review, the Court wrote:

This Court does not have authority to modify the Decision Making Provisions in the November 2013, Permanent Parenting Plan.⁹⁸

⁹⁶ RP 1042: 14 -21.

⁹⁷ CP 450: 12 – 17.

⁹⁸ CP 451: 10 – 12.

8. The Court posited no statutory basis either during its oral rulings or written orders justifying its numerous and substantial modifications to the 2013 Parenting Plan.

Neither during the trial court's oral ruling following closing arguments on September 23, 2015 nor at the October 15, 2015 presentation hearing to finalize the amended parenting plan did the Court posit a statutory basis justifying its numerous nonresidential modifications to the 2013 Parenting Plan. Moreover, in the Order Re Modification/ Adjustment Of Custody Decree/Parenting Plan/Residential Schedule and *Possinger* Review, the trial court admitted that there was no basis for modifying the plan under the only statutory provision it could have relied on, RCW 26.09.260(10).⁹⁹ Father may point to the trial court's finding of a substantial change of circumstances in its Order Re Modification/ Adjustment Of Custody Decree/Parenting Plan/Residential Schedule and *Possinger* Review as justification for its modifications. However, the substantial change of circumstances posited by the trial court is not a change, but rather acrimony that has continued and had already existed. Therefore, it is not indicative of a change of circumstances and certainly does not meet the high standard of being a substantial change of

⁹⁹ CP 450: 12 – 17.

circumstances. The trial court was right in concluding that it had no justification for modifying the plan under RCW 26.09.260(10).

Finally, the trial court made no findings regarding adequate cause, substantial change of circumstances, or best interest of the children as required by RCW 26.09.260. Failure to make a required finding is construed as a negative finding against the party who bears the burden of persuasion at trial.¹⁰⁰ Here, Father would have had the burden to show the statutory requirements to modify the November 2013 Parenting Plan. These lack of findings are to be construed as negative findings against him.

B. The Court abused its discretion when it replaced the mediation provision of the 2013 Parenting Plan with a provision giving a case manager authority to resolve disputes.

Dispute resolution provisions in a final parenting plan are governed by RCW 26.09.184(3) which reads: A process for resolving disputes, other than court action, shall be provided unless precluded or limited by RCW 26.09.187 or 26.09.191. **A dispute resolution process may include counseling,**

¹⁰⁰ *Golberg v. Sanglier*, 96 Wash. 2d 854, 880, 639 P.2d 1347, 1351, amended, 96 Wash. 2d 874, 647 P.2d 489 (1982)

**mediation, or arbitration by a specified individual or agency,
or court action.**¹⁰¹

The plain language of the statute limits dispute resolution to take four possible forms or a combination of those forms: counseling, mediation, arbitration or court action. Here, the trial court strayed from the options delineated in the statute and, instead, vested a post-decree case manager with the power to resolve disputes through an abbreviated motion practice:

Ether parent may employ Jennifer Kielan (preferred or other mutually agreed person if she is not available or willing to serve) as a post-decree case manager to assist them in resolving disputes between the parties, other than child support disputes. Once activated, by giving notice to Jennifer Keilan and the other parent, both parties will cooperate with the case manager and timely make all appointments to expedite her ability to resolve disputes. The post-decree case manager may make recommendations, which the parties will follow until any objection to those recommendations are sustained by this Court upon application to the King County Superior Court Family Motions Calendar.¹⁰²

The dispute resolution process shall be commenced by notifying the other party by written request. The written request for the case manager to assist in making any decision shall be submitted and must contain the proposed decision that the party requests be made, and sufficient information to support the decision. The other parent must object within 48 hours, time being of the essence, or else the decision shall conclusively be deemed approved. If the other

¹⁰¹ Emphasis added; RCW 26.09.184(3) .

¹⁰² CP 426: 1 - 6.

parent timely objects, then he or she must state their reasons for the objection together with any alternatives they propose. The requesting parent may then reply with additional information supporting their original request or responding to the other parent's alternative proposal. **The case manager shall then render a written recommendation as soon as practical thereafter.**¹⁰³

Because the trial court's modification of the dispute resolution provision of the 2013 Parenting Plan does not comply with the governing statute, it has abused its discretion and this Court should vacate this modification of the parenting plan and reinstitute the dispute resolution provision in the 2013 Parenting Plan.

C. The trial court lacked any factual basis for modifying the no-contact provision regarding James Ward in the 2013 Parenting Plan.

The trial court modified a restriction regarding James Ward that was in the 2013 Parenting Plan. Originally, the provision mandated no contact between James Ward and the children. The trial court modified the provision to prohibit only unsupervised contact with the children.

The trial court performed this modification despite admitting that no evidence on the issue was presented at trial and that the provision was not mentioned in the GAL Report. In the end, the

¹⁰³ Emphasis added. CP 426: 9 – 13.

trial court justified its modification on hypothetical facts of its own creation and it mistakenly took the GAL Report's silence on the matter as a recommendation for modification. Instead, the GAL states: **The 11/14/13 Final Parenting Plan provisions to remain in effect except as modified by the recommendations below.**

The GAL report does not mention James Ward.¹⁰⁴

This Court reviews the trial court's decision following a bench trial to determine whether the findings are supported by substantial evidence and whether those findings support the conclusions of law.¹⁰⁵ When, as here, an appellant challenges conclusions of law not based on the law itself, but rather claiming that the findings do not support the court's conclusions, appellate review is limited to determining whether the trial court's findings are supported by substantial evidence and, if so, whether those findings support the conclusions of law.¹⁰⁶

Here, it is indisputable from the record that the trial court's decision to modify the no-contact provision regarding James Ward lacked any factual support and fell far below the required

¹⁰⁴ CP 485.

¹⁰⁵ *Sunnyside Valley Irrigation Dist. v. Dickie*, 149 Wn.2d 873, 880, 73 P.3d 369 (2003); *Morgan v. Prudential Ins. Co. of Am.*, 86 Wn.2d 432, 437, 545 P.2d 1193 (1976).

¹⁰⁶ *Am. Nursery Prods. Inc. v. Indian Wells Orchards*, 115 Wn.2d 217, 222, 797 P.2d 477 (1990); *Willener v. Sweeting*, 107 Wn.2d 388, 393, 730 P.2d 45 (1986).

substantial evidence. Therefore, the trial court committed reversible error and this Court should vacate the modification and reinstitute the no contact provision.

D. The trial court abused its discretion when it barred Mother's counsel from introducing evidence as to Father's abusive conduct and making an offer of proof to preserve an issue on appeal.

This Court reviews the trial court's evidentiary rulings for manifest abuse of discretion.¹⁰⁷ A trial court abuses its discretion when its decision is manifestly unreasonable or based on untenable grounds or reasons.¹⁰⁸ It is black letter law that a failure to make an offer of proof at trial regarding evidence excluded by the trial court precludes the party from asserting the issue on appeal.¹⁰⁹

As described in detail above, the trial court barred Mother's attorney from making an offer of proof/proffer of evidence regarding the content of Ms. Thompson's testimony which had been precluded when the court sustained a relevancy objection for the purpose of preserving the court's evidentiary ruling for potential appeal.¹¹⁰ The court abused its discretion because there was no

¹⁰⁷ *Allen v. Asbestos Corp., Ltd.*, 138 Wn. App. 564, 570, 157 P.3d 406 (2007).

¹⁰⁸ *Wick v. Clark County*, 86 Wn. App. 376, 382, 936 P.2d 1201 (1997).

¹⁰⁹ *Sturgeon v. Celotex Corp.*, 52 Wn. App. 609, 617-18, 762 P.2d 1156 (1988).

¹¹⁰ RP 357: 2 – 9.

valid basis for precluding the offer of proof and it lacked any lawful grounds for barring Mother's counsel from making the offer of proof/proffer of evidence. By its actions, the trial court belligerently sabotaged appeal of the trial court's ruling. Therefore, this Court should reverse the trial court ruling and order this case remanded to the trial court for the sole purpose of Mr. McGlothlin making the offer of proof he was wrongfully prevented from making.

In addition, the evidence should have been received. First, Mother's Modification Petition was premised, in part, on Father's hostility and abusive behavior.¹¹¹ Second, the residential provisions were to be reviewed under *Possinger* using the statutory criteria in RCW 26.09.187.¹¹² RCW 26.09.187 requires a court to consider mandatory and discretionary limitations set forth in RCW 26.09.191. RCW 26.09.191(e) renders the abusive use of conflict by a parent relevant.

This Court should have received the evidence and overruled Father's objection and, certainly, should have allowed Mother's counsel to proffer Ms. Thompson's testimony regarding Father's abusive behavior.

¹¹¹ CP 135: 4 – 15.

¹¹² *In re Marriage of Possinger*, 105 Wash. App. 326, 337, 19 P.3d 1109, 1115-16 (2001), as corrected on denial of reconsideration (May 16, 2001)

E. Conclusion

Mother requests this Court reverse the trial court and vacate the non-residential provisions in the October 27, 2015 Final Parenting Plan and reinstate the non-residential provisions in the November 2013 Parenting Plan. This matter should be remanded to the trial court to either Receive Ms. Thompson's testimony as to Father's abusive behavior or allow Mother's counsel to make the required proffer of evidence to create an appropriate record so this Court can conduct a meaningful review.

DATED this 12th day of May 2016.


Dennis J. McGlothlin, WSBA 28177
Robert J. Cadranell, WSBA 41773
Attorneys for Appellant, Kathryn Ward

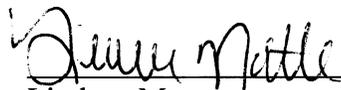
CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington that on the below written date, I caused delivery of a true copy of Mother's Opening Brief to the following individuals via U.S. Mail:

State of Washington
Court of Appeals, Div. I
One Union Square
600 University Street
Seattle, WA 98101

James T. Hendry
4100 194th St SW, Suite 215
Lynnwood, WA 98036
(also sent via email with transcripts)

Signed this 12th day of May 2016 in Edmonds, Washington.


Lindsey Matter

FILED
May 12, 2016
Court of Appeals
Division I
State of Washington

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

In re the Marriage of:

KATHRYN SUZANNE WARD,

Appellant,

and

KENNETH EUGENE WARD,

Respondent.

No. 74318-0-1

(King Co. Superior Court no.
12-3-05959-8 SEA)

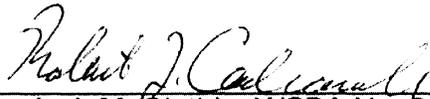
APPENDIX A TO
APPELLANT'S OPENING
BRIEF

1. Appellant submits the attached Appendix A to her Opening Brief.
2. The attached document was inadvertently not filed or attached to the Motion and Declaration for Parenting Plan Review Per *In Re Marriage of Possinger* filed by Respondent/Father on October 24, 2014 (sub/docket #167). The document is referenced in the Motion and provided to the opposing party and to the Court.

3. Appellant discovered this error by Respondent's prior counsel when reviewing the Clerk's Papers for Appellant's Opening Brief.
4. Appellant has filed Appendix A with the Superior Court and will file a supplemental designation of Clerk's Papers once a sub number is assigned. In the meantime, Appellant provides the Court with a copy of the document as Appendix A.

Dated this 12th day of May, 2016.

Respectfully submitted,



Dennis J. McGlothlin, WSBA No. 28177
Robert J. Cadranell, WSBA No. 41773
Western Washington Law Group, PLLC
7500 212th St. SW, Suite 207
Edmonds, WA 98026
Telephone: (425) 728-7296
Attorneys for Appellant

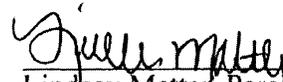
CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the below written date, I caused delivery of a true copy of the on the following individuals:

Office of the Clerk State of Washington Court of Appeals, Div. II 950 Broadway Suite 300 Tacoma, WA 98402-4427	<input type="checkbox"/> Federal Express <input type="checkbox"/> Hand Delivery <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Electronic Filing
James Hendry 4100 194 th St SW, Suite 215 Lynnwood, WA 98036 james@jameshendrylaw.com	<input type="checkbox"/> Federal Express <input type="checkbox"/> Hand Delivery <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Email and Electronic Filing

DATED this 12th day of May, 2016 at Edmonds, Washington.



Lindsey Matter, Paralegal

APPENDIX A

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Superior Court of Washington
County of KING

In re:

KATHRYN SUZANNE WARD,

Petitioner,

And

KENNETH EUGENE WARD,

Respondent.

No. 12-3-05959-8 SEA

**NOTICE OF FILING EXHIBIT 5
TO MOTION AND
DECLARATION FOR
PARENTING PLAN REVIEW
PER *IN RE MARRIAGE OF
POSSINGER* FILED ON
OCTOBER 24, 2014**

NOTICE OF FILING

Attached hereto is a copy of Exhibit 5 inadvertently not filed or attached to the Motion and Declaration for Parenting Plan Review Per *In Re Marriage of Possinger* filed on October 24, 2014 (sub/docket #167) as referenced in the above Motion and provided to counsel and the Commissioner at the time of filing.

DATED: May 12, 2016.

WESTERN WASHINGTON LAW GROUP, PLLC

/s/ Dennis J. McGlothlin

Dennis J. McGlothlin, WSBA No. 28177
Attorney for Petitioner

McGuire Law & Mediation

Exhibit #5

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**SUPERIOR COURT OF WASHINGTON
COUNTY OF KING**

In re the Marriage of:

KATHRYN SUZANNE WARD,

Petitioner.

and

KENNETH EUGENE WARD,

Respondent.

NO. 12-3-05959-8 SEA

**AMENDED PARENTING PLAN
FINAL ORDER**

[PROPOSED]

CLERKS ACTION REQUIRED

This parenting plan is the final parenting plan signed by the court pursuant to an order entered on November 14, 2013 which modifies a previous parenting plan or custody decree.

IT IS ORDERED, ADJUDGED AND DECREED:

I. GENERAL INFORMATION

This parenting plan applies to the following children:

Name	<u>Age</u>
Kelan Joseph Ward	5
Olivia Lynn Ward	3
Alexandra Noelle Ward	2 (October 2014)



Superior Court of Washington
County of King
Clerk of Court
1000 4th Avenue, Suite 1000
Seattle, WA 98101
Phone: 206.465.2000
Fax: 206.465.2001

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II. BASIS FOR RESTRICTIONS

Under certain circumstances, as outlined below, the court may limit or prohibit a parent's contact with the children and the right to make decisions for the children.

2.1 PARENTAL CONDUCT (RCW 26.09.191(1), (2))

Does not apply.

2.2 OTHER FACTORS (RCW 26.09.191(3))

Same as is set forth in the November 14, 2013 Parenting Plan, which is attached hereto as **Exhibit A** and is incorporated herein by reference.

III. RESIDENTIAL SCHEDULE

The residential schedule must set forth where the children shall reside each day of the year, including provisions for holidays, birthdays of family members, vacations, and other special occasions, and what contact the children shall have with each parent. Parents are encouraged to create a residential schedule that meets the developmental needs of the children and individual needs of their family. Paragraphs 3.1 through 3.9 are one way to write your residential schedule. If you do not use these paragraphs, write in your own schedule in Paragraph 3.13

3.1 SCHEDULE FOR CHILDREN UNDER SCHOOL AGE

The children shall reside with the petitioner, except for the following days and times when the children will reside with or be with the Father:

- The Father is a firefighter and his schedule can vary. Currently, the Father's work schedule is four days on and four days off. Upon receipt of his work schedule, the Father shall provide it to the Mother within 24 hours.
- The Father shall have the children for three consecutive overnights per week consistent with his four days off in his current work schedule. The Father's time shall begin at 9:00 a.m. and shall end at 6:00 p.m. on the day following the third overnight.
- The Father shall give the Mother at least 48 hours' notice of any scheduling changes.



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3.2 SCHOOL SCHEDULE

The children shall reside with the petitioner, except for the following days and times when the children will reside with or be with the Father:

- The Father is a firefighter and his schedule can vary. Currently, the Father's work schedule is four days on and four days off. Upon receipt of his work schedule, the Father shall provide it to the Mother within 24 hours.
- The Father shall have the children for three consecutive overnights per week consistent with his four days off in his current work schedule. The Father's time shall begin at 9:00 a.m. or drop off at school and shall end at 6:00 p.m. on the day following the third overnight.
- The Father shall give the Mother at least 48 hours' notice of any scheduling changes.

3.3 SCHEDULE FOR WINTER VACATION

Same as is set forth in the November 14, 2013 Parenting Plan, which is attached hereto as **Exhibit A** and is incorporated herein by reference.

3.4 SCHEDULE FOR OTHER SCHOOL BREAKS

Same as is set forth in the November 14, 2013 Parenting Plan, which is attached hereto as **Exhibit A** and is incorporated herein by reference.

3.5 SUMMER SCHEDULE

Same as is set forth in the November 14, 2013 Parenting Plan, which is attached hereto as **Exhibit A** and is incorporated herein by reference.

3.6 VACATION WITH PARENTS

Same as is set forth in the November 14, 2013 Parenting Plan, which is attached hereto as **Exhibit A** and is incorporated herein by reference.

3.7 SCHEDULE FOR HOLIDAYS

Same as is set forth in the November 14, 2013 Parenting Plan, which is attached hereto as **Exhibit A** and is incorporated herein by reference.



1 **3.8 SCHEDULE FOR SPECIAL OCCASIONS**

2 Same as is set forth in the November 14, 2013 Parenting Plan, which is attached hereto
3 as **Exhibit A** and is incorporated herein by reference.

4 **3.9 PRIORITIES UNDER THE RESIDENTIAL SCHEDULE**

5 Same as is set forth in the November 14, 2013 Parenting Plan, which is attached hereto
6 as **Exhibit A** and is incorporated herein by reference.

7 **3.10 RESTRICTIONS**

8 Same as is set forth in the November 14, 2013 Parenting Plan, which is attached hereto
9 as **Exhibit A** and is incorporated herein by reference.

10 **3.11 TRANSPORTATION ARRANGEMENTS**

11 Same as is set forth in the November 14, 2013 Parenting Plan, which is attached hereto
12 as **Exhibit A** and is incorporated herein by reference.

13 **3.12 DESIGNATION OF CUSTODIAN**

14 Same as is set forth in the November 14, 2013 Parenting Plan, which is attached hereto
15 as **Exhibit A** and is incorporated herein by reference.

16 **3.13 OTHER:**

17 Same as is set forth in the November 14, 2013 Parenting Plan, which is attached hereto
18 as **Exhibit A** and is incorporated herein by reference.

19 **3.14 SUMMARY OF RCW 26.09.430-.480, REGARDING RELOCATION OF A**
20 **CHILD.**

21 Same as is set forth in the November 14, 2013 Parenting Plan, which is attached hereto
22 as **Exhibit A** and is incorporated herein by reference.

23 **IV. DECISION MAKING**

24 **4.1 DAY-TO-DAY DECISIONS**

25 Same as is set forth in the November 14, 2013 Parenting Plan, which is attached hereto
26 as **Exhibit A** and is incorporated herein by reference.
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4.2 MAJOR DECISIONS

Same as is set forth in the November 14, 2013 Parenting Plan, which is attached hereto as **Exhibit A** and is incorporated herein by reference.

4.3 RESTRICTIONS IN DECISION MAKING.

Same as is set forth in the November 14, 2013 Parenting Plan, which is attached hereto as **Exhibit A** and is incorporated herein by reference.

V. DISPUTE RESOLUTION

Same as is set forth in the November 14, 2013 Parenting Plan, which is attached hereto as **Exhibit A** and is incorporated herein by reference.

VI. OTHER PROVISIONS

Same as is set forth in the November 14, 2013 Parenting Plan, which is attached hereto as **Exhibit A** and is incorporated herein by reference

VII. DECLARATION FOR PROPOSED PARENTING PLAN

Does not apply.

VIII. ORDER BY THE COURT

It is ordered, adjudged and decreed that the parenting plan set forth above is adopted and approved as an order of this court.

WARNING: Violation of residential provisions of this order with actual knowledge of its terms is punishable by contempt of court and may be a criminal offense under RCW 9A.040.060(2) or 9A.40.070(2). Violation of this order may subject a violator to arrest.

When mutual decision making is designated but cannot be achieved, the parties shall make a good faith effort to resolve the issue through the dispute resolution process.

If a parent fails to comply with a provision of this plan, the other parent's obligations under the plan are not affected.

Dated _____



[Faint, illegible text, possibly a signature or stamp]

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Judge/Court Commissioner

Petitioner or petitioner's lawyer:
A signature below is actual notice of this order.

Respondent or respondent's lawyer:
A signature below is actual notice of this order.

Presented by:
 Approved for entry:
 Notice for presentation waived:

Presented by:
 Approved for entry:
 Notice for presentation waived:

MCGUIRE LAW & MEDITATION

WESTERN WASHINGTON LAW GROUP

James C. McGuire, WSBA #28454
Attorney for Respondent

Dennis J. McGlothlin, WSBA #28177
Attorney for Petitioner

Dated: _____

Dated: _____

Approved:

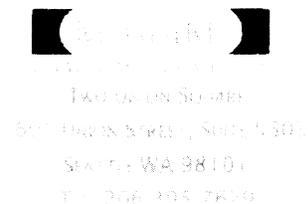
Approved:

Kenneth E. Ward, Respondent

Kathryn S. Ward, Petitioner

Dated: _____

Dated: _____



McGuire Law & Mediation

Exhibit A

RECEIVED

By Stephanie Smith at 4:40 pm, Nov 14, 2013

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PROCEEDINGS OF THE
JUDICIAL BRANCH
SUPERIOR COURT OF WASHINGTON
COUNTY OF KING
PRESENT IN PERSON

**SUPERIOR COURT OF WASHINGTON
COUNTY OF KING**

In re the Marriage of:

No. 12-3-05959-8 SEA

KATHRYN SUZANNE WARD,

**PARENTING PLAN
(FPP)**

Petitioner,

and

KENNETH EUGENE WARD,

Respondent.

This parenting plan is the final parenting plan signed by the court pursuant to a decree of dissolution, legal separation, or declaration concerning validity signed by the court on this date

It Is Ordered, Adjudged and Decreed:

I. General Information

This parenting plan applies to the following children:

Name	Age
Kelan Joseph Ward	4
Olivia Lynn Ward	2
Alexandra Noelle Ward	1

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II. Basis for Restrictions

Under certain circumstances, as outlined below, the court may limit or prohibit a parent's contact with the children and the right to make decisions for the children.

2.1 Parental Conduct (RCW 26.09.191(1), (2))

Does not apply.

2.2 Other Factors (RCW 26.09.191(3))

The Respondent's involvement or conduct may have an adverse effect on the children's best interests because of the existence of the factors which follow:

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

III. Residential Schedule

The residential schedule must set forth where the children shall reside each day of the year, including provisions for holidays, birthdays of family members, vacations, and other special occasions, and what contact the children shall have with each parent. Parents are encouraged to create a residential schedule that meets the developmental needs of the children and individual needs of their family. Paragraphs 3.1 through 3.9 are one way to write your residential schedule. If you do not use these paragraphs, write in your own schedule in Paragraph 3.13

3.1 Schedule for Children Under School Age

Prior to enrollment in school, the children shall reside with the petitioner, except for the following days and times when the children will reside with or be with the other parent:

The Father is a firefighter and his schedule varies from week to week. Upon receipt of his work schedule, Father shall provide it to the Mother within 24 hours. Father shall propose his days for each week the Father may exercise his residential time the duration of the schedule provided within 48 hours of receipt. When selecting Father's time, Mother is permitted to at least two weekends per month of uninterrupted time. These provisions shall apply to all phases below.

Pursuant to Section VI herein requiring the parties to use Our Family Wizard for scheduling and communication, the Father shall input his intended residential time dates therein one month in advance (for example, by July 31st, he shall have input his intended residential time dates for the month of September).

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Phase I:

Until the Father successfully completes his substance abuse treatment program and provided he is in attending and in compliance with the provisions of Paragraph 3.10, the Father is entitled to the following residential time:

Kelan & Olivia:

Alexandra:

One day per week from 9:00 a.m. to 4:00 p.m.; and	Three days per week for two hours each. Two days shall be the same as Kelan and Olivia.
One day per week from 9:00 a.m. to 7:00 p.m.	
The days shall be taken non-consecutive.	The days shall be taken non-consecutive.

Phase II:

Upon completion of his substance abuse treatment program and provided Father is in compliance with the provisions in Paragraph 3.10, the Father is entitled to the following residential time:

Kelan & Olivia:

Alexandra:

Two days per week from 5:00 p.m. to 5:00 p.m. the following day	Three days per week for four hours each. Two days shall be the same as Kelan and Olivia
The days shall be taken non-consecutive; and	
Kelan shall be obligated to go to preschool.	The days shall be taken non-consecutive.

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Phase III:

Commencing February 1, 2014 and provided Father is in compliance with the provisions in Paragraph 3.10, the Father is entitled to the following residential time:

Kelan & Olivia:

Alexandra:

Two days per week from 5:00 p.m. to 5:00 p.m. the following day.	Two days per week for 6 hours each. One day shall be the same as Kelan and Olivia.
The days may be consecutive	The days shall be taken non-consecutive
Kelan shall be obligated to go to preschool.	

Phase IV

Commencing May 1, 2014 and provided Father is in compliance with the provisions in Paragraph 3.10, the Father is entitled to the following residential time:

Kelan & Olivia:

Alexandra:

Two days per week from 5:00 p.m. to 5:00 p.m. the following day	Two days per week for 8 hours each. Days shall be the same as Kelan and Olivia.
One day per week after Kelan gets out of preschool to 7:30 p.m.	One day per week after Kelan gets out of preschool to 7:30 p.m.
The days may be consecutive	The days may be consecutive
Kelan shall be obligated to go to preschool.	

3.2 School Schedule

This parenting plan is entered under the procedure utilized in *In Re Marriage of Possinger* and will be reviewed pursuant to *Possinger* the August prior to Kelan going to kindergarten.

3.3 Schedule for Winter Vacation

The child(ren) shall reside with the Mother during winter vacation, except for the following days and times when the child(ren) will reside with or be with the other parent:

Vacation residential time with the Father shall begin when he successfully completes chemical

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dependency treatment as recommended in the February 2013 Assessment Summary by ABHC.

In even-numbered years, the children shall reside with the Father from December 22nd at 5:00 p.m. through December 25th at noon

In odd-numbered years the children shall reside with the Father from December 25th at noon through December 28th at 5:00 p.m.

Beginning with 2014 for Kelan and Olivia in even numbered years, and 2016 for Alexandra, the children shall reside with the Father from December 18th at 5:00 p.m. through December 25th at noon. In odd-numbered years, the children shall reside with the Father from December 25th at noon through January 1st at 5:00 p.m.

3.4 Schedule for Other School Breaks

Spring Break: beginning with 2015 for Kelan and Olivia, and 2016 for Alexandra, the parents shall alternate having residential time with the children during the entire duration of the break, with the Mother having residential time in even-numbered years and the Father having residential time in odd-numbered years. The duration of the break is defined by the calendar of the school attended by the oldest child.

3.5 Summer Schedule

See ¶ 3.1, above and ¶ 3.6 below.

3.6 Vacation With Parents

Same as before school schedule in Section 3.1

Vacation residential time with the Father shall begin when he successfully completes chemical dependency treatment as recommended in the February 2013 Assessment Summary by ABHC. Beginning with 2015 for Kelan and Olivia, and 2016 for Alexandra, in addition to the regular residential time, each parent shall have 2 (two) uninterrupted one-week blocks of time with the children during the summer.

Each parent shall give written notice to the other of his/her choice of summer vacation weeks by May 15th of each year. If there is a conflict of dates, the Mother shall have priority in even-numbered years and the Father shall have priority in odd-numbered years. Failure to give notice does not result in forfeiture of the vacation time but does result in loss of priority. For purposes of providing written notice of vacation dates, email notice is acceptable.

The parties shall not take the children to a country that is not a signatory to the Hague Convention Child Abduction Treaty.

3.7 Schedule for Holidays

The residential schedule for the children for the holidays listed below is as follows:

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	With Petitioner (Specify Year Odd/Even/Every)	With Respondent (Specify Year Odd/Even/Every)
New Year's Day	<u>See</u> 3.3, above	<u>See</u> 3.3, above
Martin Luther King Day	<u>See</u> 3.1, above	<u>See</u> 3.1, above
Presidents' Day	Odd	Even
Memorial Day	Even	Odd
July 4th	Odd	Even
Labor Day	Even	Odd
Veterans' Day	<u>See</u> 3.1, above	<u>See</u> 3.1, above
Thanksgiving Day	Even*	Odd*
Christmas Eve	<u>See</u> 3.3, above	<u>See</u> 3.3, above
Christmas Day	<u>See</u> 3.3, above	<u>See</u> 3.3, above
Easter	Odd	Even
Halloween	Even	Odd

For purposes of this parenting plan, a holiday shall begin and end as follows (set forth times):

From 9:00 a.m. on the day of the holiday until 7:00 p.m. unless otherwise described below.

For 2013, Father will have the children from noon until 4:00 p.m. and then Kelan and Olivia from 4:00 p.m. to 8:00 p.m. in addition.

Halloween- beginning 2014 from 4:00 p.m. to 9:00 p.m. (subject to review as set forth in Section 3.2).

3.8 Schedule for Special Occasions

The residential schedule for the children for the following special occasions (for example, birthdays) is as follows:

	With Petitioner (Specify Year Odd/Even/Every)	With Respondent (Specify Year Odd/Even/Every)
Mother's Day	Every	
Father's Day		Every
Mother's Birthday	Every	
Father's Birthday		Every
Children's Birthdays	Even	Odd

Special Occasions shall be from 9:00 a.m. to 7:00 p.m.

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3.9 Priorities Under the Residential Schedule

- 1 Special Occasions (3.8)
- 2 Holidays (3.7)
- 3 Winter Vacation (3.3)
- 4 School Breaks (3.4)
- 5 School Schedule (3.1; 3.2)
- 6 Vacation with Parents (3.6)
- 7 Summer Schedule (3.5)

3.10 Restrictions

The respondent's residential time with the children shall be limited because there are limiting factors in paragraphs 2.1 and 2.2. The following restrictions shall apply when the children spend(s) time with this parent.

The Father is in early sobriety and shall not consume alcohol or any non-prescription drugs at any time. The Father shall not use Ambien or any other sleep-aid during his residential time or within 12 hours prior to the time that he has a child or children in his care.

The Father shall comply with all treatment and other recommendations resulting from his February 2013 ABHC assessment summary. The Father shall sign any and all documentation and/or releases necessary for the Mother and her attorney to receive monthly status reports regarding Father's compliance and treatment. If the Father is not in compliance with the treatment program, gets discharged from the program, or fails to successfully complete the program, then the automatic supervision requirements set forth herein will automatically apply, subject to review by either party on the Family Law Motions Calendar.

After Father successfully completes his recommended substance treatment, Father shall submit to random, monitored EtG UAs twice weekly. If any test result is positive for alcohol or non-prescription medication or the sample is low in creatinine or specific gravity, then the automatic supervision requirements set forth herein will automatically apply, subject to review by either party on the Family Law Motions Calendar. If there are no positive UAs or low creatinine or low specific gravity UAs and Father otherwise complies with this provision, then this provision set forth in this paragraph expires in 2 years after Father commences his twice-weekly random monitored UAs.

If the Mother suspects that the Father is under the influence of alcohol or non-prescription drugs at any time, Mother may demand that the Father submit to a monitored drug and EtG urinalysis test within sixteen (16) hours* of the time the Mother makes the request to the Father. The Father shall arrange for a copy of the complete urinalysis test results to be provided directly to the Mother from the testing facility or the lab as soon as such results are available if the agency is able to do so. Otherwise the parties shall work out a procedure wherein a true and correct copy of the UA results can be provided. If the Father fails to obtain a monitored drug and EtG urinalysis test within the later of sixteen (16) hours of the Mother making the request or if the result of the test is positive then the automatic supervision requirements set forth herein will automatically apply, subject to review by either party on the Family Law Motions Calendar. If the Mother

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suspects Father is under the influence of alcohol or non-prescription drugs, then she may suspend Father's residential time with the children until Father obtains the required EtG urinalysis test results and provides them to Mother.

The Father shall pay the cost of the monitored drug and EtG urinalysis test. If the results of the test are negative, the Mother shall reimburse the Father for the cost of the drug and EtG urinalysis test within 7 days of her receipt of the test results and Father will be entitled to make-up residential time with the children.

*if Father is on a regularly scheduled 48 hour shift, then he shall undergo the UA immediately after his shift ends.

Automatic Supervision Requirement

In the event any one or more circumstances occur that require the automatic supervision requirement occur, Father's residential time shall immediately be replaced with supervised residential time twice per week up to four hours per visit with all three children. The supervision shall be by a professional supervisor or a lay supervisor agreed to by both parties who signs a supervisor's oath that is delivered to the Mother prior to the visit occurring.

No Unsupervised Contact with Desiree Ward

Both parties are restrained and enjoined from allowing any unsupervised contact whatsoever between the child(ren) and Desiree Ward.

No Contact with James Ward

Both parties are restrained and enjoined from allowing any contact whatsoever between the child(ren) and James ("Jim") Ward. The parents shall take all precautions and actions necessary so that the children do not have any contact with James Ward.

3.11 Transportation Arrangements

Transportation costs are included in the Child Support Worksheets and/or the Order of Child Support and should not be included here.

Transportation arrangements for the children between parents shall be as follows:

Unless otherwise provided to the contrary herein, the receiving parent shall provide transportation

3.12 Designation of Custodian

The children named in this parenting plan are scheduled to reside the majority of the time with the petitioner. This parent is designated the custodian of the children solely for purposes of all other state and federal statutes which require a designation or determination of custody. This designation shall not affect either parent's rights and responsibilities under this parenting plan.

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3.13 Other

Both parents shall secure all firearms and ammunition in his/her possession. Firearms and ammunition shall be stored separately. All firearms shall be trigger locked and out of reach of the children.

3.14 Summary of RCW 26.09.430 - .480, Regarding Relocation of a Child

This is a summary only. For the full text, please see RCW 26.09.430 through 26.09.480.

If the person with whom the child resides a majority of the time plans to move, that person shall give notice to every person entitled to court ordered time with the child.

If the move is outside the child's school district, the relocating person must give notice by personal service or by mail requiring a return receipt. This notice must be at least 60 days before the intended move. If the relocating person could not have known about the move in time to give 60 days' notice, that person must give notice within 5 days after learning of the move. The notice must contain the information required in RCW 26.09.440. See also form DRPSCU 07.0500, (Notice of Intended Relocation of A Child).

If the move is within the same school district, the relocating person must provide actual notice by any reasonable means. A person entitled to time with the child may not object to the move but may ask for modification under RCW 26.09.260.

Notice may be delayed for 21 days if the relocating person is entering a domestic violence shelter or is moving to avoid a clear, immediate and unreasonable risk to health and safety.

If information is protected under a court order or the address confidentiality program, it may be withheld from the notice.

A relocating person may ask the court to waive any notice requirements that may put the health and safety of a person or a child at risk.

Failure to give the required notice may be grounds for sanctions, including contempt.

If no objection is filed within 30 days after service of the notice of intended relocation, the relocation will be permitted and the proposed revised residential schedule may be confirmed.

A person entitled to time with a child under a court order can file an objection to the child's relocation whether or not he or she received proper notice.

An objection may be filed by using the mandatory pattern form WPF DRPSCU 07.0700, (Objection to Relocation/Petition for Modification of Custody Decree/Parenting Plan/Residential Schedule). The objection must be served on all persons entitled to time with the child.

The relocating person shall not move the child during the time for objection unless: (a) the

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delayed notice provisions apply; or (b) a court order allows the move.

If the objecting person schedules a hearing for a date within 15 days of timely service of the objection, the relocating person shall not move the child before the hearing unless there is a clear, immediate and unreasonable risk to the health or safety of a person or a child.

IV. Decision Making

4.1 Day-to-Day Decisions

Each parent shall make decisions regarding the day-to-day care and control of each child while the children are residing with that parent. Regardless of the allocation of decision making in this parenting plan, either parent may make emergency decisions affecting the health or safety of the children.

4.2 Major Decisions

Major decisions regarding each child shall be made as follows:

- Education decisions: Petitioner*
- Non-emergency health care: Petitioner
- Religious upbringing: Petitioner

* The parties agree to full time Kindergarten for Kelan at public school and agree to pay their proportionate share of this expense

The Mother must provide notice to Father 1 week prior to making non-emergency decisions. Father has the right to input provided he provides the input within 48 hours of receiving notice from Mother. Mother has authority to unilaterally make the ultimate decisions after receiving Father's input, subject to review on the Family Law Motions Calendar.

Mother cannot financially obligate Father for costs other than reasonable pre-school, day care and uninsured health care expenses, greater than \$250 per month in total cost without Father's agreement or Court order.

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4.3 Restrictions in Decision Making

Sole decision making shall be ordered to the mother/petitioner for the following reasons:

One parent is opposed to mutual decision making, and such opposition is reasonably based on the following criteria:

- (a) The existence of a limitation under RCW 26.09.191;
- (b) The history of participation of each parent in decision making in each of the areas in RCW 26.09.184(4)(a);
- (c) Whether the parents have demonstrated ability and desire to cooperate with one another in decision making in each of the areas in RCW 26.09.184(4)(a); and
- (d) The parents' geographic proximity to one another, to the extent that it affects their ability to make timely mutual decisions

V. Dispute Resolution

The purpose of this dispute resolution process is to resolve disagreements about carrying out this parenting plan. This dispute resolution process may, and under some local court rules or the provisions of this plan must, be used before filing a petition to modify the plan or a motion for contempt for failing to follow the plan.

Disputes between the parties, other than child support disputes, shall be submitted to mediation by an agreed upon mediator. If the parties cannot agree, then John Curry.

The cost of this process shall be allocated between the parties as follows:

50% petitioner 50% respondent.

The dispute resolution process shall be commenced by notifying the other party by written request.

In the dispute resolution process:

- (a) Preference shall be given to carrying out this Parenting Plan.
- (b) Unless an emergency exists, the parents shall use the designated process to resolve disputes relating to implementation of the plan, except those related to financial support.
- (c) A written record shall be prepared of any agreement reached in counseling or mediation and of each arbitration award and shall be provided to each party.

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- (d) If the court finds that a parent has used or frustrated the dispute resolution process without good reason, the court shall award attorneys' fees and financial sanctions to the other parent.
- (e) The parties have the right of review from the dispute resolution process to the superior court.

VI. Other Provisions

There are the following other provisions:

- Our Family Wizard: The parents will use Our Family Wizard for communication and scheduling.
- First Right of Refusal: The Mother has first right of refusal if the Father cannot care for the children during his residential time. Father must notify mother within 4 hours.
- Telephone Access: When a child of the parties is not residing with a given parent that parent shall be permitted unimpeded and unmonitored telephone access with the child at reasonable times and for reasonable durations.
- Activities/Homework: Each parent shall ensure that the children attend school and other scheduled activities while in that parent's care. Activities shall not be scheduled to unreasonably interfere with the other parent's residential time. Each parent shall be responsible for ensuring that the children complete all homework assignments for the next day/week while in that parent's care.
- Change of Address: Each parent shall provide the other with the address and phone number of his or her residence and shall update such information promptly whenever there is a change.
- Enrichment Activities: Each parent shall be responsible for keeping himself/herself advised of allletic and social events in which the children participate. Both parents may participate in school activities for the children regardless of the residential schedule.
- Access to Information: Each parent shall have the right to equal access to all of the children's medical, psychological, psychiatric, counseling, criminal, juvenile, and educational records and to any other information relevant to the children's best interests or welfare - including, but not limited to, any records kept or maintained by the State of Washington, the Department of Health and Social Services, and Child Protective Services consistent with Washington State law and HIPPA.
- Child's Involvement: Neither parent shall ask the children to make decisions or requests involving the residential schedule. Neither parent shall discuss changes to the residential schedule which have not been agreed to by both parents in advance. Neither parent shall advise the children of the status of child support payments or other legal matters regarding the parents' relationship. Neither parent shall use the children, directly or indirectly, to gather information about the other parent or take verbal messages to the other parent.
- Derogatory Comments: Neither parent shall make derogatory comments about the other parent or allow anyone else to do the same in the children's presence. Neither parent shall allow or encourage the children to make derogatory comments about the other parent.

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Notification To Other Parent: Each parent shall notify the other parent as soon as possible, and within thirty (30) minutes is preferable, upon receipt of extraordinary information regarding the children, such as emergency medical care, major school discipline, unusual or unexplained absence from the home, or contact with police or other legal authority.

Vacation Notification: When and if either party chooses to take the child(ren) away from his or her home for two (2) or more consecutive overnights, that parent shall provide the other parent with the address and phone number where the child/parent may be reached in case of an emergency

Non-Work Related Childcare: It is the responsibility of the parent scheduled to have residential time with the children to arrange suitable alternative care, if necessary, and to pay for that needed care, except for regularly scheduled day care expenses incurred while the other parent is at work or commuting, which are covered in the Order of Child Support.

Respect For the Other Parent: Each parent agrees to honor the other's parenting style, privacy, and authority. Neither will interfere in the parenting style of the other, nor will either parent make plans and arrangements that would impinge upon the other parent's authority or time with the child without the express written agreement of the other parent.

Each parent agrees to encourage the child to discuss a grievance with a parent directly with the parent in question. It is the intent of both parents to encourage a direct child-parent bond.

International Travel: The parties shall not take the children to a country that is not a signatory to the Hague Convention Child Abduction Treaty. If it is agreed that a parent may travel with the children outside of the United States, the other parent shall cooperate to ensure that the traveling parent is able to travel across international borders with the children. This shall include, but not be limited to, providing passports and a letter authorizing travel. The traveling parent shall provide an itinerary to the non-traveling parent prior to commencing travel.

The parents recognize that this Parenting Plan does not and cannot delineate all aspects of their child-rearing rights and responsibilities. Therefore, the parents agree to use the Parenting Plan as a framework for the interactions concerning the children. The parents further agree to operate in all respects in good faith towards one another in the best interests of the children. The parents further recognize that if a parent fails to comply with the provisions of the Parenting Plan, the other parent's obligations under the Parenting Plan are not affected.

Pornography: The parents shall not have pornographic material that the children may view in the home and the parents shall have software to screen pornographic material on the computer from the children.

Self-Informed: Each parent shall be self-informed of the children's school activities, school conferences.

Conduct Affecting Children: Each parent shall exert every reasonable effort to maintain free access and unhampered contact and communication between the children and the other parent, and promote the emotions and affection, love, and respect between the children and the other parent. Each parent agrees to refrain from words or conduct, and further agrees to discourage other persons from uttering words or engaging in conduct which would have a tendency to estrange the children from the other parent, to

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damage the opinion of the children as to the other parent, or which would impair the natural development of the children's love and respect for the other parent.

Exposing Children to Legal Matters. Neither parent shall advise the children of the status of child support payments or other legal matters regarding the parents' relationship.

VII. Declaration for Proposed Parenting Plan

Does not apply

VIII. Order by the Court

It is ordered, adjudged and decreed that the parenting plan set forth above is adopted and approved as an order of this court.

WARNING: Violation of residential provisions of this order with actual knowledge of its terms is punishable by contempt of court and may be a criminal offense under RCW 9A 40.060(2) or 9A.40.070(2). Violation of this order may subject a violator to arrest.

When mutual decision making is designated but cannot be achieved, the parties shall make a good faith effort to resolve the issue through the dispute resolution process.

If a parent fails to comply with a provision of this plan, the other parent's obligations under the plan are not affected.

Dated _____

Judge/Commissioner

Approved for entry:
Notice of Presentation Waived

Presented by:

OLYMPIC LAW GROUP, PLLP

HELSEIL FETTERMAN, LLP


Dennis J. McGlothlin

See attached

28177

37318

Attorney for Petitioner:
Sara Ngai, WSBA # 38350

Cindy S. Huang
Attorney for Respondent

See attached
Kathryn Ward, Petitioner/Mother

See attached
Ken Ward, Respondent/Father

1 damage the opinion of the children as to the other parent, or which would impair the natural development
2 of the children's love and respect for the other parent.

3 Exposing Children to Legal Matters. Neither parent shall advise the children of the status of child support
4 payments or other legal matters regarding the parents' relationship.

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9 order of this court.

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11 punishable by contempt of court and may be a criminal offense under RCW 9A.40.060(2) or
9A.40.070(2). Violation of this order may subject a violator to arrest.

12 When mutual decision making is designated but cannot be achieved, the parties shall make a good faith
13 effort to resolve the issue through the dispute resolution process.

14 If a parent fails to comply with a provision of this plan, the other parent's obligations under the plan are
15 not affected.

16 Dated: _____

17 Judge/Commissioner

18 Approved for entry:
19 Notice of Presentation Waived:

Presented by:

20 OLYMPIC LAW GROUP, PLLP

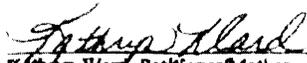
HELSBET FETTERMAN, LLP

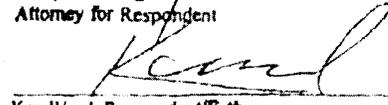
21 28177

37318

22 Dennis J. McGlothlin
23 Attorney for Petitioner

Cindy S. Huang
Attorney for Respondent

24 
Kathryn Ward, Petitioner/Mother


Ken Ward, Respondent/Father

1 damage the opinion of the children as to the other parent, or which would impair the natural development
2 of the children's love and respect for the other parent.

3 **Expose Children to Legal Matters.** Neither parent shall advise the children of the status of child support
4 payments or other legal matters regarding the parents' relationship.

5 **VII. Declaration for Proposed Parenting Plan**

6 Does not apply

7 **VIII. Order by the Court**

8 It is ordered, adjudged and decreed that the parenting plan set forth above is adopted and approved as an
9 order of this court.

10 **WARNING:** Violation of residential provisions of this order with actual knowledge of its terms is
11 punishable by contempt of court and may be a criminal offense under RCW 9A.40.060(2) or
12 9A.40.070(2). Violation of this order may subject a violator to arrest.

13 When mutual decision making is designated but cannot be achieved, the parties shall make a good faith
14 effort to resolve the issue through the dispute resolution process.

15 If a parent fails to comply with a provision of this plan, the other parent's obligations under the plan are
16 not affected.

17 Dated: November 14, 2013


18 Judge Commissioner

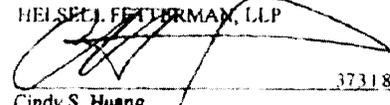
19 Approved for entry:
20 Notice of Presentation Waived:

Presented by:

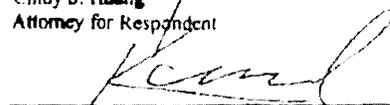
21 OLYMPIC LAW GROUP, PLLP

HEI SEI J. FETTERMAN, LLP

22 See attached 28177
23 Dennis J. McGlothlin
24 Attorney for Petitioner


Cindy S. Huang
Attorney for Respondent


Kathryn Ward, Petitioner/Mother


Ken Ward, Respondent/Father

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SUPERIOR COURT OF WASHINGTON
COUNTY OF KING

WARD, KATHRYN SUZANNE

Petitioner(s)

WARD, KENNETH EUGENE

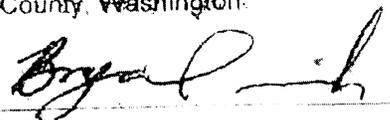
Respondent(s)

NO: 12-3-05959-8 SEA

CERTIFICATE OF COMPLETION
OF MANDATED SEMINAR
("WHAT ABOUT THE CHILDREN")
(COPC)

This is to certify that KENNETH WARD completed the "What About the
Children" Parent Seminar mandated under King County Superior Court Local Family
Law Rule 13(c) on October 17th, 2012.

DATED 17th day of October, 2012, in King County, Washington.



Signature

Bryan Ivanich

Printed Name

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SUPERIOR COURT OF WASHINGTON
COUNTY OF KING

WARD, KATHRYN SUZANNE

Petitioner(s)

WARD, KENNETH EUGENE

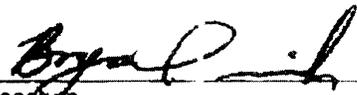
Respondent(s)

NO: 12-3-05959-8 SEA

CERTIFICATE OF COMPLETION
OF MANDATED SEMINAR
("WHAT ABOUT THE CHILDREN")
(COPC)

This is to certify that KATHRYN S. WARD completed the "What About the
Children" Parent Seminar mandated under King County Superior Court Local Family
Law Rule 13(c) on October 19th, 2012.

DATED 19th day of October, 2012, in King County, Washington



Signature

Bryan Ivanich

Printed Name