

No. 37028-0

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

SAMUEL ANGELO

Appellant,

vs.

MARILYN ANGELO

Respondent.

FILED
COURT OF APPEALS
DIVISION II
08 JUL 18 PM 1:00
STATE OF WASHINGTON
BY  DEPUTY

APPEAL FROM THE SUPERIOR COURT
FOR CLARK COUNTY
THE HONORABLE ROBERT HARRIS

BRIEF OF RESPONDENT

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& GOODFRIEND, P.S.

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I. RESTATEMENT OF ISSUE

The parties in their Separation Contract agreed that in lieu of additional spousal maintenance, the husband would pay the real estate contract on the property where the wife and children lived. The parties agreed that husband's failure to meet his obligation to pay the real estate contract would subject him to contempt. Subsequently, the trial court vacated the property division in the Separation Contract, but left all other provisions intact. Did the trial court abuse its discretion by finding the husband in contempt when the husband had the ability but deliberately failed to pay the real estate contract under the terms of the decree?

II. RESTATEMENT OF FACTS

Appellant Sam Angelo and respondent Marilyn Angelo were married on March 1, 1989. (CP 129) They have two children. (CP 132) The parties separated on January 1, 2000. (CP 129) The husband filed a petition for dissolution on June 28, 2001. (CP 123) The parties signed a Separation Contract on February 11, 2002. (CP 5-14) A Decree of Dissolution based on this agreement was entered on February 12, 2002. (CP 1)

In the section in the parties' Separation Contract entitled "Provisions for Maintenance," the husband agreed to pay the wife

monthly spousal maintenance of \$600 for sixty months. (CP 9) In lieu of additional spousal maintenance, the husband in the same section of the Separation Contract agreed to pay the real estate contract on the property where the wife and children lived:

This debt is being assumed by the husband in lieu of the husband paying additional direct spousal maintenance to the wife. The parties are agreeing to this and the court is ordering it because the wife has no financial ability to make the payments on the real property, which is being assumed by the husband. The wife would need additional spousal maintenance payments from the husband in order to make the payments on the property and it is more efficient for the husband to simply pay off that contract directly.

(CP 9) The husband also specifically agreed that because his obligation under the real estate contract was equivalent to spousal maintenance it would be "subject to the court's contempt powers."

(CP 9)

Shortly after the Decree was entered, the wife learned that the husband, without her knowledge, had sold real property that was either awarded to her in the decree or was intended to secure her spousal maintenance award. (CP 147) The wife also learned that the husband had transferred several properties to his family members. (CP 146-47, 169, 171-72) The wife asked the court to set aside the property settlement in the parties' decree (CP 145)

and filed a fraudulent transfer and common law fraud action against the family members, the husband, and a corporation controlled by the husband. (See CP 171-72)

On April 18, 2003, the trial court vacated only the “property portion of [the] decree” and ordered that the parties “shall have continued temporary use of properties awarded in Decree.” (CP 15) The court’s order specifically provided that “[a]ll other provisions of the Decree of Dissolution entered February 12, 2002, and the Separation Contract incorporated therein shall remain in full force and effect.” (CP 15)

The trial court consolidated the wife’s fraudulent transfer action with the dissolution action for trial. (CP 324-25) On October 13, 2006, after a 13-day trial that dealt solely with the wife’s fraud claims, the trial court entered a money judgment against the husband and his family in favor of the wife. (Supp. CP __, Sub No. 392, 393) The wife subsequently settled with the family members. (See CP 331-34) On February 9, 2007 an amended judgment was entered against the husband for attorney fees, for which the trial court made him solely responsible, and on two fraud claims against the husband unrelated to his family. (CP 331-34) On January 18, 2008, on the husband’s appeal, this court reversed the judgment

against the husband based on the trial court's failure to specifically address the nine elements of fraud in its written findings, and remanded for the trial court to resolve the dissolution proceeding. **Angelo v. Angelo**, 142 Wn. App. 622, 175 P.3d 1096 (2008). A petition for review is pending. Supreme Court Cause No. 81378-7 (March 24, 2008).

The husband continued to pay spousal maintenance to the wife, including maintenance in the form of payments on the real estate contract, after the property division was vacated and pending his appeal. (See CP 19) The husband failed to make the balloon payment due on the real estate contract on April 19, 2007. (CP 19) On September 11, 2007, the wife filed a motion for contempt against the husband for his failure to comply with the spousal maintenance provision of the parties' Decree. (CP 18) The husband alleged that he had reached an agreement with the seller to extend the balloon payment. (CP 44-45) But the wife asserted that the seller advised her that there was no agreement in writing, and as a consequence the seller threatened to foreclose on the property. (CP 19)

On November 2, 2007, Clark County Superior Court Judge Robert Harris found the husband in contempt. (CP 110-114) The

trial court found that payment on the real estate contract was in lieu of spousal maintenance and that the husband's refusal to pay the balloon payment as required under the real estate contract caused him to be in contempt. (Finding of Fact (FF) 2.3, CP 111) The trial court also found that the husband deliberately failed to comply with the decree by unilaterally renegotiating the terms of the real estate contract when he had the ability to pay the contract, and the means to finance the balloon payment, but "deliberately failed to comply." (FF 2.4, 2.5, CP 111) The trial court ordered a judgment against the husband in the amount of the unpaid balance on the real estate contract and awarded attorney fees to the wife. (CP 112)

The husband appeals. (CP 115)

III. ARGUMENT

A. This Court Reviews The Superior Court's Order On Contempt For An Abuse Of Discretion.

RCW 7.21.010(1)(b) defines contempt of court as "intentional disobedience of any lawful judgment, decree, order, or process of the court." "Whether contempt is warranted in a particular case is a matter within the sound discretion of the trial court; unless that discretion is abused, it should not be disturbed on appeal." *King v. Department of Social and Health Services*, 110

Wn.2d 793, 798, 756 P.2d 1303 (1988); see also **Marriage of Davisson**, 131 Wn. App. 220, 224, ¶¶ 6, 7, 126 P.3d 76 (2006) (trial court's findings on contempt are reviewed for an abuse of discretion).

On appeal, the husband does not challenge the factual basis for the trial court's determination that he was in contempt of the spousal maintenance provisions of the decree. Nor does the husband challenge the trial court's finding that he had the ability to meet his spousal maintenance obligation but "deliberately failed" to do so. (FF 2.3, 2.4, CP 111)

Instead, the husband's entire claim on appeal is that his payments under the real estate contract were related to the property division and not spousal maintenance. (See App. Br. 1) But the burden was on the husband to disprove that the payments at issue were related to the wife's support, **Decker v. Decker**, 52 Wn.2d 456, 465, 326 P.2d 332 (1958), and the husband does not challenge the trial court's finding that his obligation under the real estate contract was equivalent to spousal maintenance. (See FF 2.2, 2.3, CP 111) These findings are verities on appeal. **Marriage of Possinger**, 105 Wn. App. 326, 338, 19 P.3d 1109, *rev. denied*, 145 Wn.2d 1008 (2001) (unchallenged findings are verities). Given

the trial court's unchallenged findings, the court did not abuse its discretion in finding the husband in contempt for failing to meet his spousal maintenance obligations under the decree. Neither the vacation of the property division in the Separation Contract and Decree nor this court's subsequent reversal and remand change this result. The contempt order should be affirmed.

B. The Trial Court Did Not Abuse Its Discretion In Finding The Husband In Contempt For Failing To Pay Spousal Maintenance As Required Under The Parties' Decree Of Dissolution.

By agreement and as a matter of fact and law, the husband's obligation to pay the real estate contract was part of his spousal maintenance obligation, and his failure to make those payments subjected him to contempt. *McFerran v. McFerran*, 55 Wn.2d 471, 475, 348 P.2d 222 (1960) (decree for spousal maintenance may be enforced by contempt proceedings). In *McFerran*, the Supreme Court held that the husband's obligation under a divorce decree to pay for repairs on the home where the wife and children lived "leads to the inescapable conclusion ... that provision of the decree bears a reasonable relationship to the husband's duty to support his wife and children." *McFerran*, 55 Wn.2d at 475. Because the provision fell within the definition of spousal maintenance, the husband's failure to

perform was punishable by contempt. *McFerran*, 55 Wn.2d at 475. Similarly here, and as the parties agreed, the husband's obligation to pay the real estate contract on the home where the wife lived with the parties' children "bears a reasonable relationship" to a duty to support, and is enforceable by contempt under *McFerran*.

This case is unlike *Marriage of Young*, 26 Wn. App. 843, 615 P.2d 508 (1980) (App. Br. 11). In *Young*, this court vacated a contempt finding against the husband for his failure to make payments to the wife "in lieu of any interest in her husband's military pension." 26 Wn. App. at 845-46. The husband could not be found in contempt for failing to comply with a provision of a property division because "[n]either the findings of fact and conclusions of law, nor the original decree supports a conclusion that the monthly installments were in any way related to a support obligation." *Young*, 26 Wn. App. at 845. Here, in contrast to *Young*, by the plain terms of the Separation Contract the husband's payments under the real estate contract were "spousal maintenance," and not "property division" as he claims on appeal. (App. Br. 11)

There is nothing ambiguous about the provisions in the agreement making the husband's payments toward the real estate

Separation Contract the equivalent of spousal maintenance to the wife, related directly to her support:

In lieu of additional spousal maintenance, the husband shall continue to pay off the contract on the real property located at 4203 NW Bridge Road, Woodland, Washington 98674.

This debt is being assumed by the husband in lieu of the husband paying additional direct spousal maintenance to the wife.

The wife would need additional spousal maintenance payments from the husband in order to make the payments on the property, and it is more efficient for the husband to simply pay off that contract directly.

(CP 9) Despite the husband's claims to the contrary (App. Br. 12), the provisions of the Separation Contract are plain – the husband's obligation to pay off the real estate contract is spousal maintenance and "is subject to the court's contempt powers." (CP 9)

The fact that the husband was required to pay the real estate contract directly instead of to the wife does not change the obligation's classification as "spousal maintenance" for purposes of enforcement by contempt. (App. Br. 13) ***State v. Ditmar***, 19 Wash. 324, 326, 328, 53 P. 350 (1898) (husband could be held in contempt for failing to pay mortgage on a residence awarded to the wife). This is particularly true when the parties in their agreement recognized that, except for the fact that it was more "efficient" for

the husband to pay the real estate contract directly, the wife would have been awarded monthly spousal maintenance in excess of the \$600 direct transfer payment, to allow her to pay the contract herself. (See CP 9)

The fact that the parties agreed that the husband's obligation to pay the real estate contract did not terminate upon either party's death or the wife's remarriage also did not convert the husband's spousal maintenance obligation into a "property division." (App. Br. 13) Parties can expressly agree that a spouse's maintenance obligation continue beyond either party's death or the obligee spouse's remarriage. RCW 26.09.170(2). Finally, the fact that parties agreed that the payments under the real estate contract would be a "non-taxable event," does not change its classification as maintenance. Whether periodic payments are classified as spousal maintenance does not turn on the tax consequences, but on the purpose for those payments. ***Decker v. Decker***, 52 Wn.2d 456, 326 P.2d 332 (1958) (cited App. Br. 11).

In ***Decker***, the Supreme Court held that the former wife could pursue a contempt action against her former husband for failing to pay community debts unless he could show that these

payments were unrelated to the wife's support:

[T]he husband may be imprisoned until he complies with the court's order, unless: (1) he can show that he does not have the means to comply with the order, or (2) he can show that the particular provision sought to be enforced has no reasonable relation to his duty to support his wife and/or children.

Decker, 52 Wn.2d at 465. Here, the husband does not claim that the real estate contract payments have no reasonable relation to the wife's support. In fact, the parties agreed that the real estate contract was for the support of the wife, as she does not have the financial ability herself to pay the contract. (See CP 9) The parties' agreement designating the real estate contract payments as spousal maintenance for the support of the wife is controlling. **Berry v. Berry**, 50 Wn.2d 158, 161, 310 P.2d 223 (1957).

If "the parties designate certain payments as support money, such designation, when it becomes part of a decree, will be accepted as representing the intention of the court unless other portions of the decree make it apparent that the payments were intended as part of a property settlement." **Berry**, 150 Wn.2d at 161. The husband's obligation to pay off the real estate contract was not included in the provision of the contract assigning debt obligations to the parties (See CP 10-11), but in the parties'

“Provisions for Maintenance,” consistent with the parties’ agreement to designate those payments as spousal maintenance. (CP 9-10)

The husband did not disprove that his obligation to pay the real estate contract was part of his spousal maintenance obligation. He was thus subject to contempt proceedings, and the trial court did not abuse its discretion in finding the husband in contempt for his failure to meet this obligation.

C. The Order Setting Aside The Property Division Did Not Alter Or Estop The Wife From Enforcing The Husband’s Obligation To Pay Spousal Maintenance.

The trial court’s order setting aside the property division in the Separation Contract did not affect the husband’s obligation to pay spousal maintenance. (See CP 15: “All other provisions of the Decree of Dissolution entered February 12, 2002, and the Separation Contract incorporated therein shall remain in full force and effect”) The wife was not estopped from enforcing the spousal maintenance provision in the decree.

Save Columbia CU Committee v. Columbia Community Credit Union, 134 Wn. App. 175, 139 P.3d 386 (2006) (App. Br. 9), does not support the husband’s claim that the wife is judicially estopped from enforcing the spousal maintenance obligation under

the decree. In **Save Columbia**, appellants complained that an organization was estopped from challenging that certain directors serving on the Board of a credit union were illegally in office because the organization had earlier sought to compel the Board to hold a special members' meeting through a mandamus proceeding. 134 Wn. App. at 185, ¶ 22. Appellants argued this implied that the organization had accepted that the directors lawfully held their positions. **Save Columbia**, 134 Wn. App. at 185, ¶ 22. This court rejected the appellants' claim because they could not show that the organization's position was inconsistent. **Save Columbia**, 134 Wn. App. at 186, ¶ 24. More importantly, they could not show that "it was misled or that it changed its position" because of the organization's earlier action. **Save Columbia**, 134 Wn. App. at 186, ¶ 24.

Likewise in this case, the husband fails to show how the wife's earlier actions in seeking to set aside the property division because of the husband's failure to disclose certain transfers of community property is inconsistent with her present position in enforcing the spousal maintenance provisions of the decree of dissolution. The fact that the order setting aside the property division had the practical effect of also setting aside the award of

the real property where the wife and children lived did not affect the husband's obligation to pay the real estate contract as spousal maintenance, nor did it make the payments "impractical." (App. Br. 10) Indeed, the same order that set aside the property division allowed the parties the use of the properties under their control pending resolution of the wife's claims, and upheld all other provisions of the decree. (CP 15)

Thus, the husband's obligation to pay the real estate contract on the home where the wife and children live did not abate because the property division was set aside pending trial on the merits. The husband still maintained control over the income-earning assets awarded to him, which allows him to pay the real estate contract. Just as the wife's need for support did not change as a result of the order setting aside the property division, the husband's ability to support the wife is unchanged.

In any event, the husband's claim that he did not believe he was obligated to continue to pay the real estate contract rings false because he continued to make the payments on the real estate contract for four years after the property division was set aside, and only stopped when the balloon payment came due. If any party is estopped from challenging the trial court's order setting aside the

property division it is the husband, not the wife.

Equitable estoppel is established when the following elements are shown: "(1) an admission, statement, or act inconsistent with the claim afterward asserted; (2) action by the other party on the faith of such admission, statement, or act; and (3) injury resulting from allowing the first party to contradict or repudiate such admission, statement, or act". ***Marriage of Barber***, 106 Wn. App. 390, 396, 23 P.3d 1106 (2001) (citations omitted).

Here, even though the husband continued to abide by the spousal maintenance provision for four years after the property division was set aside, he now inconsistently claims that he had no obligation to do so. The wife relied on the husband's past payment on the real estate contract as an acknowledgment of the effectiveness of the spousal maintenance provision of the Separation Contract. Based on this reliance, the wife brought the present action for contempt against the husband for his failure to continue to pay on the real estate contract. If the husband is now allowed to claim that the obligation under the real estate contract is part of the property division, the wife is injured as she has no redress while the dissolution action is still pending to cause the husband to meet this obligation, and the home where the wife and

children reside will be at risk for foreclosure.

This court's decision in *Angelo v. Angelo*, 142 Wn. App. 622, 175 P.3d 1096 (2008), also does not change the result. The trial court in fact vacated only the "property portion" of the Separation Contract, and ordered that all other provisions of the agreement – including the provision requiring the husband to pay the real estate contract, which was contained in the separate "Provisions for Maintenance" in the Separation Contract – "shall remain in full force and effect." (CP 15) The husband did not supersede the trial court's decision, and it remained fully enforceable pending appeal. RAP 7.2(c); *Burrill v. Burrill*, 113 Wn. App. 863, 873-74, 56 P.3d 993 (2002) (trial court had authority while appeal was pending to award husband a judgment for damage done by the wife to the house that he was awarded). And in any event, if the Separation Contract was improperly vacated, as the husband claims, his obligation under the agreement to pay the real estate contract in lieu of support remains doubly enforceable by contempt.

The order setting aside the property division did not alter the husband's obligation to pay spousal maintenance to the wife. The

trial court properly held the husband in contempt for his failure to fulfill his obligation.

D. This Court Should Award Attorney Fees To The Respondent On Appeal.

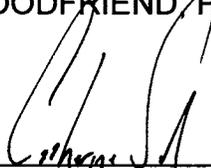
Respondent asks this court to award her attorney fees and costs for responding to this appeal. This court can award attorney fees after considering the relative resources of the parties and the merits of the appeal under RCW 26.09.140; *Leslie v. Verhey*, 90 Wn. App. 796, 807, 954 P.2d 330 (1998), *rev. denied*, 137 Wn.2d 1003 (1999). A party successfully defending an appeal of a contempt order is entitled to attorney fees on appeal under RCW 7.21.030. *R.A. Hanson Co., Inc. v. Magnuson*, 79 Wn. App. 497, 503, 903 P.2d 496 (1995), *rev. denied*, 129 Wn.2d 1010 (1996). Finally, the wife can be awarded fees under the parties' separation contract, which provides that "[i]n the event of any litigation to enforce any terms, provisions or conditions of this Contract, whether in an action relating to dissolution (including post-decree proceedings such as modification or appeal), or in a separate proceeding, the prevailing party may be awarded reasonable attorney fees and costs." (CP 13) The respondent will comply with RAP 18.1(c) and submit an affidavit of financial need.

IV. CONCLUSION

The trial court properly found the husband in contempt for failing to pay spousal maintenance under the provisions of the parties' separation contract as incorporated in their decree of dissolution. This court should affirm the trial court decisions and award attorney fees to the wife on appeal under RCW 26.09.140 and RCW 7.21.030.

Dated this 17th day of July, 2008.

EDWARDS, SIEH, SMITH
& GOODFRIEND, P.S.

By: 

Catherine W. Smith
WSBA No. 9542
Valerie A. Villacin
WSBA No. 34515

Attorneys for Respondent

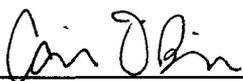
DECLARATION OF SERVICE

The undersigned declares under penalty of perjury, under the laws of the State of Washington, that the following is true and correct:

That on July 17, 2008, I arranged for service of the foregoing Brief of Respondent, to the court and to the parties to this action as follows:

Office of Clerk Court of Appeals - Division II 950 Broadway, Suite 300 Tacoma, WA 98402	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Overnight Mail
Mark Didrickson Attorney at Law 400 Columbia Street, Suite 110 Vancouver, WA 98660	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Overnight Mail
Carolyn M. Drew The Scott Horenstein Law Firm 900 Washington Street, Suite 1020 Vancouver, WA 98666-1507	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Overnight Mail

DATED at Seattle, Washington this 17th day of July, 2008.



Carrie O'Brien

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DIVISION II
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STATE OF WASHINGTON
BY _____ DEPUTY

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Clerk Clark Co.

SUPERIOR COURT OF WASHINGTON FOR THE COUNTY OF CLARK

In re the Marriage of:

SAMUEL ANGELO,

Petitioner,

and

MARILYN ANGELO,

Respondent.

NO. 01-3-01055-4

ORDER

THIS MATTER having come before the Honorable Judge Robert Harris on Respondent's Motion for Relief from Judgment and Motion for Attorney Fees, the Court having reviewed all records and files herein and oral argument of counsel, it is now hereby ORDERED, ADJUDGED and DECREED as follows:

1. The Respondent's Motion to Vacate the Property portion of Decree is granted. *Both parties shall have continued temporary use of properties awarded in as it pertains to the property awarded to Petitioner Sam Angelo. Decree*

2. All other provisions of the Decree of Dissolution entered February 12, 2002, and the Separation Contract incorporated therein shall remain in full force and effect.

3. The determination of final property distribution to Petitioner and additional property to be distributed to Respondent is reserved pending determination of the civil suit Clark County Cause No. 02-2-03635-3.

4. The Respondent's Motion for Attorney Fees is ^{received} granted. The Respondent

121

Petitioner's Request

It will make determination in 10 days

shall have a judgment against the Petitioner

for the sum of \$ _____ in attorney fees and \$ _____ in sanctions.

Ct will review claim for reimbursement of \$3600 wife paid on husband's contract obligation on bridge Rd.

Robert L. Harris
JUDGE ROBERT L. HARRIS

Presented by:

Carolyn M. Drew

CAROLYN M. DREW, WSBA #26243
Of Attorneys for Respondent

[Signature]
Attorney for Petitioner

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FILED

NOV 02 2007

Sherry W. Parker, Clerk, Clark Co.

SUPERIOR COURT OF WASHINGTON
COUNTY OF CLARK

In re the Marriage of:

SAM ANGELO

Petitioner

and

MARILYN ANGELO

Respondent

No. 01-3-01055-4

06-9726508-8
Order on Show Cause re
Contempt/Judgment
(ORCN)

Next Hearing Date:
December 28, 2007 at 9 a.m.

I. Judgment Summary

Judgment summary is as follows

A.	Judgment Creditor	MARILYN ANGELO
B.	Judgment Debtor	SAM ANGELO
C.	Principal judgment amount, Bridge Road Contract balance	\$130,093
D.	Interest to date of Judgment	\$
E.	Attorney fees	\$1,500
F.	Costs	\$
G.	Other recovery amount	\$
H.	Principal judgment shall bear interest at 12% per annum	
I.	Attorney fees, costs and other recovery amounts shall bear interest at 12% per annum	
J.	Attorney for Judgment Creditor	CAROLYN M DREW
K.	Attorney for Judgment Debtor	MARK DIDRICKSON
L.	Other	

** This may be amended to reflect actual balance*

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II. Findings and Conclusions

This Court Finds:

2.1 Compliance With Court Order

Petitioner, SAM ANGELO intentionally failed to comply with a lawful order of the court dated February 12, 2002.

2.2 Nature of Order

The order is related to spousal maintenance

2.3 How the Order was Violated

This order was violated in the following manner (include dates and times, and amounts, if any):

The Decree of Dissolution incorporating the Separation Contract provided that the Respondent was to make the payments on the Bridge Road property directly to Rodney Peterson in lieu of spousal maintenance. That Contract provided a balloon payment would be made on or before April 19, 2007. Petitioner acknowledged contacting Rodney Peterson to extend the terms of the Contract, and made an oral agreement not to pay the balloon payment. The Contract payment and the balloon payment were ordered in lieu of maintenance, and Respondent has failed to comply with the maintenance order of the Court.

2.4 Past Ability to Comply With Order

Petitioner, SAM ANGELO had the ability to comply with the order as follows

Respondent has the ability to pay and knowledge of the terms of the Contract. Respondent's declaration indicated he deliberately failed to comply by unilaterally renegotiating the terms of the Contract.

2.5 Present Ability and Willingness to Comply With Order

Petitioner, SAM ANGELO has the present ability to comply with the order as follows

Respondent's bank records demonstrate he has the means to finance the balloon payment.

2.6 Back Support/Maintenance

See Judgment Summary

////

1 **3.8 Review Date**

The court shall review this matter on or after 45 days.

3 **3.9 Other**

4 Does not apply.

5 **3.10 Summary of RCW 26.09.430 - .480, Regarding Relocation of a Child**

6 This is a summary only For the full text, please see RCW 26 09 430 through 26 09.480

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

9 If the move is outside the child's school district, the relocating person must give notice by
10 personal service or by mail requiring a return receipt. This notice must be at least 60
11 days before the intended move If the relocating person could not have known about the
12 move in time to give 60 days' notice, that person must give notice within 5 days after
13 learning of the move The notice must contain the information required in RCW
14 26 09.440 See also form DRPSCU 07 0500, (Notice of Intended Relocation of A Child)

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

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

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

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

25 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.

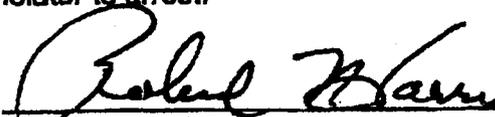
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The relocating person shall not move the child during the time for objection unless (a) the delayed notice provisions apply, or (b) a court order allows the move.

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

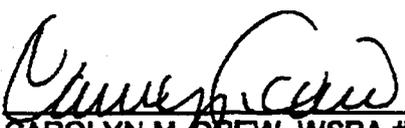
Warning: Violation of residential provisions of this order with actual knowledge of its terms is punishable by contempt of court and may be a criminal offense under RCW 9A.04.060(2) or 9A.40 070(2) Violation of this order may subject a violator to arrest.

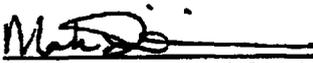
Dated 29 June 2007


Judge/Commissioner

Presented by

Approved for entry.
Notice of presentation waived:


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Of Attorneys for Respondent


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Of Attorneys for Petitioner