

No. 42351-1-II

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COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION II

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In re the Marriage of:

CARY R. CARUGHI,

Appellant,

v.

JOHN G. CARUGHI,

Respondent.

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APPEAL FROM SUPERIOR COURT OF CLARK COUNTY

HONORABLE SCOTT COLLIER, JUDGE

CLARK COUNTY CAUSE NO. 09-3-02822-0

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BRIEF OF THE APPELLANT

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PM 1/25/12

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## **I. ASSIGNMENTS OF ERROR**

**A. ASSIGNMENT OF ERROR NUMBER ONE<sup>1</sup>: THE TRIAL COURT ERRED IN ENTERING FINDINGS OF FACT UNDER PARAGRAPH 2.1 OF THE FINDINGS OF FACT AND CONCLUSIONS OF LAW NUMBERS 2, 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, 19, 20, 23, 24, 38**

**B. ASSIGNMENT OF ERROR NUMBER TWO: THE TRIAL COURT ERRED IN ENTERING THE FINDINGS CONTAINED WITH IN PARAGRAPH 2.15 OF THE FINDINGS OF FACT AND CONCLUSIONS OF LAW REGARDING ATTORNEY FEES.**

**C. ASSIGNMENT OF ERROR NUMBER THREE: THE TRIAL COURT ERRED IN ENTERING THE FINDINGS CONTAINED WITH IN PARAGRAPH 3.12 REGARDING ATTORNEY FEES IN THE DECREE OF DISSOLUTION..**

## **II. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR**

**A. IS THE GUN COLLECTION THE SEPARATE PROPERTY OF JOHN CARUGHI?**

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<sup>1</sup> 1998-2 In RE The Matter of Assignments of Error

### **GENERAL ORDER 98-2 IN RE THE MATTER OF ASSIGNMENTS OF ERROR**

At the request of certain appellate practitioners, the judges of this Division of the Court of Appeals have determined to waive the requirement in RAP 10.3(g) that an appellant's brief must separately assign error to each challenged jury instruction, finding of fact, or conclusion of law.

Henceforth, in Division Two, an appellant's or cross-appellant's brief may use a single assignment of error to identify more than one challenged jury instruction, finding of fact, or conclusion of law.

This waiver is not intended, however, to relieve an appellant or cross-appellant of the duty to provide the verbatim text of any challenged jury instruction or finding of fact, as required by RAP 10.4(c).

**B. DID CARY CARUGHI WASTE COMMUNITY OR SEPARATE ASSETS?**

**C. DO CARY CARUGHI'S ACTIONS DURING MARRIAGE JUSTIFY AWARDING HIGHER ATTORNEY FEES AT DISSOLUTION ?**

**III. STATEMENT OF THE CASE**

**A. STATEMENT OF FACTS**

John and Cary Carughi married on September 17, 1992. (RP-474) For ease of reference parties with a common surname will be referred to by their first name. The couple met several years earlier and lived together for approximately two years prior to marriage. (RP-482)

Cary stopped working before marriage due to a broken hand and due to her pregnancy. (RP-482) The family moved from California to Washington when their son Cameron was approximately 6 months old. (RP-483) During their marriage, Cary and John raised her two sons from a previous relationship and their son together. (RP-491) Although she worked sporadically, she primarily stayed home with the kids. (RP-486 to 490)

Throughout their marriage John worked as an electrician. (RP-103) John started working as a contract electrician in the Middle East beginning in

2004. (RP-104) As a result of his employment, he lived outside of the United States for the majority of the year, returning home on short leaves or between contracts. (RP-105)

John's father collected guns during his lifetime. (RP-107)

After John's father died, John and Cary drove to Houston, Texas to pick up guns and other property belonging to his father. (RP-543 to 547) John's father's will left his collection of weapons to John, but the word "entire" was stricken out and the probate inventory listed a total of 19 guns. (RP-132, 162, Exhibit-81)

John, Cary and her son Craig stayed at John's sister, Cheryl's house for approximately one week. (RP-544) Several heated arguments ensued between John and Cheryl regarding their father's gun collection. (RP-546) John obtained an inventory list of the gun collection either by directing his stepson to search Cheryl's computer or having Cary search for the list in the house. (RP-138, 546, Exhibit 10) John admits he obtained the list without Cheryl's permission. (RP-249) He admits he confronted Cheryl about the word "entire" being stricken from the will. (RP-259) Cheryl and her husband, Flem, resided with John and Cheryl's dad prior to his death. (RP-260)

John indicated that at one point Flem laid the guns out on the floor

and asked John if Flem and Cheryl could keep between 25 and 30 of the guns. (RP-157) John disagreed and took all but 20 to 25 of the guns from Cheryl and Flem's residence. (RP-147) Cheryl indicated she never wanted to see John again because she was angry about him taking the guns and other property. (RP-147)

Cary testified that the guns were removed from Cheryl's house without Cheryl's permission. (RP-418) Cary observed that John was unhappy about the guns that Cheryl and Flem kept. (RP-553) John also took property from his other sister's home, though he was not bequeathed that property in the will. (RP-545)

Cary believes they took a different route home because John worried Cheryl would call the police to report the guns they had taken from her house. (RP-550) Pursuant to John's father's will, the residual estate was to be split between John's two sisters. (RP-555)

John and Cary auctioned a number of the firearms from the collection to obtain a down payment to purchase a house. (RP-106) John purchased 8 firearms during the marriage. (RP-130) John and Cary purchased a home in Yacolt, Washington in 2003. (RP-484)

After John and Cary returned to Washington, they uncrated and

photographed the guns. (RP-151) John auctioned some of the guns to make a down payment on the marital residence he and Cary purchased in Yacolt, Washington. (RP-152)

John never gave Cary permission to dispose of the guns while he was overseas. (RP-152) John and Cary relocated the guns to the residence of Dan and Arlene Hart, mutual friends of the Carughis, house in 2006. (RP-153) John testified that he went to the Harts' residence on a couple of occasions when he was home to check on the guns and wipe them down. (RP-153)

Cary continued to reside in the marital residence in Yacolt, Washington while he worked overseas. (RP-152) John earned a substantial income, grossing \$187,000 in 2010 (RP-104) and in 2008 he earned approximately \$140,000 after taxes. (RP-199) John deposited a portion of his income in a joint account to support the family. (RP-235)

John and Cary took a couple of expensive vacations in 2008 and 2009. (RP-238 to 239)

Before John returned home from Kuwait on September 28, 2009 he learned that the Yacolt residence was in foreclosure. (RP-154) He paid the back taxes and brought the mortgage current. (RP-155 to 156) John testified that he confronted Cary about the foreclosure and she could not give him a

reason why the house was in foreclosure, so he told her not to return to the Yacolt residence. (RP-156) He learned the guns were no longer at the Hart's residence and reported the missing guns to the police. (RP-156 to 157)

Cary and John separated approximately 17 years earlier for a period of six months and they reconciled after she went through an alcohol treatment program. (RP-488) The parties reconciled agreeing that they both give up drinking, although John refused to give up drinking. (RP-489)

Cary testified that John liked the danger involved with working in the Middle East. (RP-492) Early in the marriage, there was an episode of domestic violence. (RP-493) John has an explosive temper and was very controlling. (RP-494) Cary stopped the mail because he would get very angry when he saw the bills. (RP-495) She wanted to enjoy the time that she and the kids spent with John when he was home on leave. (RP-495) Cary admits she did not do a good job of handling paying the bills and that he did not do well with bill paying either. (RP-496)

Cary collected numerous antiques during the marriage. (RP-509 to 518) Cary and John purchased around ten guns during the marriage. (RP-527) She fell behind in paying bills when he started working overseas and continued to have problems paying the bills in a timely manner due to periods of time he

was unemployed or waiting for his wages to be deposited in the account. (RP-530) She pawned some of the guns to try to catch up the mortgage and pay bills. (RP-532)

Cary feared John's anger and tried to refinance the house. (RP-533) She learned that she could not refinance without his knowledge. (RP-533) Cary used some of the money to provide for her sons, some of the money to pay bills and some of the money to gamble. (RP-535) Having her husband working in a war zone caused Cary considerable stress. (RP-536)

Cary suffers from a number of ongoing health issues related to two car accidents. (RP-538 to 543) She takes several prescribed medications to treat chronic back pain, severe headaches and peripheral neuropathy. (RP-538 to 540) She attempted to renew the loans through the pawn shop. (RP-534)

In preparation for the trial, John hired J.R. Larue of Lafollette, Tennessee to appraise the firearms. (RP-81 to 83) In February, 2010 Larue appraised the firearms from a list John provided and a few poor quality photographs. (RP-83, Exhibit 9) In May, 2010 John asked Larue to update the appraisal and John provided Larue with a set of photographs of the guns which were of a better quality. (RP-84) Larue valued the collection at a low value of \$237,600 to a high value of \$398,250. (RP-85)

Randy Robinson, an accountant, prepared John and Cary's taxes for a number of years. (RP-221) He recalls John showing him an antique gun when he was at the house in 2007. (RP-222) He and Cary discussed whether an inheritance was taxable, but John and Cary had received no paperwork regarding the estate at that time. (RP-225)

Two pawn shop owners testified that Cary had pawned guns with them in 2008 and 2009. (RP-286 to 296, 334 to 336) Cary never told John about the pawn shop loans until she was contacted by the police because she feared his anger. (RP-431 to 432)

Neither party presented evidence of debt beyond the mortgage on the Yacolt residence. (RP-573) Cary indicate that the couple frequently had cell phone bills over \$700 per month because of calls to and from John in the Middle East. (RP-447)

John hired Annie Hutchinson, a financial researcher, to review the financial records from 2007 to 2009.(RP-300 to 303, Exhibit 1) During that time some of the couples bank accounts were closed due to overdrafts. (RP-312 to 313) John had no income when he was between jobs. (RP- 314 to 315) There were substantial late fees and foreclosure fees on the mortgage account due to nonpayment. (RP-371) Cary got behind in paying the mortgage and paid

ten months of mortgage payments plus the fees to bring the mortgage current on March 27, 2008. (RP-372) She made the mortgage payment on time for April, 2008. (RP-372) Cary fell behind and again had to make a substantial payment in January, 2009 to prevent foreclosure. (RP-372) No payments were made on the mortgage from February, 2009 until John paid the past due amounts and late fees in October, 2009. (RP-373)

Cary obtained regular employment as an independent contractor driving a pilot car for trucks transporting windmill towers and components in July, 2009. (RP-477) She uses a Jeep owned by her mother to do this work. (RP-476) Although she earned a gross income of \$85,713 from this employment in 2010, the substantial expenses involved such as mileage, meals and lodging reduced her net income from this employment to less than \$700 per month. (RP-412 to 417)

## **B. STATEMENT OF PROCEDURAL HISTORY**

John filed a petition for dissolution of marriage on December 9, 2009. (CP-1) The matter went to bench trial before the Honorable Scott Collier on April 11-13, 2011. The court entered findings of fact and conclusions of law

and a decree of dissolution on June 3, 2011. (CP-17, 28) The court entered an order on reconsideration on June 24, 2011. (CP-65)

From these final orders Cary Carughi timely appeals.

#### IV. ARGUMENT

In the dissolution of a marriage, the trial court has the duty to make a just and equitable distribution of the assets and liabilities of the parties.<sup>2</sup>

These statutory factors are not limiting and the trial court may consider other factors such as "the health and ages of the parties, their prospects for future earnings, their education and employment histories, their necessities and

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<sup>2</sup>**RCW 26.09.080 In a proceeding for dissolution of the marriage or domestic....**

In a proceeding for dissolution of the marriage or domestic partnership, legal separation, declaration of invalidity, or in a proceeding for disposition of property following dissolution of the marriage or the domestic partnership by a court which lacked personal jurisdiction over the absent spouse or absent domestic partner or lacked jurisdiction to dispose of the property, the court shall, without regard to misconduct, make such disposition of the property and the liabilities of the parties, either community or separate, as shall appear just and equitable after considering all relevant factors including, but not limited to:

- (1) The nature and extent of the community property;
- (2) The nature and extent of the separate property;
- (3) The duration of the marriage or domestic partnership; and
- (4) The economic circumstances of each spouse or domestic partner at the time the division of property is to become effective, including the desirability of awarding the family home or the right to live therein for reasonable periods to a spouse or domestic partner with whom the children reside the majority of the time.

financial abilities, their foreseeable future acquisitions and obligations, and whether the property to be divided should be attributed to the inheritance or efforts of one or both of the spouses." In re Marriage of Olivares, 69 Wn. App. 324, 329, 848 P.2d 1281 (1993)

**A. THE FINDINGS OF FACT ARE NOT SUPPORTED BY SUBSTANTIAL EVIDENCE IN THE RECORD.**

This court reviews a trial court's decision following a bench trial to determine whether the findings of fact are supported by substantial evidence in the record and whether those findings support the court's conclusions of law. Dorsey v. King County, 51 Wn. App. 664, 668-69, 754 P.2d 1255 (1988). The appellate court engages in de novo review of conclusions of law. Mains Farm Homeowners Ass'n v. Worthington, 121 Wn.2d 810, 813, 854 P.2d 1072 (1993).

The trial court's findings of fact and conclusions of law are set forth in their entirety at Appendix "A" attached hereto and incorporated herein by reference.

Finding of fact number 2 establishes the value of the home at

\$238,000. Cary finds no support in the record for setting the home value at this amount.

Finding of fact number 3, 4, 16, 19, 20, 21, 23, 38 and paragraph 3.12 of the decree all deal with allegations of the wife committing waste of marital and separate assets. Cary would respectfully submit that the allegation of waste as alleged in these findings is not supported by substantial evidence in the record. The parties had no debt other than the mortgage at the time of separation. (RP-573) Cary paid household expenses and supported herself and three children with the funds supplied by John or obtained from pawning the weapons. (RP-535) The issue of waste is discussed in depth un Section C, infra of this brief.

Findings of Fact Number 5, 6, 7, 9, 10, 24 and 38 relate to the separate property nature of the gun collection. John's father's will left his collection of weapons to John, but the word "entire" was stricken out and the probate inventory listed a total of 19 guns. (RP-132, 162, Exhibit-81) John took all but 20 to 25 of the guns from Cheryl and Flem's residence. (RP-147) John admits that removing the guns proved contentious and his sister told him she never wanted to see him again.. (RP-147)

The contention that Cary contacted a tax attorney for advice regarding

an inheritance is unsupported by the record.. Randy Robinson, an accountant, recalled John showing him an antique gun when he was at the house in 2007. (RP-222) Robinson and Cary discussed briefly whether an inheritance was taxable, but John and Cary had received no paperwork regarding the estate at that time. (RP-225) There is no indication that the parties discussed the specific nature of the inheritance involved.

John and Cary auctioned some of the guns to make a down payment on the marital residence.. (RP-106) During the marriage, John purchased 8 firearms. (RP-130)

There is no evidence in the record that John restricted Cary's ability to manage the couple's finances and affairs while he was out of the country, thus Cary would submit Findings of Fact Number 9, 10 and 24 (Appendix "A") are not supported by the record.

The trial court's characterization of the gun collection as separate property is discussed in depth un Section B, infra of this brief.

There is no evidence in the record that this matter would have settled but for Cary's actions during the marriage, thus the court's findings as to attorney fees are unsupported by the record. (Appendix "A", Appendix "B")

**B. THE GUN COLLECTION WAS NOT JOHN'S SEPARATE PROPERTY.**

All property acquired during a marriage is presumed to be community property. RCW 26.16.030

Property acquired via inheritance or gift to one spouse alone may be characterized as the separate property of the spouse receiving the gift or inheritance.<sup>3</sup> The facts of this case do not support the trial court's finding that the guns were obtained as an inheritance or a gift.

The trial court must characterize the parties' property as either community or separate. In re Marriage of Olivares supra at 329 The appellate court reviews a trial court's property characterization de novo. In the Matter of the Marriage of Chumbley, 150 Wn.2d 1, 5, 74 P.3d 129 (2003).

The trial court presumes property acquired during marriage is community in character. Dean v. Lehman, 143 Wn.2d 12, 19, 18 P.3d 523 (2001). 'In disputed cases, the question of whether property is community or

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<sup>3</sup>**RCW 26.16.010 Property and pecuniary rights owned by a spouse before....**

Property and pecuniary rights owned by a spouse before marriage and that acquired by him or her afterwards by gift, bequest, devise, descent, or inheritance, with the rents, issues and profits thereof, shall not be subject to the debts or contracts of his or her spouse, and he or she may manage, lease, sell, convey, encumber or devise by will such property without his or her spouse joining in such management, alienation or encumbrance, as fully, and to the same extent or in the same manner as though he or she were unmarried.

separate is retrospectively determined by its character at the date the property was acquired.' In the Matter of the Marriage of Zahm, 138 Wn.2d 213, 223, 978 P.2d 498 (1999).

The trial court's factual findings supporting the separate property characterization require substantial evidence to support them. In re Marriage of Skarbek, 100 Wn. App. 444, 447, 997 P.2d 447 (2000).

The law favors characterization of property as community property unless there is no question of its separate character. In re Marriage of Brewer, 137 Wn.2d 756, 766-67, 976 P.2d 102 (1999).

Where direct and positive evidence is proffered to the contrary, however, this presumption can be rebutted. In re Marriage of Olivares, supra at 336

John's father's will left his collection of weapons to John, but the word "entire" was stricken out and the probate inventory listed a total of 19 guns. (RP-132, 162, Exhibit-81) No evidence in the record explains why the word "entire" was stricken out in the will as reference to the gun collection. Cheryl and Flem lived with John and Cheryl's dad prior to his death. (RP-260) John admits to confronting Cheryl about the word "entire" being stricken from the will. (RP-259) He never challenged the inventory of 19 guns. John took all

but 20 to 25 of the guns from Cheryl and Flem's residence. (RP-147) He admits that removing the guns proved contentious and his sister told him she never wanted to see him again.. (RP-147) Any guns in excess of the 19 listed in the inventory were not part of John's inheritance. and thus are community property acquired during the marriage.

**C. CARY DID NOT WASTE COMMUNITY OR SEPARATE PROPERTY.**

It is well settled law that when evaluating the parties' property in a dissolution proceeding, "the trial court may properly consider a spouse's waste or concealment of assets." In re Marriage of Wallace, 111 Wn. App. 697, 708, 45 P.3d 1131 (2002), review denied, 148 Wn.2d 1011 (2003). Because the guns were pawned prior to separation, Cary would submit the court has no ability to distribute that asset, nor to set a value on the guns.

"When exercising this broad discretion, a trial court focuses on the assets then before it -- i.e., on the parties' assets at the time of trial. If one or both parties disposed of an asset before trial, the court simply has no ability to distribute that asset at trial." In re Marriage of White, 105 Wn. App. 545, 549,

20 P.3d 481 (2001)

The evidence in this case indicates that the parties had no debt at the time of separation other than the mortgage on the marital home. (RP-573) Cary used the money to support herself and three children while John worked overseas. (RP-491) The lack of evidence of any other debt indicates she paid all of the other household bills. She admits that neither she nor John were good money managers. (RP-496) She feared his explosive temper and kept information from him in an effort to keep the peace. 494 to 496)

Cary would submit the evidence presented at trial fails to establish that she committed waste of community or separate property.

#### **D. ATTORNEY FEE AWARD AT TRIAL**

The trial court found that but for Cary's actions that the case would have most likely settled and that her actions increased fees and costs for both parties. (Appendix "A", Paragraph 2.21, Finding Number 38, Appendix "B", Paragraph 3.12) There is no specification as to whether the court is referring to her actions during the marriage or during the dissolution proceedings. Cary would submit that the record does not support these findings in either regard.

A trial court has discretionary authority to order an award of attorney fees in a dissolution case. In re Marriage of Crosetto, 82 Wn. App. 545, 563,

918 P.2d 954 (1996).

A court abuses its discretion if the decision is manifestly unreasonable or is exercised on untenable grounds or for untenable reasons. Brandli v. Talley, 98 Wn. App. 521, 523-24, 991 P.2d 94 (1999). A trial court may award a party legal fees caused by the other party's intransigence. In re Marriage of Greenlee, 65 Wn. App. 703, 708, 829 P.2d 1120, review denied, 120 Wn.2d 1002 (1992). Intransigence is the quality or state of being uncompromising. Schumacher v. Watson, 100 Wn. App. 208, 216, 997 P.2d 399 (2000). Intransigent conduct includes "foot-dragging" or obstructionist behavior, repeatedly filing unnecessary motions, or making a trial unduly difficult with increased legal costs. Greenlee, 65 Wn. App. at 708.

Cary would respectfully submit that no evidence in the record establishes intransigence on her part and that the award of attorney fees constitutes an abuse of discretion.

#### **D. ATTORNEY FEES**

Pursuant to RAP 18.1(b) and RCW 26.09.140, Cary requests an award of reasonable attorneys fees and costs in this matter. She has had to expend considerable funds to appeal the trial court's erroneous rulings in this matter.

## V. CONCLUSION

This court should reverse the trial court's Findings as indicated above, find that the gun collection in excess of the 19 guns John inherited in his father's will is community property and that Cary did not commit waste of community or separate assets and award her attorney fees on appeal.

Respectfully submitted this 25<sup>th</sup> day of January, 2012,

  
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SUZAN L. CLARK, WSBA #17476  
Attorney for the Appellant

## **APPENDIX “A”**

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**Superior Court of Washington  
County of**

In re the Marriage of:

JOHN G. CARUGHI

Petitioner,

and

CARY CARUGHI

Respondent.

No. 09 3 02822 0

**Findings of Fact and  
Conclusions of Law (Marriage)  
(FNFL)**

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**I. Basis for Findings**

The findings are based on:

Trial. The following people attended:

- Petitioner.
- Petitioner's Lawyer.
- Respondent.
- Respondent's Lawyer.

**II. Findings of Fact**

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

**2.1 Residency of Petitioner**

The Petitioner is a resident of the state of Washington.

**2.2 Notice to the Respondent**

The respondent appeared, responded or joined in the petition.

**2.3 Basis of Personal Jurisdiction Over the Respondent**

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The facts below establish personal jurisdiction over the respondent.

The respondent is currently residing in Washington.

**2.4 Date and Place of Marriage**

The parties were married on August 17, 1992 at Vancouver, WA.

**2.5 Status of the Parties**

Husband and wife separated on September 29, 2009.

**2.6 Status of Marriage**

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

**2.7 Separation Contract or Prenuptial Agreement**

There is no written separation contract or prenuptial agreement.

**2.8 Community Property**

The parties have real or personal community property as set forth in Exhibit A. This exhibit is attached or filed and incorporated by reference as part of these findings.

**2.9 Separate Property**

The husband has real or personal separate property as set forth in Exhibit A. This exhibit is attached or filed and incorporated by reference as part of these findings.

The wife has real or personal separate property as set forth in Exhibit A. This exhibit is attached or filed and incorporated by reference as part of these findings.

**2.10 Community Liabilities**

The parties have incurred community liabilities as set forth in Exhibit A. This exhibit is attached or filed and incorporated by reference as part of these findings.

**2.11 Separate Liabilities**

The husband has incurred separate liabilities as set forth in Exhibit A. This exhibit is

2 attached or filed and incorporated by reference as part of these findings.

4 The wife has incurred separate liabilities as set forth in Exhibit A. This exhibit is  
6 attached or filed and incorporated by reference as part of these findings.

8 **2.12 Maintenance**

10 Maintenance should be ordered because there is a need by the wife and the husband has  
12 the ability to pay. The husband owes for the first half of May 2011 and the court finds  
14 that he has not paid his maintenance in a timely manner. The husband shall owe the full  
16 \$3200 for the month of May 2011; he shall pay \$3000 in June and \$3000 in July of 2011,  
thereafter he shall pay \$2200.00 per month in maintenance for a total of 34 months  
thereafter.

18 **2.13 Continuing Restraining Order**

20 Does not apply.

22 **2.14 Protection Order**

24 Does not apply.

26 **2.15 Fees and Costs**

28 The judgment for \$5000, against the husband in favor of the wife, is not extinguished and  
30 is increased by \$500 to \$5500.00. The judgment shall continue to accrue interest at 12%.  
32 The court finds that due to the wife's marital waste, the husband and the wife have  
34 increased their attorney fees and the husband has incurred additional attorney fees and  
costs in the federal case. The court retains jurisdiction in this matter and the attorneys  
36 shall provide a cost bill through the date of the court's findings on May 12, 2011. When  
the federal matter is concluded, the court will consider assessing some of the husband's  
38 attorney fees and costs to the wife. The court will not be awarding fees dollar for dollar,  
but the wife will be expected to take on some of the costs because the court finds that but  
40 for her actions, these costs would not have been incurred.

42 **2.16 Pregnancy**

44 The wife is not pregnant.

46 **2.17 Dependent Children**

2 The parties have no dependent children of this marriage.

4 **2.18 Jurisdiction Over the Children**

6 Does not apply because there are no dependent children.

8 **2.19 Parenting Plan**

10 Does not apply.

12 **2.20 Child Support**

14 Does not apply.

16 **2.21 Other:** The court makes these additional findings:

- 18
- 20 1. The wife has had management issues with regard to finances; she showed no ability  
22 to manage finances with regard to the marital home and allowed it to go into  
24 foreclosure twice; she lacks the skills ~~on the money~~ to manage the family home and it  
26 is to be awarded to the husband;
- 28 2. The court values the home at \$238,000.00 and values the mortgage on the home at  
30 \$151, 000. The court reverses its ruling as to the CMA estimate which was admitted  
32 at the time of trial because it was not objected to in the ER904 statement. Upon  
34 review and deliberation by the court, the court specifically finds that the CMA  
36 estimate should not have been admitted or considered at the time of trial;
- 38 3. The wife is awarded \$43,500 in equity for the marital home but the husband is not  
40 required to pay any marital lien pending further order of the court based on the  
42 court's finding of marital waste being committed by the wife;
- 44 4. The husband may sell the marital home but he will be required to set aside  
46 \$50,000.00 to cover the wife's marital equity and interest in the home; Interest on the  
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wife's martial equity of \$43,500 shall accrue interest at 4% rate commencing May 2011;

5. The gun collection is the separate property of the husband and came from his father's estate. The court finds by clear, cogent and convincing evidence that the guns were acquired during the marriage but there was <sup>credible</sup> no evidence that they came from any location other than the husband's father's gun collection in Texas;

6. The court finds that while the word "entire" was crossed out in the husband's father's will, the will states that the collection was to go to the husband. The court finds that while the will inventory stated that there was 19 guns, in fact the court finds that there were hundreds of guns. Family members who handled the estate may have wanted to avoid an estate tax which the court indicates may have existed in Texas; the heirs to the estate <sup>as proceeds to have</sup> signed off on probate and while the husband received the gun collection, his sisters received money and real property which leads the court to find that there was an equitable distribution of the inheritance.

7. The court finds that the wife's theory that the guns became community property because she and the husband went to Texas and removed the guns in secret – is not credible. The court finds that by clear, cogent and convincing evidence that the husband and the wife prepared a custom made trailer and that the amount of guns removed made it <sup>as practical</sup> impossible for the husband's sister to be unaware of their removal. The sister never filed any action to have the guns returned after their removal, and the wife spoke to a tax attorney upon return to Washington regarding whether or not they would incur a tax liability because of the receipt of the husband's inheritance. The

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totality of the evidence indicates that the entire gun collection was and is the husband's separate property;

8. The court values the gun collection at \$380,000.00 which is the higher end of the median range provided by the expert at the time of trial. Mr. LaRue valued the guns between \$262,000.00 and \$448,000.00. The court finds that the facts and circumstances showed that the gun collection was well maintained and should be valued at the higher end of the range.
9. The court finds that the husband did not delegate management, control or authority of his separate gun collection to the wife;
10. The Court finds that the wife acted without authority when she removed a portion of the gun collection from storage and pawned them;
11. The court finds that the husband was unaware of the wife's removal of his separate guns from the gun collection and that he never approved of any pawning or sale of this separate property;
12. The Court finds that the wife lied to the husband and deceived him regarding her removal and pawning of the gun collection;
13. The Court finds that it was not until law enforcement became involved did the husband become aware of the wife's pawning of the gun collection;
14. The Court finds that the wife intentionally kept the pawning of the weapons from her husband because it was her intent to redeem the weapons from the pawn shops before the husband became aware of her activities;
15. The court finds that the wife had serious financial management issues in that she allowed the house to go into foreclosure twice despite receiving approximately \$4,000

2 to \$6,000.00 per month which would have covered the mortgage payment; that she  
4 had approximately \$4300.00 in overdraft charges and that she stopped mail service  
6 during periods of time when the husband was home so that he would not learn of their  
8 financial situation;

10 16. The Court finds that the wife did not have a true economic necessity to pawn the gun  
12 collection and that her withdrawals of large sums of money from ATM machines and  
14 bank withdrawals indicate she committed marital waste; La Center is a small town  
16 that has casinos and the parties do not reside there; the evidence indicates that the  
18 wife removed funds from banks and ATM's at casino's and banks near casino's.

20 17. The totality of the circumstances surrounding the bank withdrawals indicate that the  
22 wife had serious money management issues involving gambling;

24 18. The court finds that while the couple did gamble together socially, it did not authorize  
26 the wife to have carte blanche with the couples finances;

28 19. The wife spent funds which amounted to committing waste to the clear detriment of  
30 the marital community;

32 20. The wife spent both community funds and the husband's separate property funds in  
34 committing waste;

36 21. The value of the wife's waste has not fully been determined and the court retains  
38 jurisdiction in the matter to make a finding after the federal case has been concluded;

40 22. The court awards maintenance and finds that under the statutory scheme, the marital  
42 waste does not prevent the court from finding that the wife has a financial need and  
44 the husband has an ability to pay;

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23. The husband has two IBEW pensions and there is no dispute that there should be an equitable distribution of these funds based on the length of the marriage; The distribution is 50-50; The QDRO may be prepared, however, the distribution is reserved pending the court's further determination of the value of the wife's marital waste; the court may offset the husband's losses by the wife's marital waste in the final distribution of the retirement accounts. The husband is restrained from removing funds from the retirement account pending a final determination of what, if any value will be transferred to the wife. Counsel for the wife may contact the benefits administrator to advise of the restraint on any distribution pending approval of the wife, or further order of this court.

24. The federal court action is awaiting the ruling of this court and the court specifically finds that the wife lacked any authority or control over the husband's gun collection and she specifically lacked the authority to pawn such guns and did so without his knowledge, authority or consent.

25. The court finds that two of the husband's guns which were pawned, were subsequently sold prior to a court order being issued restraining further sale of the guns from the collection; the value of these guns will have to be determined and the wife <sup>may</sup> ~~shall~~ be responsible to the husband for the value of this loss;

26. The court finds that the Glock, shotgun and .22 caliber weapon which were acquired during the marriage are community property; the wife is to be awarded the Glock and the shotgun; the husband is awarded the .22;

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27. The court finds that there are several fishing rods which are community property; they are to be equally divided with the wife having first pick and they shall be selected on an alternating basis until they are all distributed;

28. The court finds that there are several paintings which are community property and they are to be equally divided; the wife shall have first pick and and they shall be selected on an alternating basis until they are all distributed;

29. The court finds that there are several DVD's that are community property. The husband shall have first pick and they shall be selected on an alternating basis until they are all distributed;

30. The court finds that there are two carving sets which are community property; Each party shall have one and the husband shall have first pick;

31. The court finds that the husband is working out of the country and the parties shall e-mail each other regarding their picks and if they cannot agree on the distribution then the court retains jurisdiction to make further division of the community property;

32. The court finds that the parties have several vehicles. The husband shall be awarded the F-250, and the K-5 blazer; the wife shall be awarded the Nissan;

33. The wife shall cooperate with allowing all junk vehicles to be removed from the marital property; if she has the titles to the vehicles, she shall provide them to the junk hauler or scrap metal hauler and she shall make every effort to have them removed from the property; she may keep the proceeds from the removal of these vehicles from the marital property;

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34. The court finds that the 2009 taxes have not been filed and they will need to be filed. Both parties are to cooperate with this filing and the husband shall be directed to pay any tax liability and all costs of preparation;
35. The court does not find the husband in contempt for his late payment of maintenance but the court does find that the wife's attorney is granted \$500 in fees for having to bring the motion; the court warns the husband that he must keep his maintenance payments current.
36. The husband is directed to establish a direct payment option for the wife commencing in July 2011 with equal payments of \$1100.00 twice per month so that there is an accounting for both sides of the payments; the wife shall provide information regarding her account for the payment to be deposited in.
37. Both sides are directed to provide an accounting of costs and fees through May 12, 2011 and to present them at a future court hearing when the court determines the allocation of attorneys and costs to the parties;
38. The court finds that but for the wife's actions, the case most likely would have settled and that her actions increased fees and costs for both parties; ~~It is the intention of the court to hold her accountable for these additional fees and costs.~~

**III. Conclusions of Law**

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

**3.1 Jurisdiction**

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

**3.2 Granting a Decree**

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The parties should be granted a decree.

**3.3 Pregnancy**

Does not apply.

**3.4 Disposition**

The court should determine the marital status of the parties, make provision for a parenting plan for any minor children of the marriage, make provision for the support of any minor child of the marriage entitled to support, consider or approve provision for maintenance of either spouse, make provision for the disposition of property and liabilities of the parties, make provision for the allocation of the children as federal tax exemptions, make provision for any necessary continuing restraining orders, and make provision for the change of name of any party. The distribution of property and liabilities as set forth in the decree is fair and equitable.

**3.5 Continuing Restraining Order**

Does not apply.

**3.6 Protection Order**

Does not apply.

**3.7 Attorney Fees and Costs: Reserved pending further action of the court.**

Dated: 6-3-11

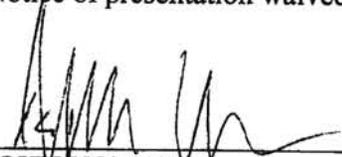
**/s/ Scott A. Collier**

**Judge Scott Collier**

Presented by:

Approved for entry; as to form  
Notice of presentation waived:

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\_\_\_\_\_  
LIAM MCGILL  
Attorney for Petitioner  
WSBA 25886

  
\_\_\_\_\_  
JOHN VOMACKA  
Attorney for Respondent  
WSBA11231

## **APPENDIX “B”**

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SUPERIOR COURT OF WASHINGTON  
FOR THE COUNTY OF CLARK

In re the Marriage of:

JOHN G. CARUGHI

Petitioner,

and

CARY R. CARUGHI

Respondent.

Case No.: 09-3-02822-0

DECREE OF DISSOLUTION (DCD)

**COPY  
ORIGINAL FILED  
JUN 03 2011**

I. JUDGMENT/ORDER SUMMARIES

1.1 RESTRAINING ORDER SUMMARY:

Does not apply.

Court G. Weber, Clark, Clark Co.

1.2 REAL PROPERTY JUDGMENT SUMMARY:

Real Property Judgment Summary is set forth below:

Assessor's property tax parcel or account number:

Or

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

#38 SEC 7 T4N R3EWM 5.09A

See Page \_\_\_\_\_ for full legal description

1.3 MONEY JUDGMENT SUMMARY:

Judgment Summary is set forth below.

A. Judgment creditor	CARY R. CARUGHI	
B. Judgment debtor	JOHN G. CARUGHI	
C. Principal judgment amount		\$
D. Interest to date of judgment		\$ 0
E. Attorney's fees		\$ 0

2 F. Costs \$  
4 G. Other recovery amount \$ \_\_\_\_\_  
H. Principal judgment shall bear interest at 11% per annum  
6 I. Attorney's fees, costs and other recovery amounts shall bear interest at 11 % per annum  
J. Attorney for judgment creditor JOHN VOMACKA  
8 K. Attorney for judgment debtor LIAM MCGILL  
L. Other:

10 *END OF SUMMARIES*

12 II. BASIS

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

16 III. DECREE

18 IT IS DECREED that:

20 3.1 STATUS OF THE MARRIAGE.

22 The marriage of the parties is dissolved.

24 3.2 PROPERTY TO BE AWARDED THE HUSBAND.

26 The husband is awarded as his separate property the property set forth in Exhibit A.  
28 His separate property include those items indicated in the Findings of Fact herin.  
30 This exhibit is attached or filed and incorporated by reference as part of this decree.  
32

34 3.3 PROPERTY TO BE AWARDED TO THE WIFE.

36 The wife is awarded as her separate property the property set forth in Exhibit A.  
38 This exhibit is attached or filed and incorporated by reference as part of this decree.

40 3.4 LIABILITIES TO BE PAID BY THE HUSBAND.

42 The husband shall pay the community or separate liabilities set forth in Exhibit A.

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

48 3.5 LIABILITIES TO BE PAID BY THE WIFE.

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The wife shall pay the community or separate liabilities set forth in Exhibit A. This exhibit is attached or filed and incorporated by reference as part of this decree.

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

3.6 HOLD HARMLESS PROVISION.

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

3.7 SPOUSAL MAINTENANCE.

Maintenance should be ordered because there is a need by the wife and the husband has the ability to pay. The husband owes for the first half of May 2011 and the court finds that he has not paid his maintenance in a timely manner. The husband shall owe the full \$3200 for the month of May 2011; he shall pay \$3000 in June and \$3000 in July of 2011, thereafter he shall pay \$2200.00 per month in maintenance for a total of 34 months thereafter.

3.8 CONTINUING RESTRAINING ORDER.

Does not apply.

3.9 JURISDICTION OVER THE CHILDREN.

Does not apply because there are no dependent children.

3.10 PARENTING PLAN.

Does not apply.

3.11 CHILD SUPPORT.

Does not apply.

2 3.12 ATTORNEY'S FEES, OTHER PROFESSIONAL FEES AND COSTS.

4 The judgment for \$5000, against the husband in favor of the wife, is not  
6 extinguished and is increased by \$500 to \$5500.00. The judgment shall continue to  
8 accrue interest at 12%, but this amount may be offset in the future. The court finds that  
10 due to the wife's marital waste, the husband and the wife have increased their attorney  
12 fees and the husband has incurred additional attorney fees and costs in the federal case.  
14 The court retains jurisdiction in this matter and the attorneys shall provide a cost bill  
through the date of the court's findings on May 12, 2011. When the federal matter is  
concluded, the court ~~will~~ be awarding some of the husband's attorney fees and costs to  
the wife. The court ~~will~~ not be awarding fees dollar for dollar, but the wife ~~will~~ be  
expected to take on some of the costs because the court finds that but for her actions,  
these costs would not have been incurred.

16 3.13 NAME CHANGES.

18 Does not apply.

22 3.14 OTHER.

26 Dated: JUNE 3, 2011 /s/ Scott A. Collier

JUDGE SCOTT COLLIER

30 Presented by:

30 Approved for entry; *on f m*  
32 Notice of presentation waived:

34 

36 LIAM MCGILL  
38 Attorney for Petitioner  
40 WSBA 25886

34 

36 JOHN VOMACKA  
38 Attorney for Respondent  
40 WSBA11231

EXHIBIT A

PROPERTY TO THE WIFE

Cary R. Carughi shall be granted and conveyed the following real and personal property, free and clear of any right, title or interest of John G. Carughi therein, except as otherwise provided herein:

1. The wife is awarded \$43,500 in equity for the marital home but the husband is not required to pay any marital lien pending further order of the court based on the court's finding of marital waste being committed by the wife;
2. The husband has two IBEW pensions and there is no dispute that there should be an equitable distribution of these funds based on the length of the marriage; The distribution is 50-50; The QDRO may be prepared, however, the distribution is reserved pending the court's further determination of the value of the wife's marital waste; the court may offset all or a portion of the husband's losses by the wife's marital waste in the final distribution of the retirement accounts. The husband is restrained from removing funds from the retirement account pending a final determination of what, if any value will be transferred to the wife. Counsel for the wife may contact the benefits administrator to place restraint on any distribution pending approval of the wife, or further order of this court.
3. The court finds that the Glock, shotgun and .22 caliber weapon which were acquired during the marriage are community property; the wife is to be awarded the Glock and the shotgun; the husband is awarded the .22;

4. The court finds that there are several fishing rods which are community property; they are to be equally divided with the wife having first pick and they shall be selected on an alternating basis until they are all distributed;
5. The court finds that there are several paintings which are community property and they are to be equally divided; the wife shall have first pick and and they shall be selected on an alternating basis until they are all distributed;
6. The court finds that there are several DVD's that are community property. The husband shall have first pick and they shall be selected on an alternating basis until they are all distributed;
7. The court finds that there are two carving sets which are community property; Each party shall have one and the husband shall have first pick;
8. The court finds that the parties have several vehicles. The wife shall be awarded the Nissan;
9. The wife shall cooperate with allowing all junk vehicles to be removed from the marital property; if she has the titles to the vehicles, she shall provide them to the junk hauler or scrap metal hauler and she shall make every effort to have them removed from the property; she may keep the proceeds from the removal of these vehicles from the marital property;
1. 10. All personal and household property within her possession and residence including but not limited to furniture, furnishings, appliances, clothing, jewelry, books, etc. in addition to all items listed "to WIFE" on Property Settlement Division Worksheet in possession of the parties. The parties will work together to determine the date that said items shall be exchanged.

11. The following bank and investment accounts

US Bank Account:

Checking Account # 6619  
Checking Account # 8628  
Checking Account # 9718  
Checking Account # 6228

- 12.. Any and all life insurance policies insuring her life not specifically referred to herein, including all expectancy and beneficial rights; all insurance policies insuring any assets awarded to her herein or belonging to her; any and all insurance in her name not specifically referred to herein relating to medical, hospitalization and dental care.
13. Any and all rights and benefits derived as a result of her past or present employment, union affiliation, military service, United States or other citizenship and/or residency within a state.
14. An additional awards granted to her pursuant to any supplemental actions reserved by the court.
15. The judgment for \$5000, against the husband in favor of the wife, is not extinguished and is increased by \$500 to \$5500.00.. The judgment shall continue to accrue interest at 12%. The court finds that due to the wife's marital waste, the husband and the wife have increased their attorney fees and the husband has incurred additional attorney fees and costs in the federal case. The court retains jurisdiction in this matter and the attorneys shall provide a cost bill through the date of the court's findings on May 12, 2011. When the federal matter is concluded, the court will be awarding some of the husband's attorney fees and costs to the wife. The court will not be awarding fees dollar for dollar, but the wife will be expected to take on some of the costs because the court finds that but for her actions, these costs would not have been incurred.

II.

PROPERTY TO THE HUSBAND

John G. Carughi shall be granted and conveyed the following real and personal property, clear of any right, title or interest of Cary R. Carughi therein, except as otherwise provided herein:

- 1 The home and real property located at 31119 NE Spring Hill Rd., Yacolt, Washington, legally described as: #38 SEC 7 T4N R3EWM 5.09A subject to the wife's equitable interest as outlined above. The husband may sell the marital home but he will be required to set aside and pay into his attorney's trust account for safekeeping \$50,000.00 to cover the wife's marital equity and interest in the home; Interest on the wife's marital equity of \$43,500 shall accrue at 4% commencing May 2011;
2. The antique gun collection including the guns subject to the federal lawsuit. This gun collection is the separate property of the husband and was part of his father's collection. The court finds by clear, cogent and convincing evidence that the guns were acquired during the marriage but there was no evidence that they came from any location other than the husband's father's gun collection in Texas: The court finds that the Glock, shotgun and .22 caliber weapon which were acquired during the marriage are community property; the husband is awarded the .22;
4. The husband has two IBEW pensions and there is no dispute that there should be an equitable distribution of these funds based on the length of the marriage; The distribution is 50-50; The QDRO may be prepared, however, the distribution is reserved pending the court's further determination of the value of the wife's marital waste; the court may offset the husband's losses by the wife's marital waste in the final distribution of the retirement accounts. The

husband is restrained from removing funds from the retirement account pending a final determination of what, if any value will be transferred to the wife. Counsel for the wife may contact the benefits administrator to advise of the restraint on any distribution pending approval of the wife, or further order of this court;

5. The court finds that there are several fishing rods which are community property; they are to be equally divided with the wife having first pick and they shall be selected on an alternating basis until they are all distributed;
6. The court finds that there are several paintings which are community property and they are to be equally divided; the wife shall have first pick and and they shall be selected on an alternating basis until they are all distributed;
7. The court finds that there are several DVD's that are community property. The husband shall have first pick and they shall be selected on an alternating basis until they are all distributed;
8. The court finds that there are two carving sets which are community property; Each party shall have one and the husband shall have first pick;
9. The court finds that the parties have several vehicles. The husband shall be awarded the F-250, and the K-5 blazer;
10. All personal and household property within his possession and residence including but not limited to furniture, furnishings, appliances, clothing, jewelry, books, etc. subject to the distribution list of personal property divided by the court in possession of the parties. The parties will work together to determine the date that said items shall be exchanged.

10. The following bank and investment accounts:

<u>Washington Mutual</u>	<u>Account # 1486</u>
<u>Washington Mutual</u>	<u>Savings Account # 4262</u>
<u>Washington Mutual</u>	<u>Account # 4270</u>
<u>Washington Mutual</u>	<u>Account # 4582</u>

<u>Washington Mutual</u>	<u>Account # 7320</u>
<u>Washington Mutual</u>	<u>Account # 9228 linked w/Savings 9427</u>
<u>Washington Mutual</u>	<u>Account # 9210</u>
<u>West Coast Bank</u>	<u>Account 2032 linked w/ savings 6245</u>
<u>West Coast Bank</u>	<u>Account 9326 Cameron</u>
<u>West Coast Bank</u>	<u>Account 6245 Savings</u>
<u>West Coast Bank</u>	<u>Account 6694</u>
<u>Bank of America</u>	<u>Account # 4080 Saving</u>
<u>Bank of America</u>	<u>Account # 4080 Checking</u>

11. Any and all life insurance policies insuring his life not specifically referred to herein, including all expectancy and beneficial rights; all insurance policies insuring any assets awarded to him herein or belonging to him; any and all insurance in his name not specifically referred to herein relating to medical, hospitalization and dental care.
12. Any and all rights and benefits derived as a result of his past or present employment, union affiliation, military service, United States or other citizenship and/or residency within a state subject to the wife's interests as stated above.
13. An additional awards granted to him pursuant to any supplemental actions reserved by the court.

### III.

#### OBLIGATIONS TO THE WIFE

Cary R. Carughi shall assume and pay the following debts:

1. All debts and obligations encumbering property awarded to her.

2. All debts and obligations individually incurred by her after the date of the parties' separation, September 29, 2009.
3. The court finds that two of the husband's guns which were pawned, were subsequently sold prior to a court order being issued restraining further sale of the guns from the collection; the value of these guns will have to be determined and the wife ~~shall~~<sup>may</sup> be responsible to the husband for all or a portion of the value of this loss;
4. The value of the wife's waste has not fully been determined and the court retains jurisdiction in the matter to make a finding after the federal case has been concluded;

Cary R. Carughi further covenants and agrees that if any claim, action or proceeding shall hereafter be brought seeking to hold John G. Carughi liable on account of any such debt, liability, act or omission of hers, she will, at her sole expense, defend him against any such claim or demand whether or not well-founded, and that she will hold him harmless therefrom and indemnify him if he should be required to pay.

#### IV.

#### OBLIGATIONS TO THE HUSBAND

John G. Carughi shall assume and pay the following debts:

1. All debts and obligations encumbering property awarded to him, including the underlying mortgage on the house awarded to him.
2. All debts and obligations individually incurred by him after the date of the parties' separation, September 29, 2009.

3. The following debts and obligations:

The court finds that the 2009 taxes have not been filed and they will need to be filed. Both parties are to cooperate with this filing and the husband shall be directed to pay any tax liability as well as the costs of preparation;

4. The court does not find the husband in contempt for his late payment of maintenance but the court does find that the wife's attorney is granted \$500 in fees for having to bring the motion;

5. The judgment for \$5000, against the husband in favor of the wife, is not extinguished and is increased by \$500 to \$5500.00. The judgment shall continue to accrue interest at 12%. The court finds that due to the wife's marital waste, the husband and the wife have increased their attorney fees and the husband has incurred additional attorney fees and costs in the federal case. The court retains jurisdiction in this matter and the attorneys shall provide a cost bill through the date of the court's findings on May 12, 2011. When the federal matter is concluded, the court will be awarding some of the husband's attorney fees and costs to the wife. The court will not be awarding fees dollar for dollar, but the wife will be expected to take on some of the costs because the court finds that but for her actions, these costs would not have been incurred.

John G. Carughi further covenants and agrees that if any claim, action or proceeding shall hereafter be brought seeking to hold Cary R. Carughi liable on account of any such debt, liability, act or omission of his, he will, at his sole expense, defend her against any such claim or demand whether or not well-founded, and that he will hold her harmless therefrom and indemnify her if she should be required to pay.

12 JUN 25 11:33  
STATE OF WASHINGTON  
BY \_\_\_\_\_

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

IN RE :

JOHN G. CARUGHI,  
Respondent,

and

CARY R. CARUGHI,  
Appellant.

No. 42351-1-II

DECLARATION OF MAILING

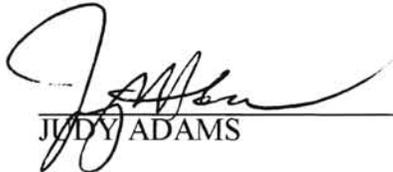
I, Judy Adams declare:

That I am a citizen of the United States of America; that I am over the age of 21 years, not a party to the above-entitled action and competent to be a witness therein; that on the 25<sup>th</sup> day of January, 2012 declarant mailed to the following named individuals, to-wit:

Clerk of the Court  
Washington State Court of Appeals, Division II  
950 Broadway, Suite 300  
Tacoma, Washington 98402

Ms. Josephine C. Townsend  
Attorney at Law  
211 E. 11<sup>th</sup> Street, Suite 104  
Vancouver, WA 98660-3248

a copy of this declaration and a copy of the BRIEF OF APPELLANT.

  
\_\_\_\_\_  
JUDY ADAMS

**Suzan L. Clark**  
Attorney at Law  
1101 Broadway Street, Suite 250  
Vancouver, WA 98660  
360-735-9434