

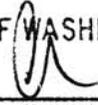
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COURT OF APPEALS  
DIVISION II

No. 45835-7-II

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STATE OF WASHINGTON

BY  \_\_\_\_\_  
DEPUTY

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

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In re the Marriage of  
Tatyana Mason,  
Respondent Below & Petitioner, **Pro Se, on Appeal**  
v.  
John Mason  
Petitioner Below & **Respondent on Appeal**

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**Reply Brief**  
**Appeal from Order Denying Motion for Reconsideration**  
**Superior Court of Washington, County of Thurston**  
**Case No. 07-3-00848-0**  
**The Hon. Anne Hirsch**  
**(Protection Order, Custody, Child Support)**

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## ARGUMENT

### 1. RESPONSE BRIEF OF RESPONDENT, MR. MASON, IS SHOCKINGLY MISLEADING AND INACCURATE.

Appellant was shocked and dismayed by misleading and inaccurate information presented in the Respondent's (Mr. Mason's) brief. The Respondent's experienced representative is well aware of professional ethics and misconduct, yet nonetheless purposely and consistently misleads the court with inaccurate, false information and citations of the record. For example, at (page 29) of Respondent's brief, Respondent falsely asserts that "[t]he Mother (Appellant) made no effort to change her behavior," citing RP 10/7/13 p.80. However, nowhere does the trial court come close to stating or concluding such an accusation of the Mother. RP 10/7/13. The Respondent's brief also asserts at (page 9) that "[t]he Mother was awarded spousal maintenance and child support," citing Ex. 54. Ironically, the Mother was pressured by a controlling Mr. Mason into mediation and only awarded \$100/month support per child, for a total of \$200/month for child support, with no maintenance. Ex.54. The Appellant was a full time student at that time and had no income, only a school loan whereas Mr. Mason had income of \$50,000 per year at that time.

The Respondent's Brief at (page 13) falsely and misleadingly states that [t]he Mother never obtained the evaluation as recommended by

the GAL. In stark contrast, the Mother in fact attempted twice to get a psychological evaluation, first with Dr. Rybicki in February, 2012 CP16-83. “Ms. Mason went to Dr. Rybicki for a psychological evaluation” RP11/27/12 p.27 (Smith testimony) and then Dr. McCollom in August, 2012. Ex. 34. Also from the trial: Q: “[y]ou’re aware that Ms. Mason went to see Dr. McCollom for psychological evaluation?”; A: “I got his declaration”; Q: “[y]ou reviewed both Dr. Rybicki’s and Dr. McCollom’s declarations?” A: “Yes I did.” RP11/27/12 pp.28, 29 (Smith testimony). The Respondent was clearly aware of Ms. Mason’s efforts in obtaining evaluations, but purposely failed to present an accurate statement to this court. In fact, both psychologists refused to evaluate only the Mother because of the concern about the domestic violence issues perpetrated by the Father (Respondent) against the Mother. RP 12/4/12, p. 12 (Bishopp’s Closing Argument); Ex. 34; CP16-83. Even the trial court judge was shocked by the aggressive and false accusation of “[b]laming the mother for not getting a psychological evaluation when one had never been ordered.” RP 12/12/12, p. 9.

The Respondent consistently manipulates and misleads the facts of the case. The Respondent’s Brief at (page 14) falsely, misleadingly states that “[t]he Mother had requested an evaluation only for herself in August, 2012 without disclosing the court’s order,” when in fact there was no court

order for the both parents evaluation at that time. The court trial started in November 2012 and the order for an evaluation of both parents occurred subsequently in December 12, 2012. RP 12/12/12, p. 17. Dr. McCollom's testimony states "Ms. Mason first contacted my office in the latter part of August 2012 or the beginning of September 2012 to get an evaluation that GAL recommended." RP 11/28/11, p.9 (McCollom testimony).

The Respondent's brief at (page 2) falsely accuses that "[t]he Mother made payment and the evaluation was released." In fact, the Mother did not make a payment, but rather negotiated on her own without an attorney, through a promissory note to pay Dr. McCollom later when she found employment. The Respondent states at (page 4) that Dr. McCollom's physiological evaluation "[w]as not newly discovered evidence," when in fact the McCollom report was released after the trial and before the Appellant's motion for reconsideration on December 5, 2013 on November 1, 2013. CP110-197.

The Respondent states at (page 8), "[a]ppellant fails to provide any citations to the record." In fact, the Appellant did provide citations in her opening brief. The Respondent misleads the court with the statement at (page 9) that the Domestic Violence against Mr. Mason (Respondent) in 2007 had been granted solely on the Mother's testimony and no police reports, physical or other evidence. In fact it was based on several

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professionals' reports and witnesses of Mr. Mason's physical and financial abuse since 2001. CP 299; CP92-95; CP2-9; Ex 26; Ex27; Ex39. The father filed a motion on March 4, 2011 not on March 2, 2012, as inaccurately stated by the Respondent (at page 10). The Respondent stated that the Mother had stopped participating in Ms. Hurd's counseling on December 2010, but refuses to mention Ms. Mason's letter to Ms. Hurd on October 2010, Ex.31. On (Page 14) the Respondent stated that "[u]p until the final trial the mother failed to pay child support," when in fact there was not a court order signed for the child support before November 25, 2013... *etc.*

There are so many additional misleading statements throughout the Respondent's brief that it would literally take the remainder of this reply brief to address them all.

**Appellant requests that the Court of Appeals dismiss the Respondent's brief since it consistently and unethically presents misleading, false and inaccurate information to this court.**

## 2. THE COURT RULED ON INSUFFICIENT, NON-CREDIBLE INFORMATION.

In reviewing petitions to modify a parenting plan, the courts "review a trial court's decision to modify a parenting plan for abuse of

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discretion. **In re Marriage of Hansen**, 81 Wash. App. 494, 498, 914 P.2d 79(1996). We will reverse the decision if the court's reasons are untenable. **In re Marriage of McDole**, 122 Wash.2d 604, 610, 859 P.2d 1239 (1993).” **In re Ziglar and Sidwell**, 154 Wash. App. 803, 808, 226 P.3d 202,205(2010). The Court of Appeals, Division Three, has also stated that a court's decision is manifestly unreasonable if it is based on untenable grounds, including “if it is based on an incorrect standard or the facts do not meet the requirements of the correct standard. **In re Marriage of Fiorito**, 112 Wash. App. 657, 664, 50 P.3d 298 (2002).” *Id.* at 809. An appellate court may reverse a trial court when it finds that the factual finding was not supported by substantial evidence. **Marriage of Stern**, 57 Wn. App. 707, 789 P.2d 807 (1990), review denied, 115 Wn.2d 103, 797 P.2d 513 (1990)). Ms. Mason respectfully submits that in its Order Re Modification/Adjustment of Custody Decree/Parenting Plan/Residential Schedule (ORMDD/ORDYMT), the court relied on insufficient, non-credible evidence and therefore its decision was based on untenable grounds in which the facts did not meet the requirements of the correct standard.

In the Appellant's Opening Brief, Appellant noted that the trial court relied upon the GAL report by Mr. Bartholomew that was produced in February 2008. CP 223-225; (12/27/2013 Letter Opinion, page 3). In

his brief, the Respondent stated that while the letter opinion references the initial GAL, the trial court based its decision on all the evidence presented at trial. Much of that evidence was questionable at best. The Respondent stated “[t]here was no evidence presented in October of 2013 that the evidence presented in November of 2012 had changed,” (at page 7 of Respondent’s brief). Appellant agrees with this statement. The court ruling in December 2012 stated “I would like to be finished, but we cannot be finished here based on what I heard,” RP 12/12/12 p.20. The evidence the court heard included testimony by Ms. Hurd and a second GAL report by Mr. Smith. RP 11/27/12; RP 11/28/12.

Throughout that ruling, the trial court clearly stated that Ms. Hurd and Ralph Smith (second GAL) were non-credible, unprofessional, and biased against the Appellant. The trial court stated that Ms. Hurd “needs to remove herself from the case,” RP 12/12/12 p.4. Ms. Hurd did not know that the Mason boys had a good relationship with Dr. Wilson, a child psychologist, for 2.5 years. The court states Ms. Hurd “testified incorrectly about that. That is significant to me.” RP 12/12/12, p. 7. The court was shocked by Ms. Hurd’s “terms that she used in court” and found her “unprofessional,” RP 12/12/12, p.8. Ms. Hurd described the mother (Appellant) as “Ukrainian thug” RP12/4/12 p.9 (Bishopp). The trial court stated “it is clear that by the time of trial Ms. Hurd has completely aligned

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herself with the father,” RP 12/12/12, p.8. The court further stated, regarding Ms. Hurd, that “[s]he was very clear that she does not like the mother,” RP 12/12/12, p.8. The court stated “[a]s Ms. Bishopp indicated in her closing, I too was surprised by the tone that Ms. Hurd exhibited, the statements and the terms that she used to describe the mother,” RP 12/12/12, p. 8. The trial court also stated “I was greatly troubled by Ms. Hurd’s demeanor and her testimony during the trial,” RP 12/12/12, p. 4. The court noted that the children “at this point... know that Ms. Hurd does not like their mom,” RP 12/12/12, p. 10. The court also stated that the children received “a very strong message from their counselor that their mom is an awful person,” RP 12/12/12, p. 4. Further, the court stated that the children “are not going to be able to move forward to have a relationship with their mom while they are seeing Ms. Hurd,” RP 12/12/12 p. 10. “Ms. Hurd completely disregarded both the counselor Diane Borden and the children’s psychologist Dr. Wilson”. RP12/4/12 p.4 (Bishopp). As well as: “Ms. Hurd’s testimony in this trial it’s clear she is highly biased against Ms. Mason” RP12/4/12 p.3.

The court’s statements clearly point out that Ms. Hurd was not credible, unprofessional, biased against the mother (Appellant), and not a good counselor for the children. The lack of Ms. Hurd’s credibility in the court’s ruling contradicts the Respondent’s consistent characterization of

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Ms. Hurd as credible. Right now Ms. Hurd is under a serious investigation by the Washington Department of Health, case No 2014-2698LH. *See* Appendix A.

The trial court found GAL R. Smith unprofessional, non-credible, and biased. The testimony of GAL Ralph Smith demonstrated that he relied on Ms. Hurd and did not investigate the case, for the trial court was “[s]truck... that Mr. Smith used all the same words that Ms. Hurd used in describing Ms. Mason (Appellant),” RP 12/12/12, p. 10. The court also stated that “the guardian ad litem really just focused on the items and the issues that Ms. Hurd was focused on,” RP 12/12/12, p. 10. Mr. Smith’s lack of investigation was also demonstrated in that “he didn’t even know that Dr. Wilson had counseled the children for over two years,” RP 12/4/12, p. 5(Bishopp), as he testified that it was only for several weeks, although he stated “I talked to Wilson a lot,” RP 11/27/12, p. 22 (Testimony of Smith). “Mr. Smith chose not to investigate concerns of domestic violence on Mr. Mason’s part,” as Mr. Smith testified “that he didn’t think the issue of Mr. Mason’s DV cases were as important,” RP 12/4/12, p. 5. Mr. Smith was asked in the court: Q: “So, you don’t recall that in the 2007 DV case the Court made a finding that Mr. Mason was not credible?” A: “I do not recall.” RP11/27/12p.32 (Smith Testimony). Further, Q: “I’m gonna show you what’s been marked as Exhibit Number

27. These are minutes from the domestic violence hearing Friday August 3, 2007. Does that help to refresh your recollection?" A: I don't remember," RP11/27/12 p. 33 (Smith testimony). Also, "Mr. Smith could not recall having reviewed the 2009 DV file," RP 12/4/12, p. 5. RP 11/27/12 p.32 (Smith testimony). Although Mr. Smith is a lawyer and had been a GAL for many years, he "appeared confused when asked what he did to screen the parents for a comprehensive assessment of the impact of any **RCW 26.09.191** factors," RP 12/4/12, p. 7. Had the GAL Mr. Smith been professional and truly investigated the case, he would not have dismissed Mr. Mason's (Respondent) two domestic violence cases. If Mr. Smith had truly investigated, he would know about Mr. Mason's domestic violence (Ex.27),(Ex.39),(Ex.41) and would have realized the evaluation of domestic violence (Ex. 32) and Anger Management treatment were not properly completed.

The trial court stated "I reviewed Mr. Mason's DV evaluation. It was not one this Court would accept," RP 12/12/12,p.15. Mr. Smith also acknowledged he received a forensic psychologist report from Dr. Rybicki of his GAL investigation, which stated that there was a lack of sophistication in the investigation. CP 16-83. Specifically, when Mr. Smith was questioned if he was aware of Dr. Rybicki, he testified "[i]s that the one I got the big, long letter from stating that me and Mr. Bartholomew

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were not very smart?” RP 11/27/12, p. 27 (Smith Testimony). Further, Mr. Smith himself stated his lack of qualification and knowledge in the investigation and evaluation process, indicating he was not accredited to do such an investigation and stating “I am not an expert,” RP 11/27/12, p. 27 (Smith Testimony). Mr. Smith also stated with respect to the evaluation of Mr. Mason, “[i]t’s novel to me. I am not an expert in it. My limited experience with these kind of evaluations has been limited to the person that’s being evaluated,” RP 11/27/12, p. 27. **Mr. Smith clearly lacked expertise in this matter, and the trial court erred by relying in part on his GAL report.**

The Court states in the 12/27/2013 Letter Opinion that was it taken by comments made by the first GAL, Richard Bartholomew, in his February, 2008 report. CP 223-225. It was not proper to rely on that February 2008 report, since the first GAL report was never part of a court hearing, nor was it subject to cross-examination. The first GAL report was submitted in February 28, 2008. A scheduled hearing for April 4, 2008 was continued by Mr. Bartholomew, since he needed more time to review Mr. Mason’s controlling behavior CP 260. The subsequently scheduled hearing of April 22, 2008 was stricken, CP 261. When the Appellant read Mr. Bartholomew’s report in 2008, she noted that Bartholomew contradicted himself in his report many times. Further, Mr. Bartholomew

completely disregarded the domestic violence of Mr. Mason (Ex. 27), (Ex. 39), (Ex. 40); (Ex. 32), and ignored input he received from Ms. Mason's counselor Diane Borden and child psychologist Dr. Wilson. Ex. 34; Cp 16-83. These several issues were acknowledged and thoroughly investigated in the forensic investigation of Dr. Rybicki. CP 16-83. In the forensic report of Dr. Rybicki it is clearly stated that Mr. Bartholomew's investigation was done very poorly and unprofessionally. CP16-83. **The trial court therefore erred in reviewing the first GAL Mr. Bartholomew report.**

A glaring omission in the evidence relied on by the court is the domestic violence and controlling behavior perpetrated by Mr. Mason against Ms. Mason and her children. Neither of the two GAL reports, nor Ms. Hurd, addressed the domestic violence committed by Mr. Mason, RP 11/27/12, pp. 25-26 (Smith Testimony); RP 11/28/12 (Hurd testimony); RP 12/4/12 pp.4-8 (Bishopp). The trial court acknowledged with respect to Mr. Mason that "[t]he domestic violence issues have been discounted," RP 12/12/12, p.15. Regarding the domestic violence evaluation of Mr. Mason, the trial court further stated "I reviewed that evaluation, it was not one that this Court would accept," RP 12/12/12, p. 15. In addition, the trial court referred to Mr. Mason's testimony, stating "[a]nd by his own self-report

there were issues that this Court noted as financial control and other types of controlling behavior,” RP 12/12/12, p. 16.

While the trial court acknowledged Mr. Mason’s domestic violence as well as abusive and controlling behavior toward Ms. Mason Ex 27; Ex.39; Ex.40; Ex.41, the trial court erred in not giving the issue of Mr. Mason’s abusive, perpetrated behavior further consideration and greater weight in reaching its decision.

The trial court stated that it “was pinning its hopes on Dr. McCollom,” 12/12/12 RP p. 20. The report by Dr. McCollom states that “[a] court’s previous finding that there was domestic violence is significant... The prior court’s finding, however, is made more important by Ms. Mason’s reports of Mr. Mason having engaged in a pattern of controlling behavior since 2001 that is routinely associated with domestic violence, and that she sought assistance via the Safe Place domestic violence program.” CP 192(McCollom); CP299. Dr. McCollom further states that “[i]t is this psychologist’s opinion that what transpired between Mr. and Ms. Mason over both their marriage and subsequent legal process has left Ms, Mason feeling victimized.” CP 192. He further states “within both the marriage and the legal process she has been seriously outmatched by several factors that include her initial minimal understanding of American society, culture, expectations, language, etc.; ... and an even

greater lack of familiarity with how to communicate effectively with attorneys and the courts.” CP 193. Dr. McCollom further states “the totality of information does support a view that Ms. Mason clearly felt, and continues to feel, victimized by Mr. Mason in ways that are consistent with overly controlling behavior by a domestic partner-Mr. Mason.” CP193 (McCollom).

**The trial court ruled on insufficient and non-credible evidence, as well as a lack of evidence of Mr. Mason’s domestic abuse and controlling behavior.** The trial court accordingly based its decision on untenable grounds in which the facts did not meet the correct standard. The trial court’s decision failed to recognize Ms. Mason’s disadvantage in the case. The Appellate Court is requested to recognize this disadvantage and overturn the ruling of the lower court.

3. THE TRIAL COURT’S RULING WRONGLY FURTHER  
EMPOWERS THE FATHER MR. MASON AND FURTHER  
DISADVANTAGES THE MOTHER MS. MASON

A trial court’s decision can be reversed on appeal if the court exercised its discretion in an untenable or manifestly unreasonable way. **In re Marriage of Cabalquinto**, 100 Wash.2d 330, 669 P.2d 886 (1993); **In re Marriage of Griffin**, 114 Wash.2d 772, 779, 791 P.2d 519 (1990); **In**

**re Marriage of Timmons**, 94 Wash.2d 594, 600, 603-04, 617 P.2d 1032 (1980); **George v. Helliard**, 62 Wash.App. 378, 385, 814 P.2d 238 (1991); **Chapman v. Perera**, 41 Wash.App. 444, 446, 704 P.2d 1224, review denied, 104 Wash.2d 1020 (1985).

The trial court stated in the Parenting Plan (PP) of November 25, 2013 that “it is important for the children to have a healthy relationship with both parents.” CP 243(PP). In this case, the court exercised its discretion in an unreasonable way since the Parenting Plan combined with the Restraining Order not only does not support a healthy relationship between Ms. Mason and her children, there is no relationship between Ms. Mason and her children. In fact, there is a basis for the appeal court to overturn the orders entered by the trial court in this matter, since those orders were entered in an untenable and unreasonable way. The Parenting Plan was not entered in the best interests of the children, contrary to the statement made by the Respondent at pages 23-24 of the Respondent’s brief.

The trial court acknowledged that Ms. Mason was “disadvantaged by the language barrier and by the cultural barrier,” RP 12/12/12 p. 6, and that “I believe very strongly that the language and cultural issues are significant and need to be addressed.” RP 12/12/12, p. 7. The court recognized that Mr. Mason exerted “financial control and other types of

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controlling behavior.” 12/12/12, p. 16. In addition, the trial court pointed out regarding Mr. Mason that “[t]he domestic violence issues have been discounted,” RP 12/12/12, p. 15, Ex.27, CP 298-299 and that an evaluation of his domestic violence “was not one that this Court would accept.” Ex.32, RP 12/12/12, p. 15.

While the trial court acknowledged Mr. Mason’s domestic violence, it failed to recognize him as an abuser, let alone a long term abuser, in reaching its decision. As described above, the court relied in large part on evidence that neglected the abuse perpetrated by Mr. Mason. Neither of the two GAL reports, nor Ms. Hurd, addressed the domestic violence committed by Mr. Mason, RP 11/27/12, pp. 25-26 (Smith Testimony), RP 11/28/12 (Hurd testimony).

Mr. Mason had a long history of abusive, controlling behavior toward Ms. Mason throughout the marriage. Ms. Mason testified that she experienced domestic violence, physical violence emotional abuse, isolation, blaming, and using the children against her. RP 12/4/12, p. 8. Ms. Mason obtained a protective order against Mr. Mason in 2007. Ex. 27; Ex.29; Ex.40. The Court had found in 2007 that Mr. Mason committed acts of domestic violence and found that Ms. Mason’s testimony was credible but Mr. Mason’s wasn’t. Ex. 27. Diane Borden, MA, stated in her letter of April 20, 2011 that she had been counseling Ms. Mason since

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March 26, 2007, and “[s]ince that time I have heard many accounts of Mr. Mason’s behavior, both before and after the marriage broke up, that are consistent with the pattern of an emotionally abusive, manipulative and controlling man.” Ex. 26. There were multiple pieces of data that point to Mr. Mason as being labeled by the Court as controlling, disrespectful toward Ms. Mason, and aggressive. Ex. 27; Ex. 39; Ex. 40; Ex. 41. After Mr. Mason forced Ms. Mason into mediation, a Modified Parenting Plan was entered giving 50-50 custody, Ex.1; Ex.54 and removed the Protection Order against Mr. Mason. Mr. Mason then began harassing Ms. Mason at her house and through the children, including sending the police and Child Protective Services to Ms. Mason’s house, as well as legally harassing Ms. Mason. Ex.41. Mr. Mason’s behavior was consistent with that of an abuser. “Batterers may continue their harassment of the victim for years, through legal channels and other means, causing periodic re-traumatizing of the victim and children and destroying the family’s financial position.” **The Batterer as Parent**, Page 18 (Exhibit B of Opening Brief). Ms. Mason subsequently filed on her own a Motion to Vacate the Decree of Dissolution in 2009, as well as a Petition for a Protection Order in 2009. Ex. 41; Ex.58. Since Ms. Mason had no legal representation because she could not afford it on her income of \$200 per month from Mr. Mason,

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along with her language and cultural barriers, her motion and petition were both denied. Ex. 41; Ex. 42; Ex60; Ex61.

The abusive behavior of Mr. Mason also included manipulating the children and biasing them against their Mother, Ms. Mason. Ms. Mason testified that when she picked the children up from Mr. Mason withholding them from her in 2007, her son was extremely frightened because Mr. Mason had told him she was gonna try to take them away to the Ukraine and that he should run to the police and stay away from her; this statement was found credible by the court in 2007 and was supported by several witnesses. RP 12/4/12, p. 9; Ex. 27; Ex.39. In Dr. McCollom's report, he stated that "[t]he view that the father had adversely influenced the boys is consistent with documentation that the boys referred to her as a "gold digger" at a time when it is unlikely they understood the meaning of the term." CP195 (McCollom). It was also clear that Mr. Mason influenced the children, as they indicated they were afraid that Ukrainian thugs were going to be at supervised visitations with the Mother, and that they would have to be protected by a police officer and a metal detector. RP 12/4/12, p. 9. How would the little boys know what a Ukrainian thug or a gold digger is? Mr. Mason's manipulative behavior of the children is typical of a how an abusive parent tends to involve his children in the abuse of the mother. "He may require the children to report on the

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victim's activities during the day, degrade or humiliate her in front of them, or persuade them that she deserves to be abused." **The Batterer as Parent**, Page 21 (Exhibit B of Opening Brief). Dr. Wilson wrote about Mr. Mason's abusive behavior in his letter CP85-87. "The court knows well from years of handling dependency cases in which parents have actually been adjudicated of abusing or neglecting their children that children don't just stop loving their parents and wanting to have a relationship with them, yet these boys do not express missing their mother or wanting to go see her. In fact, they don't mention her at all. Why is that? We submit that it's because the children have gotten a clear message from Mr. Mason that it's not okay to want to have a relationship with their mother. The children had been forced to take sides." RP12/4/12 pp.9-10. When Mr. Mason was asked by the trial court "[t]o think back to the beginning of his relationship, what he liked about Ms. Mason, he could not say a single nice thing about her. ...clearly Mr. Mason has not moved beyond his resentment towards Ms. Mason by punishing her for leaving him". RP12/4/12 pp.10-11 (Bishopp). "Upon separation, abusers may engage in protracted custody or visitation litigation, as a means to control their former partners. Abusers may harass victims during court proceedings by repeatedly filing motions to modify temporary parenting arrangements; by manipulating with their children, and by filing false complaints with Child

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Protective Services, GALs and distort and twist the facts”. **Appendix F of DV Manual for Judges 2006**, pp. 5-11.

The trial court erred in ruling that “even though the father engaged in inappropriate behavior to the mother and in front of the children, he provided the more stable environment for the boys.” CP 223-225, Letter of Opinion.

In addition to Mr. Mason’s domestic violence and manipulation of the children, there was a record of ongoing financial manipulation and control since 2001. CP 299. Ms. Mason was at a significant financial disadvantage and subject to controlling financial behavior by the perpetrator Mr. Mason (Respondent). Ex26; Ex27; Ex39; Ex40; Ex41; CP299. Mr. Mason took advantage of Ms. Mason’s language barrier and his financial control in mediation in 2008 that decreased her income from \$2,500.00 per month to only \$200.00 per month. Ex.54. At that time, Ms. Mason was a full time student, had no income, and was living off of a school loan. CP96; Ex27; Ex39; Ex 40; Ex41; Ex.37. Contrary to Respondent’s assertion in his brief at page 9, Ms. Mason was not awarded spousal maintenance and child support. Rather, she was only awarded a minimal monthly child support amount of \$100 per child. Ex.54. Ms. Mason filed a Motion to Vacate the Decree of Dissolution in 2009 on her own, since she could not afford legal representation given her minimal

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child support of \$200 per month. In the absence of legal representation, coupled with Ms. Mason's language and cultural barriers, her motion was denied. Ex.58.

Mr. Mason's domestic violence, abusive, manipulating, and financially controlling behavior was not properly recognized by the trial court in its decision. Dr. McCollom's report acknowledges with respect to Ms. Mason that "she has been seriously outmatched by several factors that include her initial minimal understanding of American society, culture, expectations, language, etc.; ... and an even greater lack of familiarity with how to communicate effectively with attorneys and the courts." CP 193. **Appellant is requesting the Appellate Court to fully address and account for Mr. Mason's abusive and controlling behavior, and therefore overturn the trial court's decision.** The trial court's decision to deny Ms. Mason's Motion for Reconsideration of the Court's Order on Modification, Final Parenting Plan and the Restraining Order of November 25, 2013 wrongly disadvantages Ms. Mason and allows Mr. Mason to continue to exert financial control over Ms. Mason.

As discussed in the Appellant's Opening Brief at page 24, the trial court in its decision failed to recognize an overlap between family law and immigration status. By maintaining the Restraining Order (which has been in place since March, 2011), the trial court has continued to

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effectively prevent Ms. Mason from securing gainful employment. The U.S. Department of Immigration has labeled Ms. Mason as someone who has “bad moral character” in view of her Restraining Order. *See* Appendix Exhibit A, 12/02/2013 Letter of U.S. Citizenship and Immigration Services, in Opening Brief. This label combined with the Restraining Order has blocked Ms. Mason from being able to legally gain employment, due to damaging her immigration status. At the same time, the trial court imputed income of \$2,693.00 to Ms. Mason, and payment of \$412.00 in child support per month. The trial court wrongfully stated in its Order Re Modification/Adjustment of Custody Decree/Parenting Plan/Residential Schedule (ORMDD/ORDYMT) on November 25, 2013 that Ms. Mason is voluntarily unemployed. CP 240. Currently, Ms. Mason has no income as a result of this order and will have no tax return in 2014. Her limited income in 2012 was \$7,718 per year and in 2013 was \$8,915 per year, as shown on her tax returns for those years. Ex.37. *See* Appendix Exhibit B. Rather, Ms. Mason has been unsuccessful in obtaining employment despite diligent efforts, due to the Restraining Order and damaging her immigration status and right to legally work in the US. Since Ms. Mason has no family or financial support network, she has no financial resources.

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Given her lack of employment, not by her choice, and no financial resources, Ms. Mason is not able to pay the \$412.00 in child support. She is therefore being put in increasingly greater debt each month as long as this court order remains in place. In addition, this court order continues to further damage her immigration status, which will lead to her departure from the U.S. “State law often overlaps Immigration law and increases hardship for non-citizens who are seeking employment”. **Appendix F of DV Manual for Judges 2006**, pp.5-8.

Ms. Mason is not American, and her inability to gain employment with the Restraining Order in place has also effectively prevented her from seeing her children, not by her choice. The trial court contradicted itself by stating that it was important for the children to have a healthy relationship with both parents, but imposed unification requirements on Ms. Mason that financially constrained and effectively blocked Ms. Mason from seeing her children. CP 240-243. Ms. Mason simply cannot afford the finances necessary to visit her children (approximately \$300/hour) in the presence of counselors, which was required by her court-ordered visitation rights. Ms. Mason currently has no relationship with her children, let alone a healthy relationship. The trial court order creates a serious risk of causing an iatrogenic form of harm by further

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empowering the controlling father and further demonizing the mother, as well as a significant risk of life-long damage to the children. Ex34; Ex 26; CP24; CP33; CP299. "In domestic violence cases, batterers will often manipulate with the court system and the children by forcing them to take their side to obtain legal custody of the children. This maneuver is intended to control the battered immigrant victim" *See, e.g., Kim v. Kim*, 208 Cal. App. 3d 364 (1989). "By frightening the battered immigrant victim and reinforcing the abuser's threats that he will have her deported if she does not comply with his demands and the victim's life will become even more difficult. **Appendix F of DV Manual for Judges 2006**, pp.8,9.

Ms. Mason requests that Mr. Mason be ordered by the Appellate Court to provide full funds for the reunification requirements, given Mr. Mason's ability to pay and Ms. Mason's inability pay due to not being able to legally gain employment.

In view of Mr. Mason's long history of abusive and controlling behavior, the children received a clear message from Mr. Mason that it was not okay for them to want to have a relationship with their mother, and they had been forced to take sides. RP 12/4/12, p. 10;CP 16-83; Ex26.

There was no basis for the trial court to modify the parenting plan under **RCW 26.09.260**. In fact, the modification of the parenting plan was not in the best interests of the children, but only empowered the abusive,

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controlling Father (Respondent) and disadvantaged the Mother (Appellant), and her children.

**The Appellant requests that the Appellate Court overturn the trial court's Parenting Plan, including child support from Ms. Mason, and remove the Restraining Order.**

### CONCLUSION

Based on all of the above in this Reply Brief and Appellant's Opening Brief, the Appellant respectfully requests that the Court of Appeals find that the trial court abused its discretion in ordering its final Parenting Plan and Child Support, and overturn the trial court's ruling. The court's ruling was unreasonable, as it relied on insufficient, non-credible evidence and neglected to take into consideration the long history of abusive, controlling behavior of the Respondent and the Appellant's immigration status.

The Appellant really hope that the effectiveness of court interventions would be improved soon with an understanding of the cultural and immigration legal barriers that face non-citizen litigants in both the civil and criminal court.

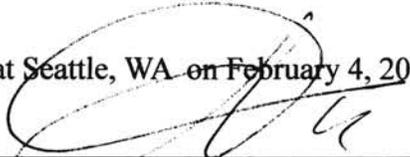
As requested in Appellant's Opening Brief, Ms. Mason is requesting that the Appellate Court order Mr. Mason to pay the full

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amount for reunification of Ms. Mason with her children, since he has the ability to pay and the Appellant has no ability to pay. In addition, Ms. Mason is requesting fees associated with her appeal, as explained in Appellant's Opening Brief.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at Seattle, WA on February 4, 2015.

  
\_\_\_\_\_  
Tatyana Mason, Signature of Appellant Pro-Se

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APPENDIX

Exhibit A: Letter from Washington State Department of Health, Re:  
Investigation of Sandra Hurd

Exhibit B: 2012, 2013 Tax Returns



STATE OF WASHINGTON  
DEPARTMENT OF HEALTH

April 21, 2014

TATYANA MASON  
[REDACTED]  
[REDACTED]

RE: **Sandra A. Hurd**  
Case No: **2014-2698LH**

Dear Tatyana Mason:

Your recent complaint about **Sandra A. Hurd**, has been referred for investigation. The investigator assigned to your complaint is:

**Jocelyn King, Health Care Investigator**  
**Investigation & Inspection Office**  
**P.O. Box 47874**  
**Olympia, WA 98504-7874**  
**Phone: (360) 236-2973 FAX: (360) 586-0123**  
**Email: [Jocelyn.King@doh.wa.gov](mailto:Jocelyn.King@doh.wa.gov)**

Due to recently enacted legislation, RCW 43.70.075, regarding confidentiality, we ask that you read, sign and return the enclosed "Whistleblower Release Form" within fourteen (14) days after your receipt of this letter. A postage paid envelope has been included for your convenience. Thank you for your cooperation in this matter.

Respectfully,

Tina Crawford  
Health Services Consultant

Enclosures:  
*Whistleblower Release Form*

RECEIVED  
FEB 04 2015

CLERK OF COURT OF APPEALS DIV I  
STATE OF WASHINGTON

**COURT OF APPEAL OF WASHINGTON  
STATE DEVISION II**

In Re: Marriage:

**John A Mason**

Respondent

Vs.

**Tatyana Mason**

Appellant Pro-Se

**NO. 45835-7-II**

**Proof of Service**

***[(Clerks Action Required)]***

*I am Tatyana Mason the Appellant Pre-Se swears under penalty and perjury of Washington State, that I sent to the opposite party a copy of my reply brief by via email: [laurier@washingtonstateattorneys.com](mailto:laurier@washingtonstateattorneys.com) as well as a copy to the physical address:*

*1218 3<sup>rd</sup> Ave, Suite 500  
Seattle, WA 98101*

DATED February 4, 2015



**Tatyana Mason the Appellant Pro-Se**