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STATE OF WASHINGTON

BY


DEPUTY

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

In re the Marriage of:

AIMEE GUARDADO

Respondent

v.

OTTO GUARDADO

Appellant

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

APPELLANT'S OPENING BRIEF

OTTO GUARDADO
Appellant
800 NW 75th St.
Vancouver, WA 98665
360-713-2448

TABLE OF CONTENTS

I. INTRODUCTION 1

II. ASSIGNMENTS OF ERROR 2

 A. Decree of Dissolution..... 2

 B. Parenting Plan 4

 C. Order of Child Support..... 5

III. STATEMENT OF THE CASE..... 5

IV. ARGUMENT..... 23

 A. INTRODUCTION..... 23

 B. STANDARDS OF REVIEW 23

 C. THE RESPONDENT’S DISCOVERY ABUSES TAINTED THE TRIAL. 25

 1. *The Respondent’s willful concealment of her records constituted discovery violations and impaired the Appellant’s ability to prepare for trial.*..... 25

 2. *The court erred when it failed to make findings on the Dezsoft records.* 31

 3. *The trial court erred by sealing the records without proper analysis.* 32

 4. *The court erred by making conflicting orders and faulting the Appellant for his alleged lack of discovery diligence.* 33

 D. THE COURT ABUSED ITS DISCRETION MAKING KEY DECISIONS. 36

 1. *In re CG’s birth certificate* 36

 2. *In re CG’s medical testing*..... 38

 3. *In re embryo*..... 39

 E. THE TRIAL COURT MADE OTHER NUMEROUS ERRORS THAT REQUIRE REVERSAL..... 40

 1. *The court failed to distribute other property and debts.*..... 40

 2. *The court failed to distribute community interest in the family home and the Respondent’s 401(k)*..... 41

 3. *Many other findings were erroneous, unsupported by substantial evidence, or applied the wrong legal standard.*..... 42

 4. *The trial court erred by finding the Appellant intransigent and awarding attorney fees.*..... 45

5. *The court erred when it improperly dismissed the Appellant’s motion
for reconsideration and new trial.* 48

V. FEES AND COSTS 49

VI. CONCLUSION..... 50

TABLE OF AUTHORITIES

WA Cases

Brewer v. Brewer, 137 Wn.2d 756, P.2d 102 (1999)..... 40

Burnet v. Spokane Ambulance, 131 Wn.2d 484, 933 P.2d 1036 (1997)..... 26

Burrill v. Burrill, 113 Wn. App. 863, 56 P.3d 993 (2002)..... 44

Christian v. Tohmeh, 191 Wn. App. 709, 366 P.3d 16 (2015)..... 25

Coggle v. Snow, 56 Wn. App. 499, 784 P.2d 554 (1990) 36

Daughtry v. Jet Aeration Co., 91 Wn.2d 704, 592 P.2d 631 (1979)..... 31

Gander v. Yeager, 167 Wn. App. 638, 282 P.3d 1100 (2012) 24

Hyundai Motor America v. Magaña, 141 Wn. App. 495, 170 P.3d 1165 (2007),
rev'd, Magaña v. Hyundai Motor America, 167 Wn.2d 570, 220 P.3d 191
(2009) 33

In re Det. of Turay, 139 Wn.2d 379, 986 P.2d 790 (1999) 49

In re Marriage of Brown, 159 Wn. App. 931, 247 P.3d 466 (2011)..... 49

In re Marriage of Chandola, 180 Wn.2d 632, 327 P.3d 644 (2014) 44

In re Marriage of Fahey, 164 Wn. App. 42, 262 P.3d 128 (2011) 23

In re Marriage of Kovacs, 121 Wn.2d 795, 854 P.2d 629 (1993) 24

In re Marriage of Littlefield, 133 Wn.2d 39, 940 P.2d 1362 (1997)..... 24

In re Marriage of Myers, 123 Wn. App. 889, 99 P.3d 398 (2004) 24

In re Marriage of Thompson, 97 Wn. App. 873, 988 P.2d 499 (1999)..... 24

In re Marriage of Wehr, 165 Wn. App. 610, 267 P.3d 1045 (2011)..... 23

In re the Marriage of Crosetto, 82 Wn. App. 545, 918 P.2d 954 (1996)..... 46

Jafar v. Webb, 177 Wn.2d 520, 303 P.3d 1042 (2013)..... 25

<i>Johnson v. Jones</i> , 91 Wn. App. 127, 955 P.2d 826 (1998)	26
<i>Kurtz v. Fels</i> , 63 Wn.2d 871, 389 P.2d 659 (1964).....	33
<i>Lampard v. Roth</i> , 38 Wn. App. 198, 684 P.2d 1353 (1984)	30
<i>Magaña v. Hyundai Motor America</i> , 167 Wn.2d 570, 220 P.3d 191 (2009).....	
.....	25, 26
<i>Mattson v. Mattson</i> , 95 Wn. App. 592, 976 P.2d 157 (1999)	25
<i>Mayer v. Sto Indus., Inc.</i> , 156 Wn.2d 677, 132 P.3d 115 (2006).....	24
<i>Mears v. Bethel Sch. Dist. No. 403</i> , 182 Wn.App. 919, 332 P.3d 1077 (2014)...	
.....	25
<i>Seals v. Seals</i> , 22 Wn. App. 652, 590 P.2d 1301(1979).....	39, 40
<i>Seattle Times Co. v. Ishikawa</i> , 97 Wn.2d 30, 640 P.2d 716 (1982).....	
.....	2, 13, 17, 21, 32
<i>Smith v. Behr Process Corp.</i> , 113 Wn. App. 306, 54 P.3d 665 (2002).....	26
<i>Taylor v. Cessna Aircraft Co., Inc.</i> , 39 Wn. App. 828, 696 P.2d 28 (1985).....	
.....	25, 31
<i>Teter v. Deck</i> , 174 Wn.2d 207, 274 P.3d 336 (2012).....	25, 26
<i>Vaughn v. Chung</i> , 119 Wn. 2d 273, 830 P.2d 668 (1992)	49
<i>Wash. State Physicians Ins. Exch. & Ass'n v. Fisons Corp.</i> , 122 Wn.2d 299,	
858 P.2d 1054 (1993).....	27
<i>Wixom v. Wixom</i> , 190 Wn. App. 719, 360 P.3d 960 (2015)	46
<i>Wold v. Wold</i> , 7 Wn. App. 872, 503 P.2d 118 (1972).....	31
 Foreign Cases	
<i>In re Marriage of Dahl and Angle</i> , 222 Or.App. 572, 194 P.3d 834 (2008)....	39

Thomas v Louisiana State Board of Health, 278 So.2d, 915 (1973)..... 37

WA Statutes

RCW 26.09.080..... 39, 40

RCW 26.09.140..... 25, 46

RCW 26.09.184 (4)(a)..... 4

RCW 26.09.184(4)(f) 4

RCW 26.09.191..... 5, 21, 45

RCW 26.16.030..... 40

Rules

CR 15..... 2

CR 26(e)(1)(A)..... 29

CR 26(e)(2) 26

CR 26(e)(2)(B) 29

CR 37..... 50

CR 37(a)(3) 26

CR 59..... 48, 49

CR 59(a)(1)-(9) 49

CR 59(b) 49

RAP 14.3 50

RAP 18.1 50

Constitutional Provisions

Const. art 1, § 10 32

I. INTRODUCTION

This hotly-disputed dissolution has a long and complex history of hearings and decisions. Since 2014, Aimee and Otto Guardado have waged war over property, an embryo, and most acrimoniously, their young child.

Amid multiple unsavory allegations, the parties hired a psychologist to perform a parenting evaluation. The court ordered an in camera review for health care records with relevant records sent to the psychologist.

Months before trial, on suspicions that Aimee was seeing a therapist and had undisclosed medical records, Otto moved the court to compel and was denied. But, two days before trial, Aimee's mental health counseling records arrived on the courthouse steps. The records exposed her year-long professional relationship with a counselor and new allegations of abuse.

Otto was forced to conduct an investigation of the new evidence while involved in the course of trial. Unable to chase both rabbits, the trial did not go well for him. The trial court made numerous errors in its decision due to misinformation and the confusion sown by the late-discovered records. Inter alia, it failed to distribute property, made improper changes to the child's birth certificate, and did not properly address the disposition of the embryo.

Many of the errors are interdependent and cannot be easily reduced down to a hearing. Also at issue are Aimee's discovery violations and if a new trial is appropriate sanction. For these reasons, Otto asks that this Court to reverse the trial court's decisions and order a new trial to finish the work that should have happened the first time.

II. ASSIGNMENTS OF ERROR

1. The trial court erred in its handling of the Aimee's psychotherapy records ("the Dezsofi" records), and by not making findings that her conduct violated discovery rules and a discovery order.
2. The trial court erred by allowing Pauline Weber to testify despite her defiance of a subpoena for deposition.
3. The trial court erred when it sealed the psychotherapy records sua sponte and in camera without a hearing and without effectuating the procedures of CR 15 or the "*Ishikawa*" factors. *See Seattle Times Co. v. Ishikawa*, 97 Wn.2d 30, 37-39, 640 P.2d 716 (1982).
4. The trial court erred by not making findings that Aimee spoiled video evidence.
5. The trial court erred by denying the Otto's motion for a new trial.
6. The trial court erred by making the findings of fact in Appendix A.

A. DECREE OF DISSOLUTION

1. The court erred by not distributing all the community property. §3.2, 3.3. CP 613.
2. The court did not assign required medical debt to the Petitioner. §3.4. CP 613.
3. The court erred by finding Otto intransigent and awarding attorney fees. §3.13. CP 614.

4. Since the parties already understood the embryo as property¹, the court erred by not awarding the embryo to either party. §3.15. CP 615. This did not follow statutory requirements for total distribution of property.
5. The court erred by ordering CG's birth certificate to be amended with Otto's ethnic information. §3.15. CP 615.
6. The court orders the "State Official" (presumably Wash. State Department of Health) to amend the birth certificate.
7. The court erroneously lists the birthplace of Aimee and Otto as "[PLACE]". §3.15. CP 615.
8. The court amended the birth certificate with Otto's biological father's, but not his mother's or Aimee's parent's ethnicity. §3.15. CP 615.
9. The court erroneously lists the birthplace of CG as Vancouver, WA, when it is actually Portland, OR. §3.15. CP 615, 553.
10. The court abused its discretion when ordering the allergy testing of CG §3.15. CP 615.
11. The court erred when assigning rental income from Otto's property which had already been consumed by the parties prior to separation. Exhibit "H" at §property, no. 4. CP 617.
12. The court only considered Aimee's misleading testimony when assigning \$800 of value to Otto's contributed appliances. Exhibit "H" at §property, no. 5; see also Exhibit "W" at §debts, no. 3. CP 617.

¹ Otto is uncomfortable referring to the embryo as "property", but since that is what is written in the parties' agreement, he does so with misgiving.

13. The record does not support that Otto ever had any tax liability, and Otto denies having one. Exhibit “H” at §debts, no. 3. CP 617.
14. The court erred when it overlooked Aimee’s agreement that there was community property interest in the family home. Exhibit “H” at §debts, no. 4, also Exhibit “W” at §property, no. 3. CP 617-18, 172.
15. The court erred by assigning “[a]ll past, present and future fees and costs...” of the embryo to Otto without specifying amounts for past and present fees, which by then had already been paid. Exhibit “H” at §debts, no. 5. CP 617.
16. The court erred when it did not consider that Aimee already admitted that there was community interest in her retirement plan (May 22, 2014). Exhibit “W” at §property, no. 5. CP 618.

B. PARENTING PLAN

1. §3.2, 3.7: The parenting plan is vague about the time of weekend, Memorial Day, and Labor Day exchanges and just mentions “morning” or “night” without specificity. CP 620, 622.
2. §V: The trial court did not include statutory language of RCW 26.09.184(4)(a)-(e) as contemplated by RCW 26.09.184(4)(f) for dispute resolution. CP 625.
3. §3.13: The trial court erred when it ordered medical testing without testimony from CG’s physicians and contrary to physicians’ recommendations. CP 623.

4. The order calls to follow “local rule”, but does not specify if what would happen if relocation occurs to a state with no local rules. §3.3.
5. Spring break is vaguely defined as starting on a Monday, but does not specify if spring break follows the prevailing school district schedule or some other methodology. If longer than one week, what Mondays and Fridays does it consider? §3.4.
6. Does not specify the time on Friday and Monday night to transfer. §3.7.
7. The trial court erred when it ordered, without any basis or explanation, that the father cannot pick his child up early from daycare. §3.13. CP 623. The court did not make this ruling initially (CP 610-11), nor was this in Aimee’s proposed parenting plan (CP 322-30).
8. The trial court adopted Aimee’s proposed parenting plan designed with limiting RCW 26.09.191 factors in mind. The court did not find “.191” factors, but still made no substantive changes. CP 322-30, 619-27.

C. ORDER OF CHILD SUPPORT

1. The court ordered that tax exemptions be dependent on being current on all support obligations by 12/31 of each year. CP 688.

III. STATEMENT OF THE CASE

Aimee and Otto met in 2010. Aimee had three children from a prior marriage, and Otto had two. CP 289. Early on, their relationship was marked with distrust. CP 290. Believing that Aimee was untruthful in her relationships with other men, Otto used a Facebook account that wasn’t his and confirmed this. Trial Report of Proceedings, January 11-13, 2016 (Trial RP) at 32. Despite

this and their other trust issues, they reconciled and married on December 17, 2011. CP 4, 289.

Aimee had purchased a home in Camas, WA in October 2010 (CP 67), while Otto owned a separate house in Vancouver, WA. *See* CP 415. Otto and his two children moved into the Camas home after the marriage. CP 96. The parties agreed to rent out Otto's home. *Id.* Otto had his own car. CP 5. The parties had decided to purchase a Honda Pilot, which Aimee purchased in her name, just prior to their marriage in anticipation of having an additional child. Trial RP at 586. *See* CP 363. They made payments to the Pilot while married. Trial RP at 586. Otto moved his personal appliances to the family home. Trial RP at 258.

In January, 2012, they began the pre- in vitro fertilization (IVF) process (i.e. sperm testing, mock embryo transfer) with Oregon Reproductive Medicine. *See* CP 722. In March, they harvested 32 oocytes (eggs) from Aimee, with 24 deemed acceptable for treatment and were introduced to Otto's sperm for potential fertilization. *See* CP 722. Twelve of these "took" to fertilization, creating embryos² – of which, three formed blastocysts and were suitable for implantation and potential creation of a human. *See* CP 306.

On April 3, two (2) embryos were implanted into Aimee and one (1) was cryogenically frozen for potential later use. Trial RP at 251. Two embryos were used instead of one was because the parties were advised that embryos may

² Terminology varies among cases. Otto lacks the scientific acumen to distinguish between "preembryo", "pre-zygote", or "embryo", and defers to the term "embryo", consistent in the Oregon Reproductive Medicine contract (CP 724-42), to mean the cryogenically-frozen product of Aimee and Otto. His presumption is that the terms are synonymous.

perish after implantation. Indeed, only one developed and CG was born at Providence Portland Medical Center in Portland, OR. CP 553.

Aimee was terminated from her job at Legacy Health in January 2014 (CP 126, 166, 406). The parties sought marital counseling with Dr. Pamela Kimsey of Vancouver, WA (CP 264, 419, 751, 916; *see* Ex 47, 48), but despite this, the parties separated in March (CP 288, 290, 307) with Otto moving out into his own apartment at this time. Aimee remained in the family home. At the time of separation, Aimee had lived in the home for 41 months. CP 655. Otto had lived in the family home for 26 months, with both paying equal amounts while he lived there. CP 650, 655; Trial RP at 683. Initially, Faye BreitReed of Vancouver, WA represented Aimee and Mary Kay Gaffney of Vancouver, WA represented Otto. CP 2, 25.

Aimee and Otto agreed that Aimee could take funds from her Providence Health retirement plan and that there was community interest in this plan. CP 564, 651, 660-61; Trial RP at 484, 485, 604, 739, 742-43. Aimee subsequently cashed out her retirement plan. CP 196, 423, 533-34; 564-65; 657-58. *See also* Trial RP at 484-93. She acknowledged that it was approximately \$18,000 at the time of separation. CP 4, 19. Aimee was ordered to keep documentation about this withdrawal when finalizing the dissolution, but failed to present it to the court or to Otto. CP 196, 564. During trial, Otto estimated the plan's community interest at \$14,891. CP 363, 377. While Aimee was at Otto's business office receiving a notary stamp for her retirement fund distribution, she created a

disturbance, and Otto's office manager advised him that Aimee was no longer welcome there. CP 637. Aimee denied causing a disturbance. Trial RP at 338.

Unable to afford the family home, Aimee requested, and received, permission from the court to sell it. CP 66-67. Aimee acknowledged that there was community interest in the home (CP 67, 95, 172, 195; 11/12/14 RP at 4, 5; *see also* CP 651, 655) and had kept some of Otto's other community or separate property after he moved (CP 4, 111-12, 178). A commissioner ruled that the net proceeds of the home sale be placed in trust. 11/12/14 RP at 6; CP 172. Months later, Aimee moved the court to receive a distribution of some of the home sale funds, and the trial judge ruled that each party may have \$10,000. CP 197.

The court ordered that Otto pay 70% of CG's uninsured medical expenses, and Aimee 30%. CP 50-51. Otto paid for his share of bills from Vancouver Clinic, but Aimee did not. CP 533, 561-62; 363. Aimee did not respond to his offer for a loan to pay the debt. CP 561-62.

The animosity between the parties escalated with allegations on both sides. At various times, Aimee accused Otto of Medicaid fraud (CP 64-65, 72; Trial RP at 512, 608-12); removing her as a contact on their child's medical records (CP 72, 518, 520, 556-59); changing her address at the post office (CP 72); various menacing and/or physical intimidation behaviors (CP 72, 166, 168, 307, 315, 366-68, 372; Trial RP at 119, 341-42, 804; 11/12/14 RP at 8); infidelity (RP 481-89); breaking into her house and theft of her jewelry (CP 111- 12, 178, 414-15, 708, 709; Trial RP at 273-74, 315-17, 512); and bumping her as she descended stairs (CP 72; Trial RP at 223-27). She also suggested or inferred that

Otto hired a private investigator (CP 599; Trial RP at 52, 53, 290, 302-13) and drove nails in her tires (CP 72), and let out the air of her mother's tires (*id.*).

Otto denied these allegations: CP 126, 147, 512; Trial RP at 608-12 (Medicaid allegation); CP 111-12, 512, 708 (stealing jewelry); CP 512 (breaking and entering); CP 519, 520, 556-58 (removal of Aimee as contact for CG's medical records); CP 126 (changing Aimee's mail); CP 124-25, 198-99, 356, 511-13, 516, 520; 11/12/14 RP at 9 (physical intimidation); CP 479, 481-89 (infidelity); CP 494, 506-11 (bumping her during the "stairs" incident). Otto denies ever hiring a private investigator (*See* Trial RP at 52) or vandalizing Aimee's or anyone's vehicle.

Otto accused Aimee of abusive use of conflict (CP 355-56; Trial RP at 621); raising false allegations to influence the court (CP 356); causing a disturbance at his workplace and his home and during child exchanges (Trial RP at 483-93, 495, 613-16); and pushing him (Trial RP at 375, 494, 506-11).

There were multiple flashpoints that heightened tension between the parties. During an child exchange with CG, Otto reported Aimee to the Vancouver Police Department for pushing him. CP 129-40. Aimee denied pushing him, instead alternately claiming that he hovered or pressed his body against hers as they were descending the stairs. CP 72; Trial RP at 223-27, 375-77. Otto's version of events differs. CP 125; Trial RP at 494, 506-11. Aimee denied pushing Otto (CP 375-76) and creating a disturbance at his apartment (CP 799-800). The stairs incident spurred Aimee to video-record the child exchanges

between her and Otto from October 21 – December 18. Trial RP at 85, 183-84, 279-80, 513-18.

Because of the stairs incident, Aimee moved the court for child exchanges to occur at the police station. CP 71. A commissioner orally ruled that the parties will exchange at the police station. CP 641. (This oral decision was substantially memorialized merging with a later agreed order. CP 191.)

On June 20, 2014, Aimee came to Otto's office to have her 401(k) liquidation form notarized from Otto's colleague. Trial RP at 483-92; CP 637-38, 651. After she received her notarized documents, she caused a disturbance despite multiple requests to leave. Trial RP at 490-91; CP 533-34, 637-38.

Otto substituted attorney Michael Roe of Vancouver, WA for Ms. Gaffney. *See* Appendix B at 4.

Each party made many motions including changing parenting plans, access to restrained funds, discovery, and contempt. In total, Aimee moved the court 15 times, and Otto 19 times. *See* Table 1, Appendix C. Because Otto was pro se at one point, he could not issue subpoenas (CR 45) and made three motions to the court for this purpose. Table 1 at 10/8/15, 10/28/15, and 10/29/15. Aimee was twice found in contempt for violating the order restraining her from selling property. CP 188, 190, 242, 251-52.

During this time, Aimee submitted declarations to the court from Jeanette Dezsofi, LCSW, who twice identified herself as the counselor for Aimee's child, HS. CP 173-74, 228-31. Ms. Dezsofi did not represent herself as Aimee's counselor.

On November 4, 2014, Otto submitted his first set of interrogatories to Aimee (CP 754-835), which she answered on January 16, 2015. Question 117 asked for disclosure of “all health care providers” that Aimee consulted in the last 10 years. CP 807. In her response, she references the parties’ marital and pre-separation counseling with [Dr. Pamela Kimsey], but did not say that she was having counseling sessions with Ms. Dezsofi. CP 418-19; *See also* CP 751. Question 120 asked her if she has ever sought the professional services of a mental health care provider or counselor and if so, to identify each diagnosis. CP 808. She listed her diagnosis as “anxiety”. CP 419. Questions 141 and 142 ask to identify people who have knowledge relevant to child custody of any of her children. CP 814. She indicated her mother only. CP 420. She does not list Ms. Dezsofi under answers 117, 120, 141, or 142. CP 418-20.

Otto also asked for video recordings of the exchanges that Aimee had taken with her cellular device. CP 901. Aimee stated that the recordings were “not available”, and presumably deleted. CP 839. During trial, Aimee testified that the videos were inadvertently deleted from her iCloud account. Trial RP at 318-21. Aimee claimed that the videos would have demonstrated Otto’s alleged intimidating behavior. Trial RP at 318-19, 330-31. She said that there were two video recordings, and that she herself, HS, and Pauline Weber had all recorded exchanges. Trial RP at 318. Otto accused Aimee of spoiling evidence. CP 531-32.

In early 2015, the parties agreed to do a bilateral custody evaluation with Dr. Landon Poppleton of Vancouver, WA. CP 292, 350; *see also* CP 234-35, 242.

Dr. Poppleton was asked to evaluate the comparative custodial fitness of each party. CP 285. (Apparently, both parties assumed that this had been memorialized in a written order, when it actually never was. *See* 5/8/15 RP 4, 5, 6. This error was mutually discovered months later and the parties entered a stipulated order authorizing Dr. Poppleton to perform the evaluation, with Otto to pay for the costs. CP 285-86.)

On May 8, 2015, the court ordered that the parties disclose their healthcare and mental healthcare records for an in camera review to facilitate Dr. Poppleton's evaluation. CP 233, 234-35; 5/8/15 RP at 4, 6. Both parties understood this to mean the records of Aimee, Otto, and Aimee's child HS. CP 233, 234-35; 5/8/15 RP at 3-4, 6, 7; *see also* 5/27/15 RP at 8-9. The court understood it was to perform an in camera review of all the healthcare records and make the relevant records available for Dr. Poppleton's evaluation. 5/8/15 RP at 4, 5; Trial RP at 168; CP 234-35. Aimee's own attorney clarified that the order encompassed "both parties' records". 5/8/15 RP at 7. The judge opined how he could disregard the documents after an in camera review, and considered having a colleague review them instead. 5/8/15 RP at 4-7. *See also* 5/27/15 RP at 8-9. The court found Aimee's healthcare records relevant. 5/8/15 RP at 5-6. CP 233, 234. The court ordered that the relevant records would remain in Dr. Poppleton's custody with each party having the option to review them at his office. CP 235.

Otto deposed HS, Aimee's 18-year old child. Trial RP at 232-34, 236-45,644-48. This deposition was the subject of controversy due to HS's

emotional fragility. *Id.* During a pre-deposition hearing, the judge held that HS should not escape service by going to California. 5/27/15 RP at 6, 7.

The trial judge released the results of his in camera review in the summer, after reviewing about 112 pages of healthcare documents from Otto and about 1120 pages from Aimee. CP 248-50. Records from Jeannette Dezsofi were not listed in the reviewed documents, nor did Aimee alert the court that the records never crossed the judge's desk. CP 250. The judge personally reviewed the records and determined their relevancy. CP 248; 10/30/2015 RP at 23, 31; *see* Trial RP at 168, 580. A month later, the judge released the relevant records under protective order (CP 256) and sealed the rest (CP 257). The judge appeared to seal the records *sua sponte* and without application of the "*Ishikawa*" factors. CP 257. There was no discussion from the judge or the parties about sealing the records during the in camera review hearing, or any foreknowledge that the judge would be sealing the records. *See* 5/8/2015 RP.

Aimee substituted attorney Faye BreitReed for Marie Tilden of Vancouver, WA on June 25. *See* Appendix B at 8. Otto's income declined (Trial RP at 603), and his counsel Michael Roe withdrew (*see* Appendix B at 9 (7/30/2015)). Otto remained self-represented until just before trial, when Mary Kay Gaffney reappeared as his attorney. *See id.* at 12 (12/9/2015). (Josephine Townsend, of Vancouver, WA, briefly appeared for Otto after trial during his attempt at reconsideration. *See id.* at 14 (6/24/16)).

Two months before trial, Otto moved the court to compel disclosure of Aimee's mental health records from Ms. Dezsofi. CP 267-70; 10/30/15 RP at

27-28. He had recently received statements on his health insurance that showed Aimee visited Ms. Dezsofi at least twice in August 2015. CP 261. Aimee argued that her responsibility ended when she signed the release. 10/30/15 RP at 27. Aimee argued that she was not under duty to disclose mental health care records after May 8, 2015. CP 273-74; 10/30/15 RP at 27, 28. The court orally ordered for records to be sent to the court for in camera review. CP 280; 10/30/15 RP at 27. Aimee said that there were no additional records from Ms. Dezsofi from June 2015 – October 2015 except for the two visits on August 1 and 15. 10/30/15 RP at 26. The court now held that a disclosure of the healthcare providers' names was all that was required (10/30/15 RP at 34), apparently overlooking the order's language that "the court shall perform an in camera review of the records (all) to determine what other records are relevant and should be disclosed to the parenting plan evaluator Dr. Poppleton." CP 233, 234-35. The court again said that Aimee's healthcare records were relevant. 10/30/15 RP at 31. The court issued subpoenas for deposition of Aimee's mother, Andrea Mellow and Aimee's friend, Pauline Weber. CP 280. Pauline Weber did not appear for her deposition. CP 669; *see* CP 670-75.

Otto propounded a third set of interrogatories to Aimee on September 29. CP 888-903. Aimee answered November 2. CP 837-40. To question 13 (CP 898) if she had sought the services of a mental health care provider, Aimee only referenced her original January 2015 answer. CP 838. To question 16 and 17 (CP 899-900) if there were other people with relevant info about CG, she referred to her earlier January answer. CP 838. Again, Aimee did not say that

she was currently in mental health counseling with Ms. Dezsofi. Aimee's attorney also signed the November answers despite knowing from the hearing the day prior that Aimee had visited Ms. Dezsofi on August 1 and 15. 10/30/15 RP at 26; CP 840.

Dr. Poppleton's evaluation ran from approximately January 2015 – December 2015, when the report was released. *See* Trial RP at 23. Trial was scheduled for three days on January 11 – 13, 2016. On the afternoon of January 7, two days before trial, Aimee's attorney alerted Otto's attorney and the trial judge that she had just received Aimee's mental health records from Jeannette Dezsofi, and forwarded the records directly to the judge. CP 331. In her letter, she indicated understanding that Aimee was under order to provide records directly to the court for an in camera review. *Id.*

Aimee began her case-in-chief with Dr. Poppleton testifying, relying largely on his own parenting evaluation. Trial RP at 19-162. He did not mention any allegations by Aimee of post-traumatic stress disorder (PTSD). Although he reviewed CG's medical records (Trial RP at 90-91, 138-40, 142-44), he does not mention reading or ever having access to the Dezsofi records at all (*see* Trial RP at 76-77; CP 916-19). He testified that he did not have any records that particularly stuck out as instrumental to his report. Trial RP at 76. He listed Jeannette [Dezsofi] as the counselor for Aimee's children, B and HS, but not as Aimee's counselor. CP 916.

The court reviewed the Dezsofi records during the lunch break and read enough to declare them relevant, and would distribute copies for the parties to

review. Trial RP at 168; CP 344. Aimee's counsel asked that Otto not be allowed to read them except in Mary Kay Gaffney's office. Trial RP at 171.

Aimee claimed that CG had a milk allergy (CP 369; Trial RP 344-46) and that her home was separate property (CP 309; Trial RP at 13-14). She made additional allegations during trial that were not made during the pre-trial proceedings or in her trial brief: that Otto filled out genetic information on a medical form (Trial RP at 250-51; CP 404-05), that Otto misrepresented information on CG's birth certificate (Trial RP at 249-50; CP 553), that CG's birth certificate should reflect certain ethnic information (Trial RP at 249-51), stealing phone and bank records (CP 307); that he filed 22 (or alternately, "countless frivolous") motions (CP 307, 314, 320, 321, 366; Trial RP at 806); "constant" harassment of third parties for information (CP 366); that Aimee had taken CG to approximately 30 medical visits and Otto only to one (CP 365; Trial RP at 193-95); that Otto's appliances that she sold with the family home were in disrepair, and that she gave the new buyers a cash allowance because they did not want to keep them (Trial RP at 258-61, 366-69); that Otto used income from his rental property for personal use rather than for that marriage (Trial RP at 412-13); that Otto refused to discuss parenting functions with Aimee (CP 369; Trial RP at 210-11); and that Otto demanded approval for Aimee to take classes (Trial RP at 806-07).

Aimee controverted her earlier position on the retirement plan she liquidated in 2014, now saying it was her separate property and asked the court retain the funds. Trial RP at 272. *See* CP 564.

Aimee also reversed her earlier position on the characterization of the family home during trial. While before, she had stated it had community property interest (CP 67, 95, 172; 11/12/14 RP at 4, 5), she now claimed that it was separate property (CP 309; Trial RP at 14). Aimee's theory of why Otto was not entitled to any community interest in the Camas, WA property was because he received a "rental value" from living here which offset the community property he would be entitled. Trial RP at 14, 683-87; CP 607-08.

Aimee called her mother, Andrea Mellow (Trial RP at 415-21), and her best friend, Pauline Weber (Trial RP at 175-85), to testify. Aimee did not submit a witness list to the court. The court still allowed Pauline Weber to testify despite her defiance of the subpoena (CP 669-75). Trial RP at 172-74. Otto objected to her testimony. Trial RP at 7-8, 173-74. Otto submitted two witness lists detailing over 30 proposed witnesses. CP 664-68. In an earlier hearing, Aimee objected to Otto's deposition of these witnesses, saying they lacked relevant information. 10/30/15 RP at 3.

The court released copies of the Dezsofi records to the parties on the second trial day. Trial RP at 301; CP 345. The court issued a protective order along with oral instructions that the parties could not make copies, and that the parties could only read the records in their attorneys' offices. CP 334; Trial RP at 168-72, 301.

The court recognized that it had to perform an *Ishikawa* analysis to seal the records and that there was an openness presumption. Trial RP at 504-05

Otto began his case-in-chief and claimed that the family home was partially community property. Trial RP at 736. He also claimed that there was there was already an agreement that Aimee's retirement plan had community property interest. Trial RP at 485. The agreement stated that Aimee would keep documentation of her 2014 distribution for finalizing the dissolution. CP 564. Aimee had promised to disclose it per his discovery request (CP 196), but never supplied it to him or the court.

Otto agreed that the community property portion of his 401(k) was \$42,978.09. CP 360; Trial RP at 697. Otto testified that Aimee video-recorded at least 10 exchanges, with Aimee, HS, Pauline Weber, and Andrea Mellow participating. Trial RP at 513-17, 622-23.

Otto testified that he did not believe CG had a milk allergy, based on discussions with CG's primary care physician, Dr. Stephen Miller and two other doctors. Trial RP at 560-70. He also testified that to get allergy testing, a patient needed to have a referral to an allergist, which three doctors declined to do. Trial RP at 566. Otto also testified that he would get CG testing if a doctor recommended. Trial RP at 570.

The night of the second day of trial, Otto's attorney began to read the approximately 100 pages of Dezsofi records that were released to the parties. Trial RP at 576-77; CP 752, 867. She was alarmed at the accusations and the inconsistencies contained in the records. Trial RP at 576-77. The records showed that Aimee had been undergoing bi-weekly counseling with Jeannette

Dezsofi for over a year – from December 24, 2014 until trial (January 11, 2016). CP 350.

Citing the Dezsofi records, Aimee alleged that Otto caused PTSD in her due to his intimidating behavior (Trial RP at 648, 804-05); that Otto had offered poisoned cookies to Aimee and her children (CP 354, 357); that Otto was somehow to blame for HS's emotional turmoil (Trial RP at 638); and that Ms. Dezsofi recommended that Otto only have supervised visits with CG (Trial RP at 661). Due to the length, Otto's attorney could only partially read the records the evening before and had only a few minutes to discuss the contents with Otto. Trial RP at 576-77, 638-39, 658, 661.

The next morning, Otto moved the court to not read any of the Dezsofi records. Trial RP at 576-77. Aimee argued that Otto had known that Ms. Dezsofi was Aimee's counselor for six months and could have deposed her and failed to compel her records. Trial RP at 578, 651-52. The judge apparently agreed with her and faulted Otto for not engaging in enough discovery effort or moving to compel the records. Trial RP at 579-81, 660. Otto reminded the court that he moved to compel Ms. Dezsofi's records in October (Trial RP at 652). The court did not recall the details of his motion and apparently disregarded this information (Trial RP at 654-55). The court appeared conflicted about what to do with the Dezsofi records. Trial RP at 655-57.

Otto opposed Aimee's request to amend CG's birth certificate with additional ethnic/genetic information. Trial RP at 728-33. He said that he did not believe that the CG's birth certificate even had genetic information on it. Trial

RP at 729. He asserted that his father was different, but that he was adopted and identified with his adopted culture. Trial RP at 728-29. At the time of trial, Aimee had the sole copy of CG's birth certificate. CP 515. Aimee did not submit a copy of it to support her claim that it listed her ethnicity. *See* Trial RP at 249; *See also* CP 515, 553.

Although he hadn't read the Dezsofi records (Trial RP at 576, 802, 816), Otto had to testify about them. Trial RP at 638, 648, 661. He objected to each of these, but was overruled. *Id.*

Shortly before the mid-day break, the court ruled that the records would be disallowed for either party due to the fact that the parties were prejudicially foreclosed from pursuing arguments based on the reports. CP 347; Trial RP at 656-57. Aimee asked that the court destroy the records, but that she be allowed to keep her copy to review; the court agreed to this. Trial RP at 660-61.

Although the records were disallowed, Aimee's attorney continued to ask Otto and Aimee questions about the records. Trial RP at 661, 800-06.

In her rebuttal, Aimee testified about the Dezsofi records, claiming that she now had PTSD from stress and trauma of the divorce proceedings, and Otto's alleged behavior. Trial RP at 801, 804-05.

The court asked the parties to submit written closing arguments and provide a spreadsheet for proposed property division. CP 348, Trial RP at 807-08. The court asked for personal property (i.e. housewares) to be represented on one line item. Trial RP at 818.

Aimee argued that Dr. Poppleton's testimony supported Aimee as the primary parent, and pointed to Otto's alleged failure to take CG to medical appointments. CP 365. Aimee also argued for additional allergy testing (CP 369), amending CG's birth certificate (CP 371), that the embryo be destroyed or remain frozen (CP 371), and that an award of \$25,000 is justified due to Otto's alleged intransigence and abusive use of conflict (CP 371-73).

In his closing statements, Otto alleged that Aimee was engaged in abusive use of conflict due to false allegations and withholding the Dezsofi records from Dr. Poppleton undermined the integrity of his evaluation. CP 355-56. He asserted that raising the issue of her alleged PTSD last-minute, while simultaneously withholding the records from discovery, also constituted abusive use of conflict. CP 356. Otto also added some additional descriptive language into his proposed parenting plan and vacation for both parents. CP 678, 680. Aimee faulted this in her rebuttal statement, calling them "significant changes". CP 377-79.

The court reviewed the Dezsofi records in camera and subsequently sealed them sua sponte three weeks after trial. CP 380. The court did not call a hearing to seal the records, and did not apply an *Ishikawa* analysis. *Id.*

The court issued its findings and conclusions of law on April 21, 2016. CP 597-611. The court adopted almost all of Aimee's proposals, including her proposed parenting plan, (less RCW 26.09.191 language) (CP 322-30, 609-10 619-27); that CG's birth certificate be amended to list Otto's biological father's ethnic heritage (CP 371, 610); that CG have medical testing for allergies (CP

369, 610); that proceeds from the family home were Aimee's separate property and Otto was to return \$10,000 (CP 318-19, 374, 607-08); that Otto was allegedly intransigent and to pay \$25,000 of Aimee's attorney fees (CP 320-21, 371, 591, 604, 607). The court also ruled that it would not award the embryo or the value of miscellaneous personal property to anyone. CP 605-07, 609.

The final orders included elements that the judge had never ruled on, and inserted by Aimee after his ruling, such as that Otto could not pick CG up early from daycare (CP 623), and replacing CG's Oregon birth certificate with a Washington birth certificate and changing the place of birth (CP 615, 908-10). Various sections of the parenting plan that were added or changed from the proposed parenting plan. *Compare* CP 322-30 *with* CP 619-27. At entry of orders, the judge declined to correct the new, inserted statement that Otto could not pick CG up early. CP 623; 6/8/16 RP at 29.

A new section was inserted that Otto's rights to use the child tax exemption could be clawed back if not current on "all support obligations". CP 688.

Otto moved the court for reconsideration, citing, among other things, that Aimee's concealment of the Dezsofi records constituted discovery abuse (CP 525-29), and Aimee had made several false allegations. CP 511-586. He included new evidence that Otto had not changed CG's contact at Vancouver Clinic (CP 518-20, 556-58), that the new owners of the family home did not ask for removal of the appliances (CP 513, 547-551), that the birth certificate did not contain any ethnic information at all (CP 514-16; 553); and that Aimee misrepresented the amount of times that Otto took CG to the doctor (CP 426-

504, 518). The court denied his motion. Otto timely appeals from the trial court's denial of his Motion for Reconsideration. CP 587.

IV. ARGUMENT

A. INTRODUCTION

This case highlights why trial courts should not tolerate willful discovery violations – at the core of this argument is the decision by Aimee to conceal relevant materials from discovery, which prejudiced Otto's ability to prepare for or obtain a fair trial. The trial court was apparently indifferent or uncertain as to making a finding regarding the Dezsofi records at all. Even though this controversy dominated the last day of trial, and Otto made multiple objections, the court shuttered its windows completely on this material issue.

This argument will also address errors in the disposition of an embryo. Numerous errors in the dissolution decree, parenting plan, and child support order require reversal and remand for a new trial to review all the issues, since they are all interdependent.

B. STANDARDS OF REVIEW

The court's findings of fact are reviewed for substantial evidence. *In re Marriage of Fahey*, 164 Wn. App. 42, 55, 262 P.3d 128 (2011). Substantial evidence exists if the record contains sufficient evidence to persuade a fair-minded, rational person of the finding's truth. *Id.* Conclusions of law are reviewed de novo. *In re Marriage of Wehr*, 165 Wn. App. 610, 613, 267 P.3d 1045 (2011). Conclusions of law are also reviewed to determine whether factual findings that are supported by substantial evidence in turn support the

conclusions. *In re Marriage of Myers*, 123 Wn. App. 889, 893, 99 P.3d 398 (2004).

A trial court abuses its discretion if its decision is manifestly unreasonable, or based on untenable grounds or untenable reasons. *In re Marriage of Kovacs*, 121 Wn.2d 795, 801, 854 P.2d 629 (1993). A court's decision is manifestly unreasonable if it is outside the range of acceptable choices, given the facts and the applicable legal standard; it is based on untenable grounds if the factual findings are unsupported by the record; it is based on untenable reasons if it is based on an incorrect standard or the facts do not meet the requirements of the correct standard. *In re Marriage of Littlefield*, 133 Wn.2d 39, 47, 940 P.2d 1362 (1997). When a trial court relies on unsupported facts or applies the wrong legal standard, its decision is exercised on untenable grounds. *Mayer v. Sto Indus., Inc.*, 156 Wn.2d 677, 684, 132 P.3d 115 (2006).

A ruling dealing with a parenting plan is reviewed for abuse of discretion. *Kovacs*, at 801; *Union Bank, NA v. Blanchard*, 194 Wn. App. 340, 364, 378 P.3d 191 (2016). An order distributing property is reviewed for an abuse of discretion. *In re Marriage of Thompson*, 97 Wn. App. 873, 877, 988 P.2d 499 (1999).

An award of attorney fees is reviewed de novo and the amount of attorney fees is reviewed for abuse of discretion. *Gunn v. Riely*, 185 Wn. App. 517, 532, 344 P.3d 1225 (2015), *review denied*, 183 Wn.2d 1004 (2015); *Gander v. Yeager*, 167 Wn. App. 638, 646-47, 282 P.3d 1100 (2012). In a dissolution, attorney fees may be awarded after an assessment of the parties' financial status

under RCW 26.09.140. But if the record supports intransigence of a party, the financial status of the parties doesn't matter. *Mattson v. Mattson*, 95 Wn. App. 592, 604, 976 P.2d 157 (1999).

An order denying a motion for reconsideration is reviewed for abuse of discretion. *Christian v. Tohmeh*, 191 Wn. App. 709, 728, 366 P.3d 16 (2015), *review denied*, 185 Wn.2d 1035 (2016). Review of a denial of a new trial based on an issue of law is de novo. *Mears v. Bethel Sch. Dist. No. 403*, 182 Wn.App. 919, 927, 332 P.3d 1077 (2014); *Teter v. Deck*, 174 Wn.2d 207, 216, 274 P.3d 336 (2012). Interpretation of court rule is reviewed de novo. *Jafar v. Webb*, 177 Wn.2d 520, 526, 303 P.3d 1042 (2013).

C. THE RESPONDENT'S DISCOVERY ABUSES TAINTED THE TRIAL.

1. *The Respondent's willful concealment of her records constituted discovery violations and impaired the Appellant's ability to prepare for trial.*

This state's highest court has a rich history of condemning discovery violations. In a liability case, Hyundai responded falsely or evasively to an interrogatory and failed to update its answer. *Magaña v. Hyundai Motor America*, 167 Wn.2d 570, 578, 579, 582-83, 586, 220 P.3d 191 (2009). Evidence later produced showed that Hyundai "willfully and deliberately" failed to comply with Magaña's discovery requests. *Id.* at 586, 591. *See also Taylor v. Cessna Aircraft Co., Inc.*, 39 Wn. App. 828, 835-37, 696 P.2d 28 (1985) (The appellate court held that a new trial was appropriate when the defendant failed to answer interrogatories). Due to Hyundai's discovery abuse, Magaña was unable to properly prepare for trial. *Magaña* at 589.

In a class suit, the state supreme court affirmed the trial court's opinion that the defendant's failure to disclose evidence substantially prejudiced the plaintiff because they were "...off in one direction when they should have been working in another..." *Smith v. Behr Process Corp.*, 113 Wn. App. 306, 325-27, 54 P.3d 665 (2002).

A violation of discovery rules or a discovery order without reasonable excuse is willful. *Burnet v. Spokane Ambulance*, 131 Wn.2d 484, 510, 933 P.2d 1036 (1997). Absent a protective order, a party cannot ignore or fail to respond to a discovery request. *Magaña*, 167 Wn.2d at 584; *Johnson v. Jones*, 91 Wn. App. 127, 133, 955 P.2d 826 (1998). "[A]n evasive or incomplete answer is to be treated as a failure to answer." CR 37(a)(3). A party is under duty to seasonably amend responses if they were incorrect when made or if no longer true and a failure to amend the response is a knowing concealment. CR 26(e)(2). A new trial may be granted if the misconduct of the prevailing party materially affected the substantial rights of the losing party. *Teter*, 174 Wn.2d at 222.

In January 2015, to Otto's question if Aimee had sought services from a mental health care provider (question 120 at CP 808), she listed only the parties' marital counselor, [Dr.] Pamela [Kimsey] (answer 120 at CP 853-54). Otto also asked to name any individuals known with relevant information regarding custody of CG. CP 814. Aimee listed only her mother. CP 855. By this time, Aimee had already begun consulting with Jeannette Dezsofi since December 2014. CP 350. Because Aimee offered no excuse for her failure to truthfully answer the interrogatories, her violation is willful. *Burnet*, 131 Wn.2d at 484.

The parties never agreed to limit their discovery and Aimee never sought any action protecting from answering interrogatories.

Suspicious that Aimee was not forthcoming with her mental health counseling, Otto asked again in November if she had sought counseling (question 13 at CP 898). Until then, the only thing that Otto knew for sure was that Jeannette Dezsofi had identified herself as HS's counselor in November 2014 (CP 173-74) and May 2015 (CP 228-31; Trial RP at 655).

Aimee only referred back to original answer in January. CP 838. She responded similarly to Otto's question (question 17 at CP 900) if anyone else had information relevant to CG's custody. *Id.* By this time, Aimee had been seeing Ms. Dezsofi for almost one year. Aimee denied that anyone besides her mother had information relevant to child custody. CP 838, 900. Yet, clearly this was misleading since Ms. Dezsofi made recommendations that Otto have supervised visits with CG. Trial RP at 661.

Aimee also did not identify any expert witnesses in response to Otto's interrogatories or update her answer later (questions 130-33). CP 811-12, 854; see also Trial RP at 650:5-6,15-16; at 656. Otto had a reasonable expectation that Aimee disclose Ms. Dezsofi as an expert since she had scientific knowledge of Aimee. There was no "spirit of cooperation and forthrightness" at all in her discovery responses. *See Wash. State Physicians Ins. Exch. & Ass'n v. Fisons Corp.*, 122 Wn.2d 299, 342, 858 P.2d 1054 (1993).

It is evident that Aimee misinformed Otto with her January 2015 answers. Worse, she doubled-down on her November set of answers even in the October

30 hearing, her attorney knew that Aimee had visited Ms. Dezsofi on August 1 and 15 and even told the court, “Those are the only records that there are since June.” 10/30/15 RP at 26. Aimee’s attorney should not have signed answers that she knew had misleading information. CP 840; CR 11; RPC 4.1(a); RPC 4.1, cmt 1.

It’s unclear why the court first ordered that Aimee release her medical records (10/30/15 RP at 26:7, 10; 27:19-20, 22-23; CP 280), and then decided that it was Otto that had to pursue additional discovery (*id.* at 28:25), even with the knowledge that there were relevant records that he had not reviewed (*id.* at 26:16-17; CP 234; 10/30/15 RP at 31:20-21).

Her attorney’s letter accompanying the Dezsofi records before trial clearly states that she and the previous attorney understood that the court’s order was to release all medical records, not just provider names. CP 331-33. Aimee’s excuse that she was only required to sign a medical *release* and not required to disclose her medical *records* (see 10/30/5 RP at 27:2-12) is not tenable based on a reading of the May 8, 2015 order (CP 234-35). It is also inapposite from what both parties’ attorneys discussed in court. We may look to the May 2015 oral record for support – both parties understood that: the records of Aimee and HS that are to be submitted to the court (5/8/15 RP at 3:25-4:1, 7:3-5); the court is to review them in camera (*id.* at 4:7-25); and Dr. Poppleton was to receive the relevant records (*id.* at 4:8-9, 5:12-13, 6:13-15). *See also* CP 233.

Aimee had a duty during July 2015 to alert Otto and the court that its in camera review (CP 248-50) failed to capture the Dezsofi records under the May

8, 2015 order.CR 26(e)(1)(A), CR 26(e)(2)(B). By this time, Aimee had been in therapy with Ms. Dezsofi for about seven months and knew that the in camera review failed to capture the records. This was a knowing concealment.

The judge clearly contemplated reading a stack of medical records, not a list of names: “I’ve often wondered how I could disregard 500 pages of documents once I’ve reviewed them.” (5/8/15 RP 4), and “...I’m struggling with...which of my colleagues would jump at the opportunity to review medical records for me.” (*Id.* at 5). The title of order plainly explains what the content is. If the court had intended to only disclose the names of the health care providers, there would be nothing to review “in camera”, and the order would not be titled “Order Allowing In Camera Review and Disclosure of Health and Mental Health Care Providers and Records”.

Right before the May 2015 hearing, Aimee had already misinformed the court about her therapy, saying that her mental health therapist was the same as the parties’ marital therapist, [Dr. Pamela Kimsey]. CP 224.

By circumventing the order, Aimee deprived Dr. Poppleton from making any inquiry on her alleged PTSD. He spent a considerable amount of time discussing Aimee’s pastiche of allegations. It is reasonable that if Dr. Poppleton had known that Aimee alleged PTSD from Otto’s behavior, he also would have testified on this important issue. The Dezsofi records are not listed in the source documents he relied on for his evaluation (CP 916-19).

Otto also was deprived of opportunities to analyze and explore this issue, even though her accusations were very serious. Though Ms. Dezsofi did not testify, contents from her records appeared liberally in trial:

Q: [from Marie Tilden] Can you now elaborate on what your understanding is of the causes of the PTSD? You mentioned that it was from stress from – from Mr. Guardado; is that correct?

A. [from Aimee Guardado] Um, well, conflict -- ongoing conflicts; um, hovering, causing intimidation; um, harassment; um, constantly, um, checking up on me. You know, everything that has occurred in our relationship and post separation. Trial RP at 804-05.

Even the judge recognized the bonanza that the Dezsofi records represented: "...and then [the records are] discovered and this is gold. This is good information here. This confirms X, Y, or Z. So there's a real interest in putting these materials on." Trial RP at 660.

Instead of conducting his case as planned, Otto had to spend precious time mitigating the prejudice of the surprise introduction of the Dezsofi records and their inflammatory accusations – "I'm totally sandbagged here," remarked his attorney. Trial RP at 650. The trial court should have ordered a mistrial. A new trial is the proper remedy in light of discovery violations. *See Lampard v. Roth*, 38 Wn. App. 198, 201, 684 P.2d 1353 (1984).

Aimee answered the same questions falsely twice, she misdirected the court in her May and October 2015 declarations, failed to alert Otto or the court that the Dezsofi records were never reviewed – even while knowing her records were held relevant. Aimee went to great measures over long period of time to conceal the Dezsofi records. The appearance of the Dezsofi records sowed confusion not only with Otto, but with the court itself, which struggled to cope with the

records. It was prejudicial for the court to review evidence that Otto was restricted from reading. Trial RP at 576.

“While the sanctions to be imposed are a matter of trial court discretion, this discretion is not unbridled. Imposition of unduly light sanctions will only encourage litigants to employ tactics of evasion and delay...” *Taylor*, 39 Wn. App. at 836. This Court should not reward her misconduct, and should instead find for reversal.

2. *The court erred when it failed to make findings on the Dezsofi records.*

The court erred by not rendering any findings of fact on the Dezsofi records, a material issue that caused surprise and irregularity in the proceedings. The court must make findings on all material issues. *Daughtry v. Jet Aeration Co.*, 91 Wn.2d 704, 707, 592 P.2d 631 (1979); *accord Wold v. Wold*, 7 Wn. App. 872, 875, 503 P.2d 118 (1972).

The court did not make a single finding about the records, or Aimee’s failure to comply with the May 8 order, as if they did not even happen. The court had an obligation to make a finding on material issues. The extent of the Dezsofi records was never revealed until the last trial day, during Otto’s case-in-chief. The transcription of the last trial day is 247 pages, of which, 25 pages were devoted specifically to controversy surrounding the Dezsofi records. Trial RP at 502-06, 576-82, 638-39, 648-61, 693-94, 800-804.

During trial, the court read enough to correlate the contents with Dr. Poppleton’s evaluation and deem them relevant. The records detailed serious allegations that Otto caused Aimee’s alleged PTSD and that he offered poisoned

food to her and her children. The court never said what exactly which parts it reviewed. It was prejudicial for the court to review evidence that Otto himself was never allowed to read. Trial RP at 576.

The court was clearly aware that Otto objected to the late discovery of the Dezsofi record and claimed discovery abuse from the start. Trial RP 576-77, 638-39, 650; CP 355-56, 357, 359. It felt strong enough about the Dezsofi records to seal them and hold them relevant on two separate occasions, so it clearly held some opinions that they were material. By not making a finding at all on a material issue that impacted the case, it made a reversible error.

3. *The trial court erred by sealing the records without proper analysis.*

The reasons for sealing the Dezsofi records post-trial were inadequate. The only reason the court gave is “because they are personal health care records. CP 380. The court did not explain why it ignored its responsibility to do an *Ishikawa* analysis before any sealing action, or the openness presumption. Trial RP at 504-05; *see Ishikawa*, 97 Wash.2d at 30; Const. art 1, § 10.

Inexplicably, the court did not advise the parties it was going to seal the records, did not call for argument or hearing, and did not effectuate the *Ishikawa* factors. The entire sealing action was done behind closed doors without any input at all from the parties.

The sealing of the Dezsofi records had significant consequences, including denying Otto the ability to use them for his appeal. Since the court had already twice ruled the records were relevant, Otto had a reasonable expectation that he be able to read them to defend against Aimee’s allegations. Otto unsuccessfully

tried to unseal the records for this review. CP 863-69; *see* COA II commissioner's decision of 3/24/17.

4. *The court erred by making conflicting orders and faulting the Appellant for his alleged lack of discovery diligence.*

[W]here a party to an action, in clear and unambiguous terms under oath, asserts the existence or nonexistence of a fact whereof such party has knowledge...the adverse party may rely on such statements and, in the exercise of reasonable diligence, is not required to look behind the statements. The trial court properly granted a new trial for newly discovered evidence.
Kurtz v. Fels, 63 Wn.2d 871, 875, 389 P.2d 659 (1964)

The trial court's suggestion that Otto should have done more work to compel discovery is wrong. (10/30/15 RP at 28-29; Trial RP at 580-81, 651-52, 653-55). Aimee was under duty to supply truthful answers to interrogatories in the first place and also submit her medical records; Otto should have to go through extraordinary measures to have Aimee comply with court rules and a court order. This is analogous to the appellate court's faulting of Jesse Magaña's discovery strategy (or lack thereof): "[T]he fault should lie with Hyundai, not Magaña. Under CR 26(e)(2), Hyundai had the duty to fully disclose its documents." *Hyundai Motor America v. Magaña*, 141 Wn. App. 495, 528, 170 P.3d 1165 (2007), *rev'd*, *Magaña v. Hyundai Motor America*, 167 Wn.2d 570, 220 P.3d 191 (2009) (Bridgewater, dissenting).

Otto had already moved the court to compel the Dezsofi records and asked Aimee to supplement her answers about the health care records. He still received misinformation. Additional motions would have been fruitless.

The court also gave conflicting rulings about the trial order protecting the Dezsofi records. The judge's order read: "...no copies shall be made, each

counsel exclusively possess [sic] only for trial...”, and “...the client...may not scan or photograph [the records]...”. CP 334. On day one of trial he ruled: “The order is not to make any copies.” Trial RP at 170; *see also* Trial RP at 294-95. However, later the judge said, “...by all means, you can make copies for the litigation.” Trial RP at 503. Even the clerk understood that the order meant “no copies”. Trial RP at 503; CP 344.

Aimee’s attorney asked that Otto be allowed to read the Dezsofi notes only in Ms. Gaffney’s law office. Trial RP at 169, 171. On the first day of trial, the judge clarified:

MS. GAFFNEY: Okay. So Judge, so I'm clear, he can only read the reports in my office.

THE COURT: And they will remain in Ms. Gaffney's possession.

MS. GAFFNEY: My exclusive – no dissemination. Just like a police report.

THE COURT: Bingo. Bingo.

MS. GAFFNEY: Okay.

THE COURT: So that -- that will be my order.
Trial RP at 171-72.

The judge’s written orders also state, “...[the records] shall only be viewed in counsel’s office by the client...”. CP 334; *see also* Trial RP at 294, 577, 579.

However, Aimee’s attorney and the judge himself contradicted their earlier positions:

MS. TILDEN: Certainly if she wants to review them with Otto, no one's asking that she make a trip back to her office in order to read them in her office. We're in the courtroom. And if she would like to sit in a conference room at noon and go over them she certainly can.

MS. GAFFNEY: That would violate the protective order that says it can only be read in my office.

THE COURT: Well, the intent is to have you -- allow you to read them with your client. It doesn't necessarily have to be in your office. I wouldn't think that's a violation.
Trial RP at 579.

Since Otto was court-ordered to care for CG on Tuesday evenings (CP 191), there was no opportunity for him to travel to Ms. Gaffney's office after court to review the Dezsofi records. Had Otto or his attorney known that the trial court's written order was not to be taken literally, then he could have at reviewed the notes during the lunch break. The court erred when it ordered that the records be under strict restraints when it did not intend them to be taken literally. This prejudiced Otto and foreclosed on his ability to defend against the hotly-contested records that he had been fighting to receive for months. Had he been able to personally review the records on the second day of trial, he would have been in a better position to dispute her allegations. Since Aimee had knowledge of the contents of her own medical records for the past year, it was unfair that Otto was never even allowed the opportunity to review the allegations that Aimee had levied against him.

This was a bench trial, but any jury would have wondered why the court first indicated that Otto's remedy for alleged discovery abuse was to compel discovery (Trial RP at 580-81), and then upon hearing that Otto had attempted to compel discovery (*id.* at 652:14-15), suddenly seemed disinterested (*id.* at 654-55).

Similarly, the court also made conflicting statements when it said that Otto should have done more in the face of Pauline Weber's defiance of the subpoena and discovery of the Dezsofi records, but then faulted him for making 13

motions since mid-June 2015. Apparently, the court felt that this was excessive, which doesn't reconcile with its statements that Otto should have made even more motions to compel her compliance. Trial RP at 173-74.

Otto exercised due diligence upon his suspicion that Aimee was being untruthful. The Court erred when it faulted him for lack of discovery effort.

D. THE COURT ABUSED ITS DISCRETION MAKING KEY DECISIONS.

1. *In re CG's birth certificate*

The court does not have unfettered discretion, even under color of the "child's best interest". The court is not free to "innovate at pleasure" and to pursue its own "ideal of beauty or of goodness." *Coggle v. Snow*, 56 Wn. App. 499, 504, 784 P.2d 554 (1990).

The court erred when it ordered that the birth certificate be updated with a certain ethnicity when it knew that CG was only partially this ethnicity. Trial RP at 249, 728-29; CP 610, 615. If the court was interested in documenting CG's "true heritage" (CP 610), then it had the duty to also document the heritage of Otto's mother, and Aimee's mother and father. The court did not explain why it fixated one of CG's grandparents but ignored the others.

The court's finding (#38) says that Otto identified his children as a particular ethnicity, but that is unsupported. During testimony, Otto never said that he identified CG or his other children as any ethnicity. He said that he was adopted and identified with his adoptive family's ethnicity. Trial RP at 728-33. Otto has never met his biological father, and indeed, publically renounced him. Trial RP at 729.

The court even recognized that there may not be case law on this subject (Trial RP at 814), yet seemed unconcerned that his decision did not have any legal support. In his closing argument, Otto struggled to find any applicable cases, only finding a distinguishable 40-year old case from Louisiana (*Thomas v Louisiana State Board of Health*, 278 So.2d, 915 (1973)). CP 360-61. Aimee did not produce any case law. CP 371. For this appeal, Otto could not find any Washington cases that support the court's decision.

The remarkable thing about this decision is that Aimee's claim that CG's birth certificate lists ethnicity is completely fabricated. Trial RP at 249. The court accepted this without ever seeing a birth certificate. CP 553. When it was presented one, it casually disregarded it. *See* CP 514-16, 629.

CG was born in Oregon (CP 553), and thus a birth certificate would have to be amended by the Oregon Health Authority. But the court ordered that a new Washington birth certificate be created. CP 615. It would be improper for Washington to re-issue a birth certificate for a person born in Oregon, and there is no precedent for this. CP 615, 908-10. Aimee did not present authority on the court's ability to change CG's birthplace from Portland, OR to Vancouver, WA. CP 553, 615. An Oregon Health Authority representative has advised Otto that there has been no provision in Oregon birth certificates in over 40 years to document ethnicity. CP 908.

Courts should be wary of casual changes to one's birth record, particularly without statute or precedent. This Court should recognize that the perils of

amending a child's birth certificate are entirely unforeseen and even potentially harmful, and reverse the trial court's unfortunate and inappropriate decision.

2. *In re CG's medical testing*

The court decided that CG should undergo medical testing for allergies based on an email from CG's primary care physician, Dr. Stephen Miller, which actually advised *against* testing. Dr. Poppleton pointed out that the email was not in favor of allergy testing. Trial RP at 142-45. Dr. Miller did not testify at trial. Without the testimony of Dr. Stephen Miller, CG's physician, the court could only speculate on what he actually recommended.

Otto specifically said that he was open to medical testing if any doctors had recommended it. Trial RP at 570. Allergy testing would require an invasive skin test. Trial RP at 619-20. Three doctors, *including an allergist* (CP 501), were consulted and none of them agreed to an allergy referral. Trial RP at 565. Dr. Melissa Kim stated, "questionable symptoms for milk intolerance, not likely allergy". CP 500. Since no physician would give a referral, the parties' cannot take CG to an allergy specialist. Trial RP at 566. The court apparently did not understand that a referral from CG's primary care physician is a threshold requirement for CG to see a medical specialist. Trial RP at 564-66.

By basing its decision on a hearsay email and not considering testimony directly from any of CG's physicians, the court abused its discretion. It did not have enough information to base a decision on, particularly in light of the undisputed fact that three separate evaluating physicians refused to give her a referral for allergy testing.

3. *In re embryo*

The court relied on an enforceable contract signed by the parties that the embryo was understood to be their own property. CP 605, 606. Contracts regarding embryos are treated similarly to other marital contracts. *In re Marriage of Dahl and Angle*, 222 Or.App. 572, 583, 194 P.3d 834 (2008). The court did not award the embryo to either party. CP 605-07. The court had the duty to determine disposition of all property in dissolution. RCW 26.09.080; *Seals v. Seals*, 22 Wn. App. 652, 657, 590 P.2d 1301(1979).

Although it is unlikely that either party would be able to use the embryo due to the agreement that prevents use without consent (CP 736), the court erred by not distributing the embryo at all. This would mean that in the death or incapacitation of Otto or Aimee, that the embryo still could not be utilized, as it does not belong to either party. The court should have recognized the embryo as property of a special character and made a decision under RCW 26.09.080 to award it to one of the parties.

Both parties agree that a contract exists. Neither has challenged its validity. Both parties concur that the contract forbids implantation of the embryo without consent. Also both parties agree that Aimee cannot be forced to procreate. However, the trial court extinguished the rights of survivorship in the event of death or incapacitation. In such an event, the jurisdiction over an ownerless embryo is murky, and it's unclear how a trial court would navigate to a decision.

The court should have determined the embryo to belong to either Aimee or Otto, along with a reminder that the contract forbidding use was still in force

unless a death or incapacitation of the parties. Because it left the embryo in limbo, it abused its discretion and committed reversible error. This court should vacate the trial court decision and upon new trial, instruct the trial court to award the embryo to one of the parties.

E. THE TRIAL COURT MADE OTHER NUMEROUS ERRORS THAT REQUIRE REVERSAL.

1. *The court failed to distribute other property and debts.*

The court must distribute property and liabilities in a divorce. RCW 26.09.080; *Seals*, 22 Wn. App. at 657. There is a community property presumption under RCW 26.16.030 unless there is “clearly no question of its character”. *Brewer v. Brewer*, 137 Wn.2d 756, 766-67, 976 P.2d 102 (1999).

Aimee already acknowledged that there was a debt with Vancouver Clinic. CP 5, 20, 561-62. Otto paid his share long ago. CP 533, 561-62; 363. *See* CP 50-51. The court erred by failing to distribute the remainder to Aimee.

The court held that it could not distribute household personal property because “insufficient credible evidence of value provided”. CP 609. However, the court’s instruction was to submit a spreadsheet with a single line item only. Trial RP at 818; CP 363; Ex 45. The court erred when it asked the parties to present evidence in a certain manner and then fault Otto for following directions.

The court heard testimony about the assets listed in Exhibit 45, but failed to address most of these in the findings. Trial RP at 585-89. Aimee kept much of Otto’s property and did not return it. *Id.* at 585-86; CP 111.

The Honda Pilot was worth more than Otto's car (an Acura). *See* CP 363.

The court erred by not considering how to award the community property interest that accrued during the marital state. Otto paid for half during marriage. Ex 47, 48; Trial RP at 586.

2. *The court failed to distribute community interest in the family home and the Respondent's 401(k).*

The court's finding #49 (CP 602) is without any support at all. Otto never admitted that the family home was Aimee's separate property. The record is completely absent of any such statement. In fact, Aimee's attorney even commented on it. Trial RP at 736.

Otto was led to believe that the Camas home would be theirs together, and he paid half of the expense. CP 113. He consistently asked for his share of the community property of the house, and/or to keep the \$10,000 proceeds that had already been distributed to the parties for the house sale. Trial RP at 586³. Otto always said that the house had community property interest. Trial RP at 736. He also said he paid for half of the house. Trial RP at 586; Ex 47, 48. Aimee maintained that the house was separate property. Trial RP at 258.

The court erred by finding that Aimee had a separate account that she liquidated during the litigation. Finding of fact 57 at CP 603. The court heard testimony that Aimee did have a 401(k) that she liquidated during the pendency of the case and that she had already agreed that there was community property

³ The transcript has Ms. Gaffney asking the question (at line 2), and answering the question (at line 8). Otto was the one who answered, which is evident by the context.

interest. Trial RP at 484-85, 742-43; CP 564. The court made no findings about this stipulation, nor did it seem to take any notice this fact.

3. *Many other findings were erroneous, unsupported by substantial evidence, or applied the wrong legal standard.*

Finding of fact (FF) 2.3: It is undisputed that the parties had only one child (CP 288, 305) and used in vitro fertilization (IVF). Oocyte retrieval, sperm harvesting, intracytoplasmic sperm injection, and transfer of two embryos were performed exclusively at Oregon Reproductive Medicine in Portland, OR. CP 306, 308. It is impossible that the parties conceived any child in Washington.

FF 2.9: The rental income from the home was consumed by the marital community, especially by a Hawaii trip. *Cf.* 412-13.

FF 2.11: The court's finding that Otto had an alleged known IRS debt is unsupported by any evidence in the record, and denied. *See* CP 591, 617.

FF 2.17: Omission. AG was 16 at the time of trial (CP 59, 289) and LG (not listed) was 18 (*id.*) at time of trial, and was and still is, a dependent.

FF 10: Untenable grounds. Aimee worked until January 8, 2014 (CP 126, 844) and started working again December 18, 2014 (CP 843).

FF 13: Otto strongly challenged this, as Aimee's testimony is misleading. CP 427-510, 517-19. Otto submitted post-trial evidence that suggests that until Aimee lost her job, the parties took CG to the doctor equitably. CP 427. Aimee did not submit any evidence to support her claim.

FF 16: Both parties admit to conflict, and both accuse the other of misconduct. But the court never identified what judgment it found "poor". Was the court referring to the "stairs incident" or something else entirely? Without

any specificity as to the events it was considering, the court leaves us guessing as to the facts to support its thought process. This Court cannot evaluate this finding because there is nothing specific to evaluate. If the trial court deemed certain behavior by the parties unseemly, the trial court was under obligation to identify both the specific behavior, and which party.

FF 17: Aimee asserted this. Trial RP at 209-11. Otto denies this, but was not able to put his testimony into the trial record due to the surprise records.

FF 19: Argument laid out in next section.

FF 20: Otto challenged Aimee's version of events and denies that he ever followed her close enough to alarm a reasonable person. Trial RP at 511-12.

FF 22, 23, 24: Otto absolutely denies this. Aimee did not make this accusation in her pre-trial brief. The records manager at Vancouver Clinic specifically disabused this allegation. Later evidence showed that Otto did not remove Aimee as a contact at Vancouver Clinic. CP 520-21, 556-59.

FF 40: Otto actually said "We understand the nature of the case law throughout the United States is against forcing procreation." Otto did not concede the second part of the finding that the embryos could not be implanted to create life with someone else. Trial RP at 17. CP 615.

FF 41: The court heard ample evidence that two embryos were implanted, one did not develop; one developed into the parties' child; and only one is cryogenically frozen. CP 293, 294, 295, 306, 308; Trial RP at 251.

FF 47: This finding is completely without support in any record that Otto wanted the embryo preserved rather than destroyed, to implant the embryo in his

partner, or that he even had a partner. Otto maintained all along that he wanted the court to award the embryo to him and never discussed preservation vs. destruction. CP 24, 293, 295, 361-62, 523-25; Trial RP at 17.

FF 50: The court received an exhibit that shows that the monthly expenses that Aimee made (Trial RP at 284, 409) was for just home, utilities, the Honda Pilot and medical expenses ranged from \$2,253.73 - \$2,865.29. Ex. 47, 48. Otto said that he paid half of all expenses. Trial RP at 683. (Aimee incorrectly states that Otto's car payment was on this list. Only the Honda Pilot was represented.)

FF 55: Otto agreed that the community property portion of his 401(k) was \$42,978.09, not \$43,000. CP 360; Trial RP at 697,734, 738, 808.

FF 62: The court used the wrong standard to determine imposition of restrictions under RCW 26.09.191(3)(e). The court held that Aimee's bald allegation with CG's daycare provider that Otto was abusive did not create any negative upon CG. But, it should have measured if Aimee's actions "create[d] the danger of serious damage to the child's psychological development" (emphasis added), not if actual harm occurred. The court does not have to wait for actual harm to occur, but may impose restrictions when the danger of damage exists. *In re Marriage of Chandola*, 180 Wn.2d 632, 645, 327 P.3d 644 (2014); *accord Burrill v. Burrill*, 113 Wn. App. 863, 872, 56 P.3d 993 (2002) ("[E]vidence of actual damage is not required. Rather, the required showing is that a danger of psychological damage exists.") In applying the wrong legal standard, it erred.

FF 67: Argument next section.

FF: “There are no agreements among the parties.” CP 609. The parties had several agreements during proceedings: Aimee and Otto agreed to let Aimee cash out the Providence retirement plan (CP 564), amended parenting plan for the 2014 (CP 191-93) and 2015 holiday schedules (CP 283-84), and the bilateral custody evaluation (CP 222, 233, 285-86, 598; 5/8/15 RP 3, 6, 7).

Other errors: The court did not explain why it was in CG’s best interest (RCW 26.09.002) that Otto could not enjoy early daycare pickup (CP 621), when his decision meant that Otto’s parenting time would be cut down several hours per week, and departed from earlier orders. CP 623; 6/8/16 RP at 29.

The court did not explain why it ordered such a restricted parenting plan without limiting factors under RCW 26.09.191. CP 610 at 23-25. Again, because it drastically reduced Otto’s visitation, it should have given reasons for its decision to break from the status quo. In light of the absence of limiting factors under RCW 26.09.191, the decision seems both punitive and arbitrary.

The court erred when it removed Otto’s right to the child tax exemption based on a requirement that he be current on “all” support obligations. CP 688. Aimee’s remedy for any alleged failure to uphold support obligations would be contempt action. As it stands, she can take CG into the doctor on 12/30 and claim that Otto did not pay his share by 12/31 and therefore waived his rights to a tax exemption.

The court erred by not finding that Aimee spoiled evidence. CP 531-32, 839, 901. Trial RP at 318-21, 330-31.

4. *The trial court erred by finding the Appellant intransigent and awarding attorney fees.*

Attorney fees may be awarded after an assessment of the parties' finances in dissolution proceedings under RCW 26.09.140. *In re the Marriage of Crosetto*, 82 Wn. App. 545,563-64, 918 P.2d 954 (1996). However, finances need not be considered in cases of intransigence. *Id.* "Determining intransigence is necessarily factual, but may involve foot-dragging, obstructing, filing unnecessary or frivolous motions, refusing to cooperate with the opposing party, noncompliance with discovery requests, and any other conduct that makes the proceeding unduly difficult or costly." *Wixom v. Wixom*, 190 Wn. App. 719, 725, 360 P.3d 960 (2015).

The court made four findings of alleged intransigence (#64-67 at CP 604. *See also* CP 607) that it based its decision on to award attorney fees. It first said that Otto filed repetitive motions such as right of first refusal (to watch CG instead of an alternate caretaker) after being denied. Aimee testified that she believed there were three motions, all denied. Trial RP at 377. In actuality, Otto filed only two motions based on right of first refusal. The first motion was filed on November 5, 2014 (CP 122-23). But, this issue was reserved by the commissioner and never actually decided. CP 189.

This issue was reintroduced on February 19, 2015 (CP 198-211), along with other matters, and was heard by the trial judge on March 6. CP 243-47. A second attempt at relief with the trial judge when a commissioner reserved on the issue is not "repetitive" and is not cause for a finding of intransigence.

Moreover, Otto was successful with much of his motion. The judge granted Otto another overnight weekday visit with CG; agreed to switch the police

station to accommodate more time with CG; granted Otto's request to stop “double-covering” Aimee under his health insurance; ordered Aimee to advise Otto of the outcome of CG’s health appointments; and denied her request for attorney fees. CP 243-47. Clearly the trial judge agreed with much of Otto’s motion in March 2015, but inexplicably called the motion “repetitive” a year later. Not only is the finding (CP 604) in error, the facts do not support a finding of intransigence, and the court did not say that the second request was improper.

Next, Otto did not require Aimee to file a motion to change the pickup location to daycare versus the police station. The court had ruled on amending the parenting plan twice in November 2014, on the 12th (CP 641) and 26th (CP 190). Just a week after the amendment, Aimee filed a motion to amend the parenting plan again. CP 642. Since it was Aimee herself who requested the exchanges take place at the police station less than a month prior, it was reasonable for Otto to expect her to abide by the order. Otto was not intransigent by expecting Aimee to follow the court’s order based on her very own request. Regardless, Otto and Aimee agreed to an amended parenting plan three days later. CP 191. Otto’s expectation for Aimee to abide by the order is not intransigence.

The court did not explain why it measured Otto’s motions from mid-June 2015 to trial, or why this specific date was relevant. CP 604. The parties had been sparring since March 2014 – a total of 22 months, but the court cherry-picked only the last seven. *See* Appendix C, Table 1. The court erred when it only considered 1/3 of the time when the parties were in pre-trial proceedings.

The inference to be drawn was that Otto's motions were excessive, but the court did not adequately explain why Otto's 19 motions were excessive, but Aimee's 15 motions were not. Also, three of his motions were related to obtaining subpoenas while he was self-represented. A self-represented litigant cannot issue subpoenas but a lawyer may. CR 45. Otto had no option except to petition the court. If we exclude those motions, the parties had a relatively equal number of motions: 15 for Aimee and 16 for Otto. The court did not find Otto's motions unnecessary or frivolous.

Lastly, the court also pointed to Otto's filing of post-trial materials, but did not say why that was a basis for intransigence. The court specifically asked for a spreadsheet of assets to consider (Trial RP at 808, 818), which he filed. CP 363. Other than that, Otto amended his proposed parenting plan slightly to address Aimee's alleged abusive use of conflict, include a vacation for both parents, and provide for early pick up from daycare. CP 378. The court's finding that Otto's amended proposed plan "depart[s] significantly" from his earlier positions is in error. Even if it had been significantly different, the court does not explain why this would constitute intransigence.

The facts do not support a conclusion of intransigence, nor an award for attorney fees. This Court should reverse and order restitution for fees paid.

5. The court erred when it improperly dismissed the Appellant's motion for reconsideration and new trial.

The court denied Otto's motion for reconsideration largely based on its opinion that Otto did not "identify the particular basis from CR 59 on which he is seeking reconsideration or new trial. *See* CR 59." This is apparently refers to a

lack of reference in Otto's motion to the causes listed in CR 59(a)(1)-(9) and CR 59(b)'s requirement that, "A motion for a new trial or for reconsideration shall identify the specific *reasons in fact and law* as to each ground on which the motion is based." (Emphasis added). This overly-narrow interpretation is error. Otto's lengthy motion listed numerous reasons (passim) and liberally cited case law and statutes in the argument section (CP 538-42).

Even if Otto's motion was not technically perfect, "...the civil rules contain a preference for deciding cases on their merits rather than on procedural technicalities." *Vaughn v. Chung*, 119 Wn. 2d 273, 280, 830 P.2d 668 (1992); In *In re Det. of Turay*, 139 Wn.2d 379, 986 P.2d 790 (1999), a litigant's three-sentence reconsideration motion and five-sentence attorney's affidavit was considered sufficient to satisfy the requirements of CR 59 (at 389-91). Otto's motion was over 30 pages and well-referenced to the record.

The judge also should have considered the new evidence since it is evident that Aimee's claim that CG's birth certificate listed ethnicity is manifestly false (*compare* Trial RP at 249 *with* CP 553), as was her claim that the appliances were in disrepair and the new buyers demanded allowances (*compare* Trial RP at 260, 366 *with* CP 547). The evidence was not available before trial, as there was no way to reasonably anticipate that Aimee would make misleading statements.

V. FEES AND COSTS

Non-attorney, self-represented litigants cannot receive attorney fees. *In re Marriage of Brown*, 159 Wn. App. 931, 938-939, 247 P.3d 466 (2011). But, the

court may provide for expenses and costs of appeal under RAP 18.1 and RAP 14.3. Otto has incurred significant expenses including transcribing the record on review and transmittal of clerk's papers and exhibits.

Otto also requests that upon remand to the lower court, Aimee be ordered to pay for attorney fees Otto incurred from the time of her first interrogatory answers (1/16/15) until the notice of appeal (8/12/16) as sanction for her willful discovery violations and to discourage future misconduct, and ordered to retribute Otto for his payments for the parenting evaluation since Aimee did not comply with orders to submit records for review. CR 37.

VI. CONCLUSION

Aimee willfully concealed the Dezsofi records to thwart the parenting evaluation and undermine the trial. This sowed disorder and ultimately denied Otto the chance to prepare for trial. The trial court made numerous errors, but more importantly, disregarded numerous opportunities to correct itself. As a result, it made many decisions that were unmoored from any authority.

Otto asks this Court to reverse the trial court's decisions, provide for costs above, order restitution and a new trial, and vacate the final orders: decree of dissolution (reserving § 3.1), parenting plan, and child support. This Court should reinstate the temporary orders that were in effect at time of trial. A different judge should preside as the trial judge has read some of the disputed mental health records.

Respectfully submitted May 1, 2017,



Otto Guardado, Appellant

INDEX TO APPENDIX: APPELLANT'S OPENING BRIEF

In re the Marriage of Guardado

Court of Appeals, Division Two, No. 49345-4-II

<u>Number</u>	<u>Description</u>
A	Findings of Fact with assigned error
B	Superior Court Case Summary (www.courts.wa.gov)
C	Table 1, List of motions pre-trial

Appendix A

Findings of Fact with assigned error

The trial court erred by making the following findings of fact:

- 2.3 The parties may have conceived a child while within Washington. CP 590.
- 2.8 The parties have real or personal community property as set forth in Exhibits H and W. CP 590.
- 2.9 The petitioner has the following real or personal separate property: The sale proceeds from the sale of Petitioner's separate property house (including the \$10,000 advance given to the Respondent and any remaining sale proceeds)...the proceeds from its trade in of the vehicle. Both vehicles are considered the Petitioner's separate property. The Respondent's appliances that were installed in the petitioner's separate property house and destroyed at the time of sale, valued at \$800.00. CP 591.
- The rental income from the Respondent's house located at 10007 NE 28th Ave. Vancouver, WA 98686. CP 591.
- 2.10 The parties have community liabilities as set forth on Exhibits H and W. CP 591.
- 2.11 The respondent has the following known separate liabilities: Debt owed to the Internal Revenue Service. CP 591.
- 2.15 The Respondent's intransigence has caused the Petitioner to incur unnecessary legal fees and costs as more fully set out in the ruling of the court attached hereto and incorporated herein by reference. The Respondent must pay the Petitioner's legal fees in the amount of \$25,000 , which shall be paid within 90 days of the entry of this order. CP 591.
- 2.17 The children listed below are dependent upon either or both spouses.

<u>Name of Child</u>	<u>Age</u>	<u>Parent's Names</u>
[CG]	3	Aimee Guardado Otto Guardado

Appendix

[BS]	13	Aimee Guardado John Stout
[AG]	17	Otto Guardado Kim Bailey

CP 592

(Otto uses initials and non-specific gender and ethnic references for all of his and Aimee's children, recognizing this creates occasional awkward grammar construction.)

Court's Decision (CP 597-611)

10. Aimee has been the primary parent to [CG] since birth, providing for a majority of [CG's] needs, and having served as primary caretaker through a modified schedule, then as a full time stay at home mother for the entire 2014 calendar year. CP 598.

13. Aimee has arranged and attended all doctor appointments for [CG], approximately 35-40 appointments, except for one. Aimee was alone (without Otto being present) at approximately 30 of those appointments. Otto was alone for the one appointment that Aimee missed, and they attended appointments together for the remaining three or so visits; most of the remaining were newborn appointments. CP 598-99.

16. The parties appear to provoke conflict in each other, though each expresses their conflict differently. The parties are engaged in significant ongoing conflict regarding many aspects of raising their daughter; the conflict results in each using poor judgment at times. CP 599.

17. Aimee tried discussing potty training with Otto so there could be consistency in both homes, but Otto would not discuss it with her. CP 599.

18. During the course of the litigation, the parties engaged in a dispute over whether CG had a milk allergy, with Aimee requesting extensive allergy testing after CG's Pediatrician opined that CG

may have a milk allergy; Otto objected because it was not necessary in his opinion. CP 599.

19. Also during the course of the litigation, Aimee requested Otto pick up CG at daycare to ease the exchange since Aimee had a new job; Otto refused. CP 599.

20. During exchanges and while Aimee carried CG to her car, Otto closely followed Aimee to her car, which provoked Aimee to anger and fear. CP 599.

22. During the course of the litigation, Otto removed Aimee as a records contact for [C.G.'s] Pediatrician; no one else had the ability to make this change beside Aimee and Otto. Aimee did not remove herself as a records contact. CP 600.

23. This removal of Aimee from the Pediatrician's records came at a time when CG was in need for treatment for Pneumonia. Aimee, with some difficulty, was eventually able to obtain an appointment with the Pediatrician's office to take CG in for treatment. CP 600.

24. In winter of 2015, Aimee again contacted the Pediatrician's Office to obtain an appointment but her name had been removed again. CP 600.

38. Otto's ethnicity is Thai, but he has identified himself, and his children (including CG) as Hispanic, the ethnic identity of his adoptive family. CP 601.

40. Otto conceded in opening statement that under the current state of the law, the Court cannot force Aimee to procreate (i.e. implant the embryos created in part from her eggs, and allow those embryos to develop). CP 601.

41. The parties utilized In Vitro Fertilization to produce three embryos, one of which was implanted in Aimee and developed to eventually become CG. Two embryos remain; they are currently cryogenically frozen. CP 602.

47. Pre-trial, Otto wanted the embryos (formed from Aimee's eggs and Otto's sperm) implanted in his new partner so he and his partner

could have a child. At trial he argued that he simply froze the Embryos preserved rather than destroyed. CP 602.

49. Otto contributed appliances worth approximately \$800 and some living expenses while living in the family home. Otto admitted at trial that the family home is Aimee's separate property. CP 602.

50. Otto's monthly contribution to the home was approximately \$1,000. CP 602.

55. The Ameriprise 401k [sic] has a community portion value at \$43,000. CP 603.

57. Aimee does not have a 401k [sic] or other retirement account; she had a separate account that she liquidated during the litigation. CP 603.

58. Both Aimee and Otto paid for approximately 1/2 the value of the other's car. CP 603.

62. The Court did not find Ms. Dossett's testimony determinative of any fact that would be of assistance in determining that either of the parties was engaged in the abusive use of conflict. The incident alleged regarding a conversation between she and Aimee wherein Aimee references abusive conduct on the part of Otto was not in C.G.'s presence; what Aimee said at the time (that Otto was using information in an abusive fashion) was not shown to have a negative effect on C.G., given that C.G. was not present. CP 604.

64. Otto filed repetitive motions, often requesting the same remedies after having been previously denied (such as right of first refusal). CP 604.

65. Otto required that Aimee file a motion to change the pickup location to daycare versus the police station when Aimee obtained new employment. CP 604.

67. Otto filed new materials post trial, which were not submitted as evidence, and which depart significantly from his pre and intra trial positions (see new proposed parenting plan). CP 604.

Appendix A

There are no agreements among the parties. (Findings of fact within conclusions section). CP 609.

Page 5 of 5

Superior Court Case Summary

About Dockets

Court: Clark Superior
Case Number: 14-3-00510-2

Sub	Docket Date	Docket Code	Docket Description	Misc Info
	03-14-2014	FILING FEE RECEIVED	Filing Fee Received	
1	03-14-2014	CONFIDENTIAL INFORMATION FORM	Confidential Information Form	
2	03-14-2014	CASE INFORMATION COVER SHEET	Case Information Cover Sheet	
3	03-14-2014	SUMMONS	Summons	
4	03-14-2014	PETITION FOR DISSOLUTION	Petition For Dissolution	
5	03-14-2014	NOTICE OF ABSENCE/UNAVAILABILITY ATP0001	Notice Of Absence/unavailability Breitreed, Faye Ellen	
6	03-14-2014	FINANCIAL DECLARATION OF PET	Financial Declaration Of Pet	
7	03-14-2014	SEALED FINANCIAL DOCUMENT(S)	Sealed Financial Document(s)	
8	03-14-2014	OTHER	Other - Submission	
9	03-14-2014	PROPOSED PARENTING PLAN	Proposed Parenting Plan	
10	03-14-2014	CHILD SUPPORT WORKSHEET/PROPOSED	Child Support Worksheet/proposed	
11	03-14-2014	PROPOSED ORDER/FINDINGS	Proposed Order/findings	
12	03-14-2014	MOTION AND AFFIDAVIT/DECLARATION	Motion And Affidavit/declaration F/temp Ord	
13	03-14-2014	CITATION ACTION	Citation 4 P-mt F/temp Ord W/chld 9am	04-02-2014WD
14	03-27-2014	RETURN OF SERVICE	Return Of Service	
15	03-31-2014	NOTICE OF APPEARANCE ATR0001	Notice Of Appearance Gaffney, Mary Katherine	
16	03-31-2014	RESPONSE	Response To Petition (marriage)	
17	03-31-2014	FINANCIAL DECLARATION	Financial Declaration-respondent	
18	03-31-2014	SEALED FINANCIAL DOCUMENT(S)	Sealed Financial Document(s)	
19	03-31-2014	DECLARATION	Declaration Of Becky Kienzle	
20	03-31-2014	DECLARATION	Declaration Of Kim Bailey	
21	03-31-2014	OTHER	Submission-spokane Co Res Schedule	
22	03-31-2014	DECLARATN IN SUPP OF PARENTING PLAN	Declaratn In Supp Of Parenting Plan	
23	03-31-2014	PROPOSED PARENTING PLAN	Proposed Parenting Plan-respondent	
24	03-31-2014	CHILD SUPPORT WORKSHEET	Child Support Worksheet - Proposed	

About Dockets

You are viewing the case docket or case summary. Each Court level uses different terminology for this information, but for all court levels, it is a list of activities or documents related to the case. District and municipal court dockets tend to include many case details, while superior court dockets limit themselves to official documents and orders related to the case.

If you are viewing a district municipal, or appellate court docket, you may be able to see future court appearances or calendar dates if there are any. Since superior courts generally calendar their caseloads on local systems, this search tool cannot display superior court calendaring information.

Directions

Clark Superior
 Location: 1200 Franklin St
 Vancouver, WA 98660-2812
Map & Directions
 360-397-2150[Phone]
 360-397-6078[Fax]
Visit Website

Disclaimer

What is this website? It is a search engine of cases filed in the municipal, district, superior, and appellate courts of the state of Washington. The search results can point you to the official or complete court record.

How can I obtain the complete court record?

You can contact the court in which the case was filed to view the court record or to order copies of court records.

How can I contact the court?

25	03-31-2014	MOTION AND AFFIDAVIT/DECLARATION	Motion And Declaration F/temp Ord	
	04-01-2014	CONTINUED: PLAINTIFF/PROS REQUESTED ACTION	Continued: Plaintiff/pros Requested 4 P-mt F/temp Ord W/chld 9am Per Atty Breireed F/4-2 To 4-9.	04-09-2014WD
25A	04-01-2014	CITATION ACTION	Citation *amended* 4 P-mt F/temp Ord W/chld 9am	04-09-2014
26	04-02-2014	CONTINUED: PLAINTIFF/PROS REQUESTED ACTION	Continued: Plaintiff/pros Requested 4 P-mt F/temp Ord W/chld 9 Am	04-09-2014
27	04-07-2014	DECLARATION	Declaration Of Otto Michael Guardado	
28	04-07-2014	DECLARATION	Declaration Of Aimee Guardado	
29	04-07-2014	DECLARATION	Declaration Of Aimee Guardado	
30	04-07-2014	DECLARATION	Declaration Of Aimee Guardado	
31	04-07-2014	DECLARATION	Declaration Of Aimee Guardado	
32	04-07-2014	DECLARATION	Declaration Of Pauline Weber	
33	04-07-2014	DECLARATION	Declaration Of Andrea Mellow	
34	04-07-2014	NOTICE OF ABSENCE/UNAVAILABILITY ATR0001	Notice Of Absence/unavailability Gaffney, Mary Katherine	
35	04-07-2014	OTHER	Other - Petitioner's 2nd Submission Exhibits A-g	
36	04-09-2014	MOTION HEARING ACTION	Motion Hearing #4 Entry Of Orders 9:00 Am	04-23-2014WD
37	04-10-2014	CITATION ACTION	Citation 4 R-entry Ord W/chld 9am	04-23-2014
38	04-17-2014	NOTICE OF ABSENCE/UNAVAILABILITY ATP0001	Notice Of Absence/unavailability Breitreed, Faye Ellen	
39	04-23-2014	MOTION HEARING	Motion Hearing	
40	04-23-2014	TEMPORARY ORDER COM0002	Temporary Order Commissioner Jennifer Snider	
41	04-23-2014	PARENTING PLAN - TEMPORARY COM0002	Parenting Plan - Temporary Commissioner Jennifer Snider	
42	04-23-2014	TEMP ORDER OF CHILD SUPPORT COM0002	Temp Order Of Child Support Commissioner Jennifer Snider	
43	04-23-2014	CHILD SUPPORT WORKSHEET COM0002	Child Support Worksheet Commissioner Jennifer Snider	
44	05-22-2014	ORDER	Order Allowing Pet To Cash Out Retirement Judge Bernard Veljacic	
45	07-09-2014	NOTICE OF ABSENCE/UNAVAILABILITY ATR0001	Notice Of Absence/unavailability Gaffney, Mary Katherine	

Appendix B Page 2 of 18

Click [here](#) for a court directory with information on how to contact every court in the state.

How do I find the outcome of a case on this website?

No. You must consult the local or appeals court record.

How do I verify the information contained in the search results?

You must consult the court record to verify all information.

Can I use the search results to find out someone's criminal record?

No. The Washington State Patrol (WSP) maintains state criminal history record information. Click [here](#) to order criminal history information.

Where does the information come from?

Clerks at the municipal, district, superior, and appellate courts across the state enter information on the cases filed in their courts. The search engine will update approximately twenty-four hours from the time the clerks enter the information. This website is maintained by the Administrative Office of the Court for the State of Washington.

Do the government agencies that provide the information for this site and maintain this site:

▶ **Guarantee that the information is accurate or complete?**
NO

▶ **Guarantee that the information is in its most current form?**
NO

▶ **Guarantee the identity of any person whose name appears on these pages?**
NO

▶ **Assume any liability resulting from the release or use of the information?**
NO

46	07-30-2014	CITATION ACTION	Citation 5 R-mt Amnd Parent Plan 9am	08-06- 2014WD
47	07-30-2014	CITATION ACTION	Citation 5 P-mt Require Rsp To Withdraw	08-06- 2014WD
		ACTION	Medicaid Application 9am	
48	07-30-2014	MOTION AND AFFIDAVIT/DECLARATION	Motion And Affidavit/declaration	
49	07-30-2014	DECLARATION	Declaration Of Jane Botvinnik	
50	07-30-2014	DECLARATION	Declaration Of Lia Botvinnik	
51	07-30-2014	DECLARATION	Declaration Of Bryan Eyo	
52	07-30-2014	PROPOSED PARENTING PLAN	Proposed Parenting Plan- 2nd-	
53	07-30-2014	MOTION	Motion F/order Re Requiring Rsp To Withdraw Medicaid Application	
	08-04-2014	CANCELLED: PLAINTIFF/PROS REQUESTED	Cancelled: Plaintiff/pros Requested Per Atty Breitreed Strk 8- 6-14. **petitioner Motion Only**	
54	08-04-2014	DECLARATION	Declaration In Rsp To Motion	
54A	08-04-2014	OTHER	Petitioner's 3rd Submission	
54B	08-04-2014	DECLARATION	Declaration - Aimee Guardado	
55	08-05-2014	ORDER TO SHOW CAUSE ACTION COM0002	Order To Show Cause 5 P-shw Cause 9am Commissioner Jennifer Snider	08-13- 2014WD
57	08-05-2014	OTHER	Petitioner's 4th Submission	
58	08-05-2014	MOTION FOR ORDER TO SHOW CAUSE	Motion For Order To Show Cause	
56	08-06-2014	MOTION HEARING	Motion Hearing	
59	08-08-2014	NT FOR TRIAL & STMNT OF NONARBITRA ACTION	Nt For Trial & Stmnt Of Nonarbitra Petn Fld 3-14-14 Ntc 8-8- 14	08-29- 2014SC
		ACTION	Non Jury 1 Day (p)	
59A	08-11-2014	DECLARATION	Declaration In Rsp To Mt Sc-cont	
59B	08-11-2014	SEALED FINANCIAL DOCUMENT(S)	Sealed Financial Document(s) -p 2nd	
	08-12-2014	CANCELLED: PLAINTIFF/PROS REQUESTED	Cancelled: Plaintiff/pros Requested Per Atty Breireed Strk 8- 13-14.	
60	08-13-2014	CANCELLED: PLAINTIFF/PROS REQUESTED	Cancelled: Plaintiff/pros Requested	
61	08-14-2014	TEMPORARY ORDER COM0002	Temporary Order Commissioner Jennifer Snider	
62	08-15-2014	NOTICE OF ABSENCE/UNAVAILABILITY ATP0001	Notice Of Absence/unavailability Breitreed, Faye Ellen	
63	09-19-2014	SETTLEMENT CONFERENCE SETTING ACTION	Settlement Conference Setting	10-23- 2014

Appendix B

Page 4 of 18

			Judge Barbara Johnson 9:30 Am	
64	09-30-2014	NOTICE OF INTENT TO WITHDRAW WTR0001	Notice Of Intent To Withdraw Gaffney, Mary Katherine	
65	10-10-2014	SETTLEMENT CONFERENCE SETTING ACTION	Setlmt Confrnce Settn *rvsd Judge David Gregerson 9:30 Am	11-20- 2014
66	10-16-2014	CITATION ACTION	Citation 5 P-mt Allw Pet Sell House 9am	11-05- 2014WD
67	10-16-2014	OTHER	Other - Craigslist Listings	
68	10-16-2014	MOTION	Motion To Allow Selling Of House	
69	10-22-2014	OTHER	Submission	
70	10-22-2014	PROPOSED PARENTING PLAN	Proposed Parenting Plan	
71	10-22-2014	MOTION	Motion F/temp Orders	
72	10-22-2014	CITATION ACTION	Citation 5 P-mt Amnd Parent Plan 9am	11-05- 2014WD
73	10-23-2014	NOTICE OF APPEARANCE ATRO002	Notice Of Appearance Roe, Michael Von	
74	10-27-2014	SETTLEMENT CONFERENCE SETTING ACTION	Setlmt Confrnce Settn *rvised Judge Suzan Clark 10:30 Am	12-18- 2014
75	11-03-2014	OTHER	Pet Submiss Realtor Assessment	
76	11-05-2014	CONTINUED: PLAINTIFF/PROS REQUESTED	Continued: Plaintiff/pros Requested	11-12- 2014
	11-05-2014	CONTINUED: PLAINTIFF/PROS REQUESTED ACTION	Continued: Plaintiff/pros Requested 5 P-mt Allw Pt Sell House & Mt To Per Atty Breireed F/11-5 To 11-12. Amnd Parent Plan. 9am	11-12- 2014WS
77	11-05-2014	CITATION ACTION	Citation *amended* 5 P-mt Allw Pt Sell House. 9am	11-12- 2014
78	11-05-2014	CITATION ACTION	Citation *amended* 5 P-mt Amnd Parent Plan. 9am	11-12- 2014
79	11-05-2014	DECLARATION	Declaration Of Justin Diaz	
80	11-05-2014	DECLARATION	Declaration Of Becky Kienzle	
81	11-05-2014	PROPOSED PARENTING PLAN	Proposed Parenting Plan-r	
82	11-05-2014	SEALED PRSNL HEALTH RCDS CVR SHEET	Sealed Prsnl Health Rcds Cvr Sheet	
83	11-05-2014	DECLARATION	Declaration In Resp To Motion (r)	
84	11-05-2014	DECLARATION	Declaration -responsive (r)	
85	11-05-2014	MOTION	Motion To Mod/amend Ppt (r)	
86	11-07-2014	OTHER	Other - Submission - (p)	
87	11-07-2014	DECLARATION	Declaration Of Aimee Guardado	
88	11-12-2014	MOTION HEARING ACTION	Motion Hearing #5 R-order To Show Cause 9 Am	11-26- 2014WS
89	11-12-2014	MOTION FOR ORDER TO SHOW CAUSE	Motion For Order To Show Cause	

90	11-12-2014	ORDER COM0004	Order Allowing Pet To Sell Home Commissioner Dayann Liebman	
91	11-12-2014	ORDER TO SHOW CAUSE ACTION COM0004	Order To Show Cause Contempt 5 R-show Cause Contempt 9am Commissioner Dayann Liebman	11-26-2014
92	11-19-2014	OTHER	Other Petitioners Submission	
93	11-19-2014	DECLARATION	Declaration Of Aimee Guardado	
94	11-19-2014	DECLARATION	Declaration Of Jeannette Dezsofi	
95	11-19-2014	DECLARATION	Declaration Of Aimee Guardado	
96	11-19-2014	PROPOSED PARENTING PLAN	Proposed Parenting Plan	
97	11-25-2014	DECLARATION	Declaration Of Daisha Acosta	
98	11-25-2014	DECLARATION	Declaration Of Justin Diaz	
99	11-25-2014	SEALED PRSNL HEALTH RCDS CVR SHEET	Sealed Prsnl Health Rcds Cvr Sheet	
99A	11-25-2014	DECLARATION	Declaration - R	
100	11-26-2014	MOTION HEARING	Motion Hearing	
101	11-26-2014	ORDER COM0004	Order Re: Thanksgiving/winter Commissioner Dayann Liebman	
102	12-03-2014	MOTION	Motion F/order Shorten Time	
103	12-03-2014	ORDER SHORTENING TIME ACTION COM0001	Order Shortening Time 5 P-amend Pp/ch Spt 9am Commissioner Carin Schienberg	12-10-2014
104	12-03-2014	CITATION ACTION	Citation 5 P-mt Amnd Pp & Ord Chld Spprt	12-10-2014
105	12-03-2014	OTHER	Other Pet's Submission	
106	12-03-2014	MOTION	Motion Re Amend Pp & Support	
	12-04-2014	HEARING CANCELLED: COURT'S REQUEST	Hearing Cancelled: Court's Request Per Comm's Off Strk 12-10-14	
107	12-08-2014	ORDER COM0004	Order Amend Pp & Cs - stipulated Commissioner Dayann Liebman	
108	12-10-2014	CITATION ACTION ACTION	Citation 5 P-mt Allw Pt Access Funds F/the Sell Of Her House. 9am	12-24-2014WS
109	12-10-2014	OTHER	Other -petitioner's Submission	
110	12-10-2014	MOTION	Motion For Order Re: Allow Petitioner To Access Funds	
111	12-11-2014	PRETRIAL AFFIDAVIT/STATEMENT	Pretrial Affidavit/statement(p)	
112	12-17-2014	SEALED FINANCIAL DOCUMENT(S)	Sealed Financial Document(s)	
113	12-17-2014	DECLARATION	Declaration In Response	

Appendix B

Page 6 of 18

			To Mo (r)	
	12-18-2014	SETTLEMENT CONFERENCE/HEARING HELD ACTION	Settlement Conference/hearing Held Not Settled; Set 2 Day Trial	12-31- 2014F5
114	12-19-2014	DECLARATION	Declaration Of Aimee Guardado*rspsns	
115	12-19-2014	OTHER	Other - Submission (p)	
116	12-19-2014	SEALED FINANCIAL DOCUMENT(S)	Sealed Financial Document(s)	
116A	12-23-2014	CITATION ACTION	Citation *amended* 5 P-mt Allw Accss Funds 9am	01-09- 2015
117	12-24-2014	CONTINUED: PLAINTIFF/PROS REQUESTED ACTION	Continued: Plaintiff/pros Requested 5 P-mt Allw Pt Access Funds F/the Sell Of Her House. 9am	01-09- 2015FE
118	12-31-2014	NOTICE OF HEARING ACTION	Notice Of Hearing 5 - Readiness Hearing 9am	05-14- 2015T5
	12-31-2014	ASSIGNMENT OF TRIAL DATE ACTION	Assignment Of Trial Date 5 - Trial 2 Days 9am	06-08- 2015
119	01-09-2015	MOTION HEARING	Motion Hearing	
120	01-09-2015	ORDER	Order Allowing Partes To Access Funds From Sale Of House Judge Bernard Veljacic	
		JDG0005	Judge Bernard Veljacic	
121	01-09-2015	NOTICE OF ABSENCE/UNAVAILABILITY ATP0001	Notice Of Absence/unavailability Breitreed, Faye Ellen	
122	02-19-2015	ORDER TO SHOW CAUSE ACTION COM0004	Order To Show Cause 5 R-shw Cs/contempt 9am Commissioner Dayann Liebman	03-06- 2015FE
123	02-19-2015	DECLARATION	Declaration Of Respondent	
124	02-19-2015	MOTION	Motion Modify Temp Pp Etc	
125	02-19-2015	MOTION FOR ORDER TO SHOW CAUSE	Motion For Order To Show Cause	
126	02-19-2015	SEALED FINANCIAL DOCUMENT(S)	Sealed Financial Document(s)	
127	02-19-2015	CITATION ACTION	Citation Chld Spprt/grant Relief 9am	03-06- 2015FE
		ACTION	5 R-mt Mod/amnd Temp Pp/temp Ord	
128	02-19-2015	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
129	02-27-2015	RESPONSE	Response T/motion T/modify	
130	02-27-2015	RESPONSE	Response T/motion F/contempt	
131	02-27-2015	CHILD SUPPORT WORKSHEET/PROPOSED	Child Support Worksheet/proposed	
132	02-27-2015	SEALED MEDICAL AND HEALTH INFO	Sealed Medical And Health Info	
133	02-27-2015	DECLARATION	Declaration Of Andrea Mellow	
134	03-04-2015	DECLARATION	Declaration Of Otto Guardado	
135	03-04-2015	DECLARATION	Declaration Of Otto Guardado	
136	03-04-2015	SEALED PRSNL HEALTH RCDS	Sealed Prsnl Health Rcds	

		CVR SHEET	Cvr Sheet	
137	03-06-2015	MOTION HEARING ACTION	Motion Hearing 5 Rvw Discovery/rq Bi-lat Cust Evl	03-20-2015FE
138	03-20-2015	MOTION HEARING ACTION	Motion Hearing #5 Review Discovery 9:00am	04-24-2015FE
138A	03-20-2015	TEMP ORDER OF CHILD SUPPORT JDG0005	Temp Order Of Child Support Judge Bernard Veljacic	
138B	03-20-2015	CHILD SUPPORT WORKSHEET	Child Support Worksheet	
139	04-17-2015	WITNESS LIST	Witness List - Respondent's	
139A	04-22-2015	NOTICE OF ABSENCE/UNAVAILABILITY ATR0002	Notice Of Absence/unavailability Roe, Michael Von	
140	04-24-2015	HEARING STRICKEN:IN COURT NONAPPEAR	Hearing Stricken:in Court Nonappear	
141	04-24-2015	CITATION ACTION	Citation 5 R-dscovery Reviw Hearing 9am	05-01-2015FE
142	04-24-2015	CITATION ACTION	Citation 5 P-mt F/protective Ord 9am	05-08-2015FE
143	04-24-2015	OTHER	Submission -p	
144	04-24-2015	MOTION AND AFFIDAVIT/DECLARATION	Motion And Affidavit/declaration F/ Protective Order	
145	05-01-2015	MOTION HEARING	Motion Hearing	
146	05-01-2015	DECLARATION	Declaration Of Lia B. Botvinnik	
147	05-01-2015	DECLARATION	Declaration Of Otto Guardado	
148	05-01-2015	MEMORANDUM	Memorandum (r)	
149	05-05-2015	SEALED FINANCIAL DOCUMENT(S)	Sealed Financial Document(s)	
150	05-05-2015	DECLARATION	Declaration Of A. Guardado	
151	05-05-2015	MEMORANDUM	Memorandum (r)	
152	05-05-2015	DECLARATION	Declaration Of J. Dezsofi	
153	05-08-2015	MOTION HEARING	Motion Hearing	
154	05-08-2015	ORDER AUTHORIZING JDG0005	Order Allowing In Camera Review & Judge Bernard Veljacic Disclosure Of Records	
155	05-13-2015	NOTICE OF HEARING ACTION	Notice Of Hearing Trial Readiness Hearing 9am	11-05-2015
	05-13-2015	ASSIGNMENT OF TRIAL DATE ACTION	Assignment Of Trial Date Nj 2+ Days 9am	11-30-2015
	05-13-2015	ASSIGNMENT OF TRIAL DATE ACTION	Assignment Of Trial Date Nj 2+ Days 9am	12-01-2015
	05-13-2015	ASSIGNMENT OF TRIAL DATE ACTION	Assignment Of Trial Date Nj 2+ Days 1:30	12-02-2015
156	05-21-2015	MOTION	Motion F/order Shortening Time	
157	05-21-2015	MOTION	Motion To Quash Subpoena	
158	05-22-2015	ORDER SHORTENING TIME ACTION	Order Shortening Time 5 P-mt Quash Ssubpoena & Notice	05-27-2015T5
		ACTION	Of Deposition 2:30pm	
158A	05-26-2015	AFFIDAVIT/DCLR/CERT OF	Affidavit/dclr/cert Of	

Appendix B

Page 8 of 18

		SERVICE	Service	
159	05-27-2015	MOTION HEARING	Motion Hearing Clerk's In Court Record	
160	05-27-2015	SEALED FINANCIAL DOCUMENT(S)	Sealed Financial Document(s)	
161	05-27-2015	ORDER GRANTING MOTION/PETITION JDG0005	Order Granting Motion/petition Judge Bernard Veljacic	
162	06-17-2015	ORDER TO SHOW CAUSE ACTION JDG0008	Order To Show Cause Judge Suzan L. Clark	07-10-5 R-shw Cs/contempt 9am 2015FE
163	06-17-2015	CITATION ACTION	Citation Cost/mt Mod/amnd Temp Pp/mt	07-10-2015FE
		ACTION	5 R-mt Re: bilateral Cstdy Eval	
		ACTION	Dstrbution Of Funds W/chld 9am	
164	06-17-2015	NOTICE OF DEPOSITION	Notice Of Deposition	
165	06-17-2015	DECLARATION	Declaration Dist Retirement Funds-r	
166	06-17-2015	DECLARATION	Declaration Bilateral Custody-r	
167	06-17-2015	DECLARATION	Declaration Amned/adj Pp - R	
168	06-17-2015	PROPOSED PARENTING PLAN	Proposed Parenting Plan - R	
169	06-17-2015	MOTION	Motion Re: Bilateral Eval Costs	
170	06-17-2015	MOTION	Motion Modify/amend Temp Pp/orders	
171	06-17-2015	MOTION FOR ORDER TO SHOW CAUSE	Motion For Order To Show Cause Re	
172	06-17-2015	MOTION	Motion Dist Retirement Funds	
173	06-17-2015	SEALED FINANCIAL DOCUMENT(S)	Sealed Financial Document(s)	
174	06-18-2015	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
175	06-22-2015	NOTICE OF FILING/SERVICE DEPOSITION	Notice Of Filing Deposition	
176	06-26-2015	CITATION ACTION	Citation 5 R-mt Cont Hearing 3pm	07-08-2015T5
177	06-26-2015	MOTION TO CONTINUE	Motion To Continue Hearing	
178	06-26-2015	NOTICE WITHDRAW & SUBSTITUT COUNSEL WTP0001 ATP0003	Notice Withdraw & Substitut Counsel Breitreed, Faye Ellen Tilden, Marie M.	
179	06-26-2015	ORDER JDG0005	Motion And Order Shortening Time Judge Bernard Veljacic	
180	07-01-2015	CITATION ACTION	Citation 5 R-entry Ord W/chld 9am	07-10-2015FE
180A	07-07-2015	NOTICE OF DEPOSITION	Notice Of Deposition	
181	07-08-2015	MOTION HEARING ACTION	Motion Hearing Clerk's In Court Record	07-17-2015FE
182	07-10-2015	HEARING CONTINUED: CALENDAR CONFLICT	Hearing Continued: calendar Conflict	07-17-2015
183	07-10-2015	DECLARATION	Declaration Of Aimee Guardado	

Appendix B

Page 9 of 18

184	07-10-2015	MEMORANDUM	Memorandum	
185	07-10-2015	DECLARATION	Declaration Of Aimee Guardado	
186	07-10-2015	DECLARATION	Declaration Of Aimee Guardado	
187	07-10-2015	DECLARATION	Declaration Of Aimee Guardado	
188	07-14-2015	NOTICE OF ABSENCE/UNAVAILABILITY ATP0003	Notice Of Absence/unavailability Tilden, Marie M.	
189	07-14-2015	DECLARATION	Declaration Of Resp In Response	
190	07-17-2015	MOTION HEARING	Motion Hearing	
191	07-17-2015	ORDER ON CONTEMPT JDG0005	Order On Contempt Judge Bernard Veljacic	
192	07-22-2015	CITATION ACTION	Citation	08-07-5 R-entry Ord W/chld 9am 2015FE
193	07-22-2015	ORDER JDG0005	Order Re In Camera Review Judge Bernard Veljacic	
194	07-22-2015	NOTICE	Notice Of Signature	
195	07-30-2015	NOTICE OF INTENT TO WITHDRAW WTR0002	Notice Of Intent To Withdraw Roe, Michael Von	
196	08-07-2015	MOTION HEARING	Motion Hearing	
197	08-07-2015	ORDER ON CONTEMPT JDG0005	Order On Contempt 15-9-02903-6 Judge Bernard Veljacic	
198	08-07-2015	ORDER JDG0005	Order Judge Bernard Veljacic	
199	08-10-2015	APPEARANCE PRO SE RSP0001	Appearance Pro Se Guardado, Otto	
200	08-10-2015	NOTICE OF ABSENCE/UNAVAILABILITY RSP0001	Notice Of Absence/unavailability Guardado, Otto	
200A	08-18-2015	PROTECTIVE ORDER JDG0005	Protective Order Re: In Camera Re Judge Bernard Veljacic	
200B	08-18-2015	ORDER SEALING DOCUMENT JDG0005	Order Sealing Personal Health Care Records & Sub #193 Judge Bernard Veljacic	
201	08-24-2015	LETTER	Letter F/respondent	
202	08-24-2015	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
200C	08-25-2015	CONFIDNTL REPORT IN SEALED ENVELOPE	Confidntl Sealed Health Records (records To Be Returned At Court's Order #200a** Expiration Of Appeal Period) See	
203	09-03-2015	ORDER TO SHOW CAUSE ACTION COM0002	Order To Show Cause Commissioner Jennifer Snider	09-18-5 R-shw Cs/contempt 9am 2015FE
204	09-03-2015	MOTION FOR ORDER TO SHOW CAUSE	Motion For Order To Show Cause Re: Contempt	
205	09-09-2015	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
206	09-09-2015	MOTION TO CONTINUE	Motion To Continue	
207	09-09-2015	VOID-SUB NUMBER VOIDED	Void-sub Number Voided	

208	09-10-2015	CITATION ACTION	Citation 5 R-mt To Clarify Ord/mt F/ Continuance 9am	09-25- 2015FE
209	09-10-2015	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
210	09-10-2015	MOTION AND AFFIDAVIT/DECLARATION	Motion And Affidavit/declaration	
210A	09-10-2015	MEMORANDUM	Memorandum Of Law	
211	09-11-2015	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
212	09-15-2015	MEMORANDUM	Memorandum	
213	09-17-2015	ORDER TO SHOW CAUSE ACTION COM0002	Order To Show Cause 5 P-shw Cs/contempt 9am Commissioner Jennifer Snider	10-02- 2015FE
213A	09-17-2015	MOTION FOR ORDER TO SHOW CAUSE	Mt For Order To Show Cse-contempt	
214	09-18-2015	MOTION HEARING ACTION	Motion Hearing 5 R-shw Cs/contempt 9am	09-25- 2015
215	09-18-2015	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
215A	09-18-2015	DECLARATION	Declaration Of Aimee Guardado	
215B	09-18-2015	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
216	09-22-2015	DECLARATION	Declaration Of Otto Guardado*rspvs	
217	09-22-2015	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
218	09-25-2015	MOTION HEARING	Motion Hearing	
219	09-25-2015	CITATION ACTION	Citation 5 R-mod Chld Spprt 9am	10-09- 2015FE
220	09-25-2015	ORDER DENYING MOTION/PETITION JDG0005	Order Denying Motion/petition Judge Bernard Veljacic	
221	09-25-2015	PETITION/MOTION TO MODIFY	Petition/motion To Modify	
222	09-25-2015	DECLARATION	Declaration Of Otto Guardado	
223	09-25-2015	FINANCIAL DECLARATION OF RESP	Financial Declaration Of Resp	
224	09-25-2015	CHILD SUPPORT WORKSHEET/PROPOSED	Child Support Worksheet/proposed	
225	09-25-2015	SEALED FINANCIAL DOCUMENT(S)	Sealed Financial Document(s)	
226	09-28-2015	NOTICE OF HEARING ACTION	Notice Of Hearing *2nd Amnd* #5 Trial Readiness Hrg 9am	12-17- 2015T5
	09-28-2015	ASSIGNMENT OF TRIAL DATE ACTION	Assignment Of Trial Date Trial 3 Days 9am	01-11- 2016T5
	09-29-2015	CANCELLED: PLAINTIFF/PROS REQUESTED	Cancelled: Plaintiff/pros Requested Per Atty Tilden Strk 10-2- 15.	
227	09-30-2015	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
228	09-30-2015	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
229	09-30-2015	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
230	10-02-2015	CANCELLED: PLAINTIFF/PROS REQUESTED	Cancelled: Plaintiff/pros Requested	

Appendix B

Page 10 of 18

Appendix B

Page 11 of 18

231	10-02-2015	RESPONSE	Response To Pt F/mod Of Chld Spprt	
232	10-02-2015	FINANCIAL DECLARATION OF PET	Financial Declaration Of Pet	
233	10-02-2015	CHILD SUPPORT WORKSHEET/PROPOSED	Child Support Worksheet/proposed	
234	10-05-2015	LETTER	Letter F/rspndent To Dept 5	
235	10-05-2015	DECLARATION	Dclration Of Otto Guardado*rspnsve	
236	10-05-2015	SEALED FINANCIAL DOCUMENT(S)	Sealed Financial Document(s)	
236A	10-08-2015	CITATION ACTION	Citation 5 R-authz Discovery & Sbpna 9am	10-30-2015FE
236B	10-08-2015	PETITION	Petition F/commission Authorizing Discovery Outside Of State	
237	10-09-2015	MOTION HEARING	Motion Hearing	
238	10-09-2015	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
239	10-09-2015	ORDER JDG0005	Order On Pet To Modify Chld Spprt Judge Bernard Veljacic	
240	10-13-2015	CITATION ACTION	Citation 5 R-mt To Compel 9am	10-30-2015FE
241	10-13-2015	SEALED FINANCIAL DOCUMENT(S)	Sealed Financial Document(s)	
242	10-13-2015	MOTION TO COMPEL	Motion To Compel	
243	10-13-2015	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
244	10-16-2015	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
245	10-23-2015	SEALED CONFIDENTIAL RPTS CVR SHEET	Sealed Confidential Rpts Cvr Sheet	
246	10-23-2015	DECLARATION	Declaration Of Petitioner	
247	10-23-2015	DECLARATION	Declaration Of Petitioner	
248	10-27-2015	DECLARATION	Declaration Of Resp In Response	
249	10-27-2015	DECLARATION	Declaration Of Resp Re Work Records	
250	10-28-2015	ORDER SHORTENING TIME JDG0005	Order Shortening Time Judge Bernard Veljacic	
251	10-28-2015	MOTION AND AFFIDAVIT/DECLARATION	Motion And Affidavit/declaration F/ord Strk Hearsay	
252	10-28-2015	MOTION	Motion F/ord Shrtening Time	
253	10-28-2015	CITATION ACTION	Citation *late File* 5 P-mt F/ord Strk Hearsay 9am	10-30-2015FE
254	10-29-2015	CITATION ACTION	Citation *late File* 5 R-mt Issue Subpoena 9am	10-30-2015FE
254A	10-29-2015	MOTION	Motion F/issuance Of Subpoenas	
255	10-30-2015	MOTION HEARING	Motion Hearing	
256	10-30-2015	NOTICE OF ABSENCE/UNAVAILABILITY ATP0003	Notice Of Absence/unavailability Tilden, Marie M.	
257	10-30-2015	ORDER DENYING MOTION/PETITION	Order Denying Motion To Compel	

Appendix B

Page 12 of 18

258	10-30-2015	JDG0005 ORDER DENYING MOTION/PETITION	Judge Bernard Veljacic Order Denying Motion F/discovery Outside Wa State & Issue Subpoena	
259	10-30-2015	JDG0005 ORDER JDG0005	Judge Bernard Veljacic Order F/issuance Of Subpoenas Judge Bernard Veljacic	
260	11-05-2015	SUBPOENA	Subpoena - A. Mellow	
261	11-05-2015	SUBPOENA	Subpoena - P. Weber	
262	11-09-2015	SEALED FINANCIAL DOCUMENT(S)	Sealed Financial Document(s) (r)	
263	11-09-2015	MOTION TO COMPEL	Motion To Compel	
264	11-09-2015	PROPOSED ORDER/FINDINGS	Proposed Order/findings	
265	11-09-2015	APPLICATION	Application F/order Shorten Time	
266	11-09-2015	ORDER SHORTENING TIME ACTION	Order Shortening Time 5 R-mt Compel 9am	11-13- 2015FE
267	11-09-2015	JDG0005 CITATION ACTION	Judge Bernard Veljacic Citation 5 R-mt To Compel 9am	11-13- 2015
267A	11-10-2015	DECLARATION	Declaration Aimee Guardado	
268	11-13-2015	MOTION HEARING	Motion Hearing	
269	11-13-2015	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
270	11-13-2015	ORDER JDG0005	Order Denying Motion To Compel Judge Bernard Veljacic	
271	11-18-2015	ORDER COM0001	Stipulated Order For 2015 Holidays Commissioner Carin Schienberg	
272	11-19-2015	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
273	11-19-2015	OTHER	Other Submission Prof Fee Agreement	
274	11-19-2015	NOTICE	Notice To Take Deposition	
275	11-19-2015	WITNESS LIST	Witness List - Resp	
276	12-01-2015	LETTER	Letter F/pauline Weber To Dept 5	
277	12-03-2015	RETURN OF SERVICE	Return Of Service	
278	12-03-2015	RETURN OF SERVICE	Return Of Service	
279	12-08-2015	NOTICE OF ABSENCE/UNAVAILABILITY	Notice Of Absence/unavailability	
280	12-09-2015	NOTICE OF APPEARANCE ATR0003	Notice Of Appearance Gaffney, Mary Katherine	
281	12-09-2015	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
282	12-10-2015	NOTICE	Notice Of Docs Offered At Trial P	
283	12-15-2015	TEMPORARY ORDER COM0002	Temporary Order Commissioner Jennifer Snider	
284	12-15-2015	NOTICE	Notice Of Documents Er904 (r)	
285	12-15-2015	NOTICE	Notice Er904 Docs Supplmntl-p	
286	12-17-2015	NOTICE OF FILING/SERVICE DEPOSITION	Notice Of Filing/service Deposition	
	12-21-2015	NOTICE	Notice From Dept #5	12-23-

		ACTION	Trial Readiness	2015T5
287	12-23-2015	OBJECTION / OPPOSITION	Objection To Er904-Petitioner's	
288	12-23-2015	ORDER JDG0005	Order Re: Trial Readiness Judge Bernard Veljacic	
289	12-23-2015	MOTION HEARING ACTION	Motion Hearing #5 Trial 9:00 Am	01-11- 2016T5
290	12-28-2015	ORDER COM0004	Case Called Ready Order Authorizing Custody Eval Commissioner Dayann Liebman	
291	12-28-2015	NOTICE OF DEPOSITION	Notice Of Deposition & Subpoena Duces Tecum	
292	01-04-2016	NOTICE OF FILING/SERVICE DEPOSITION	Notice Of Filing/service Deposition	
293	01-05-2016	SUBPOENA DUCES TECUM	Subpoena Duces Tecum- holly Dossett	
294	01-08-2016	MEMORANDUM	R-trial Memorandum	
295	01-08-2016	PROPOSED PARENTING PLAN	Proposed Parenting Plan - R	
296	01-08-2016	MEMORANDUM	P- Trial Memorandum	
297	01-12-2016	LETTER	Letter From Counsel Re: P- Med Recd	
298	01-12-2016	PROTECTIVE ORDER	Protective Order Re: P- Med Rcds	
298A	01-12-2016	ORDER	Order Seling Documents Under Gr22	
299	01-13-2016	NON-JURY TRIAL	Non-jury Trial Clerk's In Court Record	
		JDG0005	Judge Bernard Veljacic	
	01-13-2016	EXHIBIT LIST	Exhibit List (64)	
300	01-13-2016	LOG SHEET	Log Sheet	
301	01-13-2016	RECEIPT FOR EXHIBIT/UNOPENED DEPOS	Receipt For Exhibit/unopened Depos	
302	01-20-2016	NOTICE	Notice Re Signature Of Witness	
303	01-20-2016	NOTICE	Notice Re Signature Of Witnesses	
304	01-22-2016	OTHER	Written Closing Argument (r)	
305	01-22-2016	PROPOSED PARENTING PLAN	Amended Proposed Parenting Plan	
306	01-22-2016	OTHER	Petitioner's Closing Argument	
307	01-26-2016	OTHER	Rebuttal Of R's Closing Argument	
308	02-05-2016	ORDER SEALING DOCUMENT JDG0005	Order Sealing Med Records Judge Bernard Veljacic	
309	02-05-2016	SEALED PRSNL HEALTH RCDS CVR SHEET	Sealed By Crt Order-no Disclosure Stored In Sealed Cabinet	
309A	04-21-2016	COURT'S DECISION JDG0005	Court's Decision Judge Bernard Veljacic	
310	05-03-2016	AFFIDAVIT	Affidavit Support Atty Fees	
311	05-12-2016	NOTICE OF ABSENCE/UNAVAILABILITY ATR0003	Notice Of Absence/unavailability Gaffney, Mary Katherine	
312	05-20-2016	CONFIDNTL REPORT IN SEALED ENVELOPE	Confidntl Report In Sealed Envelope	

Appendix B

Page 13 of 18

	05-20-2016	NTC OF INTENDED RELOC OF CHILDREN	Ntc Of Intended Reloc Of Children	
313	06-01-2016	OBJECTION / OPPOSITION	Objection To (p) Ord Ch Sppt	
314	06-01-2016	OBJECTION / OPPOSITION	Objection / Opposition To Affdvt In Support Of Atty Fees -r	
315	06-01-2016	OBJECTION / OPPOSITION	Objection / Opposition To Final Parenting Plan -r	
316	06-08-2016	MOTION HEARING JDG0005	Motion Hearing Clerk's In Court Record Judge Bernard Veljacic	
317	06-08-2016	JIS CHECK CONFDN TL DOC COVER SHEET	Jis Check Confdntl Doc Cover Sheet	
318	06-08-2016	FINDINGS OF FACT&CONCLUSIONS OF LAW JDG0005	Findings Of Fact&conclusions Of Law Judge Bernard Veljacic	
319	06-08-2016	DECREE OF DISSOLUTION JDG0005	Decree Of Dissolution Judge Bernard Veljacic 15-9-02903-6	
320	06-08-2016	PARENTING PLAN (FINAL ORDER) JDG0005	Parenting Plan (final Order) Judge Bernard Veljacic	
321	06-08-2016	CHILD SUPPORT WORKSHEET JDG0005	Child Support Worksheet Judge Bernard Veljacic	
322	06-15-2016	NOTICE OF INTENT TO WITHDRAW WTR0003	Notice Of Intent To Withdraw Gaffney, Mary Katherine	
323	06-20-2016	APPEARANCE PRO SE RSP0001	Appearance Pro Se Guardado, Otto	
324	06-20-2016	SEALED CONFIDENTIAL RPTS CVR SHEET	Sealed Confidential Rpts Cvr Sheet	
325	06-20-2016	MOTION FOR RECONSIDERATION	Motion For Reconsideration	
	06-20-2016	MOTION TO CONTINUE	Motion To Continue Trial	
	06-20-2016	MOTION	Motion F/evindntry Hearing	
326	06-22-2016	ORDER FOR SUPPORT JDG0005	Order For Support Judge Bernard Veljacic	
327	06-24-2016	NOTICE OF APPEARANCE ATR0004	Notice Of Appearance Townsend, Josephine C	
328	06-29-2016	RESPONSE	Response To Mtn Rcnsdrtn	
	07-12-2016	CERTIFICATE MAILED TO OLYMPIA	Certificate Mailed To Olympia	
329	07-15-2016	COURT'S DECISION JDG0005	Court's Decision /reconsideratn Judge Bernard Veljacic	
330	08-04-2016	NOTICE OF ABSENCE/UNAVAILABILITY ATP0003	Notice Of Absence/unavailability Tilden, Marie M.	
331	08-12-2016	FILING FEE RECEIVED	Filing Fee Received	290.
332	08-12-2016	NOTICE OF APPEAL TO COURT OF APPEAL	Notice Of Appeal To Court Of Appeal	
333	08-12-2016	NOTICE WITHDRAW & SUBSTITUT COUNSEL WTR0004 PSD0001	Notice Withdraw & Substitut Counsel Townsend, Josephine C Guardado, Otto	
334	08-15-2016	NOTICE OF APPEAL TO COURT OF APPEAL	Notice Of Appeal To Court Of Appeal Amended	
335	08-15-2016	AFFIDAVIT	Affidavit - R	
336	08-15-2016	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	

Appendix B

Page 15 of 18

337	08-15-2016	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
338	08-16-2016	DECLARATION	Declaration Of Pet Re Exam Of Jd Debtor	
339	08-16-2016	MOTION	Motion Exam Jd Debtor	
340	08-16-2016	ORDER ACTION	Order Appear Exam Jd Debtor Annex Family Law 9am	09-09-2016FE
		JDG0007	Judge James E. Rulli	
	08-16-2016	FILING FEE RECEIVED	Filing Fee Received	20
341	08-16-2016	APPLICATION	Application Writ	
342	08-16-2016	SEALED FINANCIAL DOCUMENT(S)	Sealed Financial Document(s)	
	08-16-2016	WRIT OF GARNISHMENT (WITH FEE)	Writ Of Garnishment (with Fee)	20
343	08-16-2016	APPLICATION	Application Writ	
344	08-16-2016	SEALED FINANCIAL DOCUMENT(S)	Sealed Financial Document(s)	
	08-16-2016	WRIT OF GARNISHMENT (WITH FEE)	Writ Of Garnishment (with Fee)	20
345	08-18-2016	TRANSMITTAL LETTER - COPY FILED	Transmittal Letter - Copy Filed Naca To Coa	
346	08-25-2016	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
347	08-25-2016	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
348	08-29-2016	SEALED FINANCIAL DOCUMENT(S)	Sealed Financial Document(s)	
	08-29-2016	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment	
349	08-29-2016	SEALED FINANCIAL DOCUMENT(S)	Sealed Financial Document(s)	
	08-29-2016	ANSWER TO WRIT OF GARNISHMENT	Answer To Writ Of Garnishment	
351	08-31-2016	RETURN OF SERVICE	Return Of Service	
350	09-01-2016	PERFECTION NOTICE FROM CT OF APPLS	Perfection Notice From Ct Of Appls	
352	09-02-2016	CITATION ACTION	Citation 8 R-mt To Continue 9am	09-09-2016FO
353	09-02-2016	MOTION TO CONTINUE	Motion To Continue	
354	09-02-2016	ORDER DENYING MOTION/PETITION	Order Denying Motion/petition	
	09-02-2016	EX-PARTE ACTION WITH ORDER	Ex-parte Action With Order	
	09-06-2016	COMMENT ENTRY	*strk F/dpt 7**add To Dpt 8* *respondent Notified*	09-09-2016FE
		ACTION	8 R-mt To Continue 9am	
355	09-07-2016	MOTION AND AFFIDAVIT/DECLARATION	Motion And Declaration To Strike-p	
356	09-08-2016	CITATION ACTION	Citation 8 R-mt Vacate Writ 9am	09-23-2016FE
357	09-08-2016	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
358	09-08-2016	MOTION	Motion To Vacate Writs	
359	09-08-2016	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
360	09-09-2016	MOTION HEARING	Motion Hearing	
361	09-09-2016	HEARING CANCELLED: COURT'S REQUEST	Hearing Cancelled: Court's Request	

Case No.	Date	Action	Description	Amount
			heard By Judge Clark	
	09-09-2016	NOTICE ACTION	Notice 8 Judgment Exam / Enter Order 9am	09-16-2016FE
362	09-12-2016	STATEMENT	Statement Of Arrangements	
363	09-12-2016	DESIGNATION OF CLERK'S PAPERS	Designation Of Clerk's Papers	
364	09-12-2016	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
365	09-13-2016	OBJECTION / OPPOSITION	Objection / Opposition To Proposed Order On Debtors Exam	
366	09-16-2016	MOTION HEARING ACTION	Motion Hearing #8 Debtor's Exam 9:00 Am	10-07-2016FE
367	09-16-2016	ORDER	Order On Debtors Exam	
368	09-19-2016	RESPONSE	Response Re: vacate Writ	
369	09-19-2016	RELEASE	Release Of Writ Of Garnishment	
370	09-20-2016	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
371	09-20-2016	REPLY	Reply Support Vacate Writs	
372	09-23-2016	MOTION HEARING	Motion Hearing	
373	09-23-2016	ORDER	Order Sealing Docs 342, 344, 348 & 349	
			JDG0008	
374	09-23-2016	PARTIAL SATISFACTION OF JUDGMENT	Partial Satisfaction Of Judgment	
375	09-30-2016	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
376	10-03-2016	LETTER	Letter To Judge From Resp	
377	10-03-2016	MOTION	Motion Reconsider	
378	10-06-2016	INDEX	Index - Clerk's Papers	
379	10-06-2016	INDEX	Index - Exhibits Clerk's Papers	
380	10-06-2016	CLERK'S PAPERS - FEE ASSESSED	Clerk's Papers - Fee Assessed	327.00
381	10-07-2016	MOTION HEARING	Motion Hearing	
382	10-07-2016	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
383	10-10-2016	ORDER JDG0008	Order On Debtor's Exam Judge Suzan L. Clark	
384	10-21-2016	CLERK'S PAPERS - FEE RECEIVED	Clerk's Papers - Fee Received	327.
385	10-21-2016	TRANSMITTAL LETTER - COPY FILED	Transmittal Letter - Copy Filed	
	10-21-2016	CLERK'S PAPERS SENT	Clerk's Papers E-filed Coa	
386	10-21-2016	TRANSMITTAL LETTER - COPY FILED	Transmittal Letter - Copy Filed	
	10-21-2016	CLERK'S PAPERS SENT	Clerk's Papers Confidential E-filed Coa	
387	10-21-2016	TRANSMITTAL LETTER - COPY FILED	Transmittal Letter - Copy Filed	
	10-21-2016	CLERK'S PAPERS SENT	Clerk's Papers Exhibits E- filed Coa	
	11-03-2016	COMMENT ENTRY ACTION	Per Dept 8 8 Debtor Exam 9am	11-04-2016FE
388	11-04-2016	MOTION HEARING	Motion Hearing	

389	11-04-2016	ORDER ACTION JDG0008	Order On Debtor's Exam #8 Debtor's Examination 9 Am Judge Suzan L. Clark	12-09-2016FE
390	11-23-2016	CITATION ACTION	Citation 8 R-mt Allow Access To Records 9am	12-09-2016FE
391	11-23-2016	SEALED FINANCIAL DOCUMENT(S)	Sealed Financial Document(s)	
392	11-23-2016	MOTION AND AFFIDAVIT/DECLARATION	Motion/declaration To Allow Access To Restricted Court Records	
393	11-28-2016	MOTION	Mt To Amend Verbatim Proceedings	
394	11-28-2016	PROPOSED ORDER/FINDINGS	Proposed Order/findings	
395	11-28-2016	CITATION ACTION	Citation 8 R-mt Amnd Verbatim Rpt 9am	12-16-2016M5
396	11-30-2016	SEALED FINANCIAL DOCUMENT(S)	Sealed Financial Document(s)	
397	12-02-2016	MEMORANDUM	Memorandum In Response To Mt For Court Records - Pet	
398	12-05-2016	REPLY	Reply To Pet's Memorandum	
399	12-05-2016	PROPOSED ORDER/FINDINGS	Proposed Order Allowing Access	
400	12-09-2016	MOTION HEARING ACTION	Motion Hearing 8 Debort Exam 9am	01-06-2017
401	12-14-2016	ORDER JDG0005	Order Amend Verbatim Report Judge Bernard Veljacic	
402	12-16-2016	HEARING CANCELLED: COURT'S REQUEST	Hearing Cancelled: Court's Request	
403	12-19-2016	NOTICE OF APPOINTMENT ATP0004	Notice Of Appointment Trosper, Dylan Thomas	
404	12-22-2016	NOTICE OF ADDRESS CHANGE RSP0001	Notice Of Address Change Guardado, Otto	
	12-29-2016	CANCELLED: PLAINTIFF/PROS REQUESTED	Cancelled: Plaintiff/pros Requested Per Atty Trosper Strk 1-6-17.	
405	01-06-2017	CITATION ACTION	Citation 8 R-mt Access Sealed Records 9am	01-20-2017FE
406	01-06-2017	SEALED FINANCIAL DOCUMENT(S)	Sealed Financial Document(s)	
407	01-06-2017	MOTION	Motion For Access To Sealed Records	
408	01-06-2017	PROPOSED ORDER/FINDINGS	Proposed Order Allowing Access	
409	01-12-2017	MEMORANDUM	Memorandum In Response	
410	01-17-2017	REPLY	Reply In Supp Of Mt T/access Sealed	
411	01-20-2017	LETTER	Letter From Respondent	
412	01-20-2017	MOTION HEARING	Motion Hearing	
413	01-20-2017	CITATION ACTION	Citation 8 R-mt Access Sealed Records 9am	02-03-2017M5
414	01-23-2017	MEMORANDUM	Pet's Responsive Memorandum Re Access To Sealed Records	

Appendix B Page 18 of 18

415	01-23-2017	NOTICE	Notice Of Errata	
416	01-25-2017	PARTIAL SATISFACTION OF JUDGMENT	Partial Satisfaction Of Judgment 15-9-02903-6	
417	01-25-2017	PARTIAL SATISFACTION OF JUDGMENT	Partial Satisfaction Of Judgment 15-9-02903-6	
418	01-25-2017	PARTIAL SATISFACTION OF JUDGMENT	Partial Satisfaction Of Judgment 15-9-02903-6	
419	01-30-2017	REPLY	Reply To Pet's Memorandum 1/23/17	
420	02-03-2017	MOTION HEARING ACTION	Motion Hearing #8 Entry Of Orders 9:00 Am	03-10-2017
421	02-15-2017	ORDER DENYING MOTION/PETITION JDG0005	Order Denying Access To Recirds Judge Bernard Veljacic	
	02-21-2017	HEARING CANCELLED: COURT'S REQUEST	Hearing Cancelled: Court's Request Per Dpt 5 Strk 3-10-17	
422	03-08-2017	AFFIDAVIT FOR GARNISHMENT	Affidavit For Garnishment	
423	03-08-2017	WRIT OF GARNISHMENT (WITH FEE)	Writ Of Garnishment (with Fee)	20.
424	03-17-2017	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
425	03-17-2017	AFFIDAVIT/DCLR/CERT OF SERVICE	Affidavit/dclr/cert Of Service	
426	03-28-2017	PARTIAL SATISFACTION OF JUDGMENT	Partial Satisfaction Of Judgment 15-9-02903-6	
427	04-21-2017	DESIGNATION OF CLERK'S PAPERS	Designation Of Clerk's Papers Supplemental	
428	04-26-2017	SATISFACTION OF JUDGMENT	Satisfaction Of Judgment 15-9-02903-6	

Appendix C
Page 1 of 2

Table 1: Motions during proceedings, pre-trial					
Sub#	Date	Title	Description	Pet.	Resp.
1	4/3/14/2014	PETITION FOR DISSOLUTION	Petition For Dissolution	x	
2	12/3/14/2014	MOTION AND AFFIDAVIT/DECLARATION	Motion And Affidavit/declaration	x	
3	25/3/31/2014	MOTION AND AFFIDAVIT/DECLARATION	Motion And Declaration F/temp Ord		x
4	48/7/30/2014	MOTION AND AFFIDAVIT/DECLARATION	Motion And Affidavit/declaration		x
5	53/7/30/2014	MOTION	Motion F/order Re Requiring Resp To Withdraw Medicaid Application	x	
6	58/8/5/2014	MOTION FOR ORDER TO SHOW CAUSE	Motion For Order To Show Cause	x	
7	68/10/16/2014	MOTION	Motion To Allow Selling Of House	x	
8	71/10/22/2014	MOTION	Motion F/temp Orders	x	
9	85/11/5/2014	MOTION	Motion To Mod/amend Ppt (r)		x
10	89/11/12/2014	MOTION FOR ORDER TO SHOW CAUSE	Motion For Order To Show Cause		x
11	102/12/3/2014	MOTION	Motion F/order Shorten Time	x	
12	106/12/3/2014	MOTION	Motion Re Amend Pp & Support	x	
13	110/12/10/2014	MOTION	Motion For Order Re: Allow Petitioner To Access Funds	x	
14	124/2/19/2015	MOTION	Motion Modify Temp Pp Etc		x
15	125/2/19/2015	MOTION FOR ORDER TO SHOW CAUSE	Motion For Order To Show Cause		x
16	144/4/24/2015	MOTION AND AFFIDAVIT/DECLARATION	Motion And Affidavit/declaration F/ Protective Order	x	
17	156/5/21/2015	MOTION	Motion F/order Shortening Time	x	
18	157/5/21/2015	MOTION	Motion To Quash Subpoena	x	
19	169/6/17/2015	MOTION	Motion Re: Bilateral Eval Costs		x
20	170/6/17/2015	MOTION	Motion Modify/amend Temp Pp/orders		x
21	171/6/17/2015	MOTION FOR ORDER TO SHOW CAUSE	Motion For Order To Show Cause Re		x
22	172/6/17/2015	MOTION	Motion Dist Retirement Funds		x

Appendix C

Page 2 of 2

23	177	6/26/2015	MOTION TO CONTINUE		Motion To Continue Hearing		x	
24	204	9/3/2015	MOTION FOR ORDER TO SHOW CAUSE		Motion For Order To Show Cause Re: Contempt			x
25	206	9/9/2015	MOTION TO CONTINUE		Motion To Continue			x
26	210	9/10/2015	MOTION AND AFFIDAVIT/DECLARATION		Motion And Affidavit/declaration			x
27	213A	9/17/2015	MOTION FOR ORDER TO SHOW CAUSE		Mt For Order To Show Cse-contempt		x	
28	221	9/25/2015	PETITION/MOTION TO MODIFY		Petition/motion To Modify			x
29	236B	10/8/2015	PETITION		Petition F/commission Authorizing Discovery Outside Of State			x
30	242	10/13/2015	MOTION TO COMPEL		Motion To Compel			x
31	251	10/28/2015	MOTION AND AFFIDAVIT/DECLARATION		Motion And Affidavit/declaration F/ord Strk Hearsay		x	
32	252	10/28/2015	MOTION		Motion F/ord Shrtening Time			x
33	254A	10/29/2015	MOTION		Motion F/issuance Of Subpoenas			x
34	263	11/9/2015	MOTION TO COMPEL		Motion To Compel			x
							15	19

Source: WA Courts website

URL: https://dw.courts.wa.gov/index.cfm?fa=home.casesummary&crt_itl_nu=S06&casenumber=14-3-00510-2&searchtype=sName&token=7DB61DDDBA9CC060D150B958C75909BF&dt=60FFC0DFBE8CDEBCBA8F7977F1DF2BB3&courtClassCode=S&casekey=167867655&courtname=CLARK%20SUPERIOR

Last visited: 4/28/2017

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

In re Marriage of:

AIMEE GUARDADO

Respondent

and

OTTO GUARDADO

Appellant

Clark No. 14-3-00510-2

COA No. 49345-4-II

CERTIFICATE OF SERVICE

I Certify under penalty of perjury in accordance with the laws of the State of Washington that I sent to the Respondent, through her attorneys, Marie Tilden and Dylan Trosper, at 4001 Main St #327, Vancouver, WA 98863 by first class US Mail, postage paid, on May 1, 2017 the following:

1. A true copy of Appellant's Opening Brief and appendices (on paper)
2. Eleven separate electronic PDF files on compact disc (244 pages):
 - a. Vol I Report of Proceedings (11/12/2014)
 - b. Vol II Report of Proceedings (5/8/2015)
 - c. Vol III Report of Proceedings (5/27/2015)
 - d. Vol IV Report of Proceedings (10/30/2015)
 - e. Vol V Report of Proceedings (1/11/2016)
 - f. Vol VI Report of Proceedings (1/11/2016)
 - g. Vol VII Report of Proceedings (1/12/2016)
 - h. Vol VIII Report of Proceedings (1/12/2016)
 - i. Vol IX Report of Proceedings (1/13/2016)

- j. Vol X Report of Proceedings (1/13/2016)
- k. Vol XI Report of Proceedings (6/8/2016)

The Report of Proceedings are in PDF format and “4-up” due to their size, and is the only format supplied to the Appellant from Schmitt Reporting of Vancouver, WA.

PDFs may be viewed using Adobe Reader, which may be downloaded for free for Windows or Mac computers at: <https://get.adobe.com/reader/> . The Appellant has verified the absence of any computer viruses from the compact disc using Windows Defender software.

The attorneys were served jointly, with one envelope, and not individually in separate envelopes.

Dated May 1 2017 at Vancouver, WA,



Otto Guardado
800 NW 75th St.
Vancouver WA 98665
360-713-2448

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COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

<p>AIMEE GUARDADO Respondent</p> <p style="text-align: center;">v.</p> <p>OTTO GUARDADO Appellant</p>	<p>COA No. 49345-4-II</p> <p>NOTICE OF ERRATA</p> <p>CERTIFICATE OF SERVICE</p>
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Please note the following errors that were caught after submission of the Appellant’s Opening Brief (filed 5/4/2017). I apologize for any inconvenience.

Omitted Table of Authorities

Gunn v. Riely, 185 Wn. App. 517, 344 P.3d 1225 (2015), *review denied*, 183 Wn.2d 1004 (2015).....24

CR 4510, 48

CR 1128

RPC 4.1(a).....28

RPC 4., cmt 128

Errors within brief

Location	Reads	Intended
<i>Page 3</i>	6. The court...birth certificate.	6. The court...birth certificate. CP 615.
<i>Page 5</i>	4. The order...local rules. §3.3.	4. The order...local rules. §3.3. CP 621.
	5. Spring break...it consider? §3.4.	5. Spring break...it consider? §3.4. CP 621.
<i>Page 6</i>	...married on December 17, 2011.	...married on December 14, 2011.

<i>Page 7</i>	...in January 2014 (CP 126, 166, 406).	...in January 2014 (CP 126, 166, 409).
<i>Page 8</i>	... intimidation behaviors (...Trial RP at 119...)	... intimidation behaviors (...Trial RP at 121...)
<i>Page 9</i>	Otto denied these allegations: CP... 512...(Medicaid allegation); CP...512...(stealing jewelry); CP 512 (breaking and entering);... ...CP...511-13, 516, 520; ... (physical intimidation);... ...CP 479, 481-89 (infidelity)... ...CP 494, 506-11 (bumping her during the “stairs” incident).	Otto denied these allegations:... Trial RP at 512...(Medicaid allegation); ... Trial RP at 512...(stealing jewelry); Trial RP at 512 (breaking and entering);... ... Trial RP at 511-13, 516, 520; ... (physical intimidation);... ... Trial RP at 479, 481-89 (infidelity)... ... Trial RP at 494, 506-11 (bumping her during the “stairs” incident).
<i>Page 11</i>	... cellular device. CP 901.	... cellular device. CP 902.
<i>Page 16</i>	...were not made during the pre-trial proceedings or in her trial brief:were not made during the pre-trial proceedings: ...
<i>Page 23</i>	The court denied his motion.	The court denied his motion. CP 628.
<i>Page 24</i>	A ruling dealing with a parenting plan is reviewed for abuse of discretion. <i>Kovacs</i> , at 801; <i>Union Bank, NA v. Blanchard</i> , 194 Wn. App. 340, 364, 378 P.3d 191 (2016).	A ruling dealing with a parenting plan is reviewed for abuse of discretion. <i>Kovacs</i> , at 801.
<i>Page 26</i>	<i>Burnet</i> , 131 Wn.2d at 484.	<i>Burnet</i> , 131 Wn.2d at 510.
<i>Page 31</i>	..of which, 25 pages were devoted...Trial RP at 502-06, 576-82, 638-39, 648-61, 693-94, 800-804.	..of which, 21 pages were devoted...Trial RP at 576-82, 638-39, 648-61, 693-94, 800-804.
<i>Page 41</i>	...half of the expense. CP 113.	...half of the expense. CP 96.
<i>Page 45</i>	...early daycare pickup (CP 621)... ...from earlier orders. CP 623...	...early daycare pickup (CP 623)... ...from earlier orders. CP 191...

Respectfully submitted May 8, 2017,

s/ Otto Guardado
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Telephone: 360-713-2448
Fax: n/a

CERTIFICATION

I Certify under penalty of perjury in accordance with the laws of the State of Washington that I served the above Notice to the Respondent, through her attorneys, Marie Tilden and Dylan Trosper, by email at marie@marietilden.com and dylan@marietilden.com on the date below.

Dated May 8, 2017 at Vancouver, WA,



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