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SUPREME COURT OF THE STATE OF WASHINGTON

In Re the Marriage of

Raluca Vetrici,

Respondent,

v.

Grigore Vetrici,

Appellant.

Appeal From The Superior Court For Thurston County

AMENDED BRIEF OF APPELLANT

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I. INTRODUCTION

As a result of the respondent's forum shopping, there is now appellate authority in Canada that threatens and arbitrarily disregards Washington's dissolution and custody decrees. The superior court was asked to enforce the Washington decree making a residential provision for children on the basis that Washington courts have a duty to enforce their decrees. The trial judge did not find that "reside in Canada with father" is a residential term that can be enforced as a parenting plan or as a child support order. Although the parties had dissolved their marriage in Washington with that stipulation and that the account for the children is community property, the mother relitigated a separation agreement terminated by the decree and convinced a British Columbia court to award her shared custody of the children, waive her obligation to pay child support, and disentitle the children from the trust for their future education. Dissipation of the latter changed the fair and equitable property division at divorce. The superior court judge refused to find contempt and grant relief after the mother's forum shopping. He failed to find interference with the residential provision for the children, non-payment of support and dissipation of the children's account, yet he confirmed the

separation agreement's nullity by the consensual decree of dissolution. The superior court went further and modified the residential provision by finding that the children were living in Canada while the parents were resident in the U.S. Adding insult to injury, the superior court imposed CR 11 sanctions against the appellant without specific notice of his liability.

II. ASSIGNMENTS OF ERROR

1. The trial judge erred when he denied revision of a commissioner's order denying a motion for contempt after finding that the stipulated decree memorialized the termination of the 2009 agreement as one of its terms, the agreement's relitigation being the means by which Raluca defeated the residential term of the decree. The error is further supported by Raluca's dissipation of the children's account contrary to the property disposition of the decree, her tax claims for the child tax exemptions contrary to agreement, and non-payment of child support.
2. The trial judge erred when he misconstrued the decree.
3. The trial judge erred when he failed to consider the welfare of the children.
4. The trial judge erred when he gave full faith and credit to the Canadian proceedings founded on the 2009 agreement he found to be void.

The trial judge further erred when he entered the following

Findings of Fact (FF) and Conclusions of Law:

5. FF 2: parties residing in U.S. on work visa;
6. FF 3: children living in Canada, no UCCJEA jurisdiction;
7. FF 4: no parenting plan nor an order of child support;

8. FF 5: property division under 2009 agreement was unfair;
9. FF 6: court explained lack of jurisdiction over children;
10. FF 7: dissolution court's opinion lacking jurisdiction;
11. FF 10: Grigore sought half of the educational account;
12. FF 11: Raluca was awarded fund under decree;
13. FF 13: date of December 3, 2015 motion;
14. FF 17: Findings of Fact/ Conclusions of Law are irrelevant;
15. FF 19: court agreed with counsel for Raluca;
16. Conclusion 2a: children's account fully litigated in Canada;
17. Conclusion 2b: no Washington order to support contempt;
18. Conclusion 2d: remaining issues without merit;
19. Conclusion 2e: written decision, violation of Civil Rule 11, reasonable attorney fees of \$4808 against Grigore.

Issues Pertaining to Assignments of Error

1. Is a stipulated decree of dissolution reciting a residential provision for a child enforceable as a parenting plan or a child support order notwithstanding, in this case, that the sections under parenting plan and child support have checked boxes stating they do not apply, that the agreement regarding tax exemptions appears in the joint petition, and that the educational account for the children listed under community property is stated to not be part of the action? (Assignments of Error 1, 2, 3, 4, 5, 6, 7,8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19).

2. May CR 11 sanctions be imposed against the moving party for a contempt motion after the court found reasonable cause to issue a show cause order? (Assignment of Error 19).

III. STATEMENT OF THE CASE

In 2006, educational account for the children is established

In 2006, the parties Raluca Vetrici and Grigore Vetrici funded an educational account (the account or "RESP") out of a joint bank account. CP 298. It was for their children's benefit. CP 285, FF 8. It was held in the mother Raluca's name with contributions also made by the government. CP 301. In 2007, the account was switched to the RBC Target 2020 Education Fund. CP 302. There was *definitely* no likelihood of early redemption; Raluca's net worth was not less than \$100,000. CP 299.

In 2009, separation agreement is executed in Washington

In 2007, the parties moved from Calgary, Alberta to Olympia, Washington with their children. CP 13. In May 2009, they separated. CP 7. In June 2009, they executed a separation agreement ("2009 agreement") that they would share custody of the children. CP 18. The father Grigore and the children returned to Calgary in July, Raluca in August, and both parents shared the children in Calgary before locating to Vancouver, British Columbia ("BC"). CP 13. From October, the children were no longer residing equally with both of them; they lived in Vancouver with Grigore and in Olympia with Raluca on weekends and holidays. CP 13.

In May 2010, joint petition for dissolution is filed

On May 3, 2010, almost a month¹ after Grigore signed the joinder (CP 15), Raluca petitioned for dissolution. CP 6. She did not list the RESP as her own asset. CP 5; 341:23-44. She sought approval of a proposed parenting plan and determination of support for the children – dependent upon both parties. CP 12 at 1.15. She checked the box stating

The petitioner does not know of any person other than the respondent who has physical custody of, or claims to have custody or visitation rights to, the children.

CP 13. Despite checking boxes indicating no involvement in other proceedings concerning the children (CP 13), and without other legal proceedings concerning the children (CP 14), Raluca also added, “The Canadian Courts have jurisdiction over the children at the present time, due to the children residing in Canada.” CP 12. Raluca repeated the requested relief – to approve her proposed parenting plan listed at 1.15 and to determine child support – and added requests to award the children's tax exemption to Grigore and to approve the separation contract. CP 14. The 2009 agreement was filed in the case with the word “SEALED” at the top of each page. CP.18-19. In June 2010, Raluca certified completion of the parenting seminar required under Thurston LSPR 94.06. CP

¹ Prior to filing the petition, Raluca met with a lawyer. CP 338:8-11.

20. In July, Grigore filed a BC certificate to comply with the requirement. CP 21. He also noted a change of address from Vancouver to Calgary. CP 22.

In August 2010, decree of dissolution is entered

Raluca wrote that the children reside with father (CP 30, 40), checked the box for “no written separation contract” (CP 26), and checked respective boxes for “does not apply” under parenting plan and child support at 3.11 and 3.12 (CP 41). She assented in court that the division of property was fair and equitable. CP 52 at 17-22. At the dissolution hearing, the RESP having been brought to her attention, the court commissioner received accord from Raluca to edit the decree. CP 54:9-12. She added, “The educational account for the children is not part of this action” and, “See Exhibit 1” at 2.8 of the findings. CP 27. Exhibit 1 specifies that community property is “all property acquired during marriage, except property acquired by gift or inheritance”. CP 34.

In 2015, Grigore motions for contempt

On November 10, 2015, a superior court commissioner granted an order to show cause against Raluca for contempt of the decree of dissolution. CP 43-47, 297-385. On November 24, 2015, Grigore supplemented his motion to document the losses suffered

from the contempt: he sought the litigation expenses and costs in BC and Washington of defending against the relitigation, the value of the children's moneys from the dissipated account, the damages from breach of the 2009 agreement amounting to back support and expenses to support the children in BC, and the loss of income incurred as a result of the BC order preventing him from leaving BC for work. CP 291-293, 386-443.

Basis of the contempt motion

In 2011 while domiciled in Washington, Raluca held herself out as a noncustodial parent. CP 311. She filed suit in British Columbia to have the children reside with her in Washington. CP 308.² She did not cite or rely on the 2009 agreement at that time. *Id.* Raluca clarified her claim: she “would rather have the children live with [her] than pay child support”. CP 314 at Schedule 2 (7th line from bottom of block). Raluca has not paid any child support. CP 352 at 40.

In turn, Grigore sought an injunction or restitution of the RESP, having been kept in the dark about its status. CP 276.

In late 2011, Raluca closed the children's RESP. CP 316.³

In late 2012, after Grigore suffered a collision with a wrong-

² She first tried filing for custody in Provincial Court. CP 304.

³ In late 2015, the present value of the account's dissipated assets would have been US\$23,013.52. CP 387.

way drunk driver on I-5 (CP 83), Raluca filed a clean 2009 agreement – without “SEALED” in the top left or Washington court stamp as at CP 18-19 – with the BC court. CP 317-319. In her amended pleading, Raluca claimed that she presently shared custody under the 2009 agreement. CP 321 at 3 and CP 323. Grigore didn't know that she was relitigating the 2009 agreement until the complete pleading was served less than a month before trial was due. CP 83. At the BC trial, her counsel did not admit the dissolution findings – where the termination of the 2009 agreement was memorialized – into evidence⁴. CP 46; 367-368 at 5, 6.

At the BC trial, Raluca attacked the dissolution findings. CP 335:45-336:13.⁵ Raluca also sought to modify property division on the basis of the 2009 agreement. CP 332:20-47.⁶ Within the context of her relitigation of the 2009 agreement and claim to her shared custody of the children under that agreement, Raluca also

⁴ Grigore filed the dissolution decree with findings in 2011 in that court, attached to an affidavit. CP 434-436 (here, only first page of each document).

⁵ The BC judge decided that changing the children's parenting time and putting it on them against their best interests was warranted by the 2009 agreement. CP 353 at 45. The BC judge relied on and upheld the 2009 agreement and the joint custody therein because it found that the decree did not deal with custody (CP 351 at 30; 353 at 42-43), and awarded joint guardianship and equal co-parenting time. CP 355 at 54. BC's current law does not use the term “custody”. CP 204.

⁶ The BC judge decided division of property was inequitable and unfair. CP 349 at 21, 354-355 at 52. The BC trial judge refused to order restitution of the children's account on the basis that Raluca had been entitled to it under the 2009 agreement. CP 354 at 51. Without regard to the children's welfare or entitlement to the account, that judge concluded that ordering restitution would be unfair to Raluca. CP 355 at 53.

moved for an order for non-removal of the children from BC in order to prevent Grigore from leaving BC for work or returning to Calgary. CP 443:6-9, 443:20-23.

On appeal with her counsel in the Court of Appeal for British Columbia, Raluca asserted that the 2009 agreement addressed all ancillary matters related to the children. CP 461 at 24. She argued that there had not been a dissolution hearing. CP 366 at 7. Raluca further argued that evidence was not led at trial of the termination of the 2009 agreement. CP 366 at 11.⁷ Her counsel said the box terminating the 2009 agreement was checked by mistake. CP 381.⁸

Since 2013, Raluca has claimed child tax exemptions on her US income tax return. CP 61:15-17; 430; 432. (2015 US tax return had not been disclosed at time of the trial below.)

Raluca's affirmative defense relies on 2009 agreement

Raluca refused to address the issue of what evidence was put before the BC court in respect of the dissolution findings. CP 61:11-12. She asserted that it was the BC court which found the 2009 agreement to be valid and enforceable (CP 61:9-10), and that it was the BC court which pronounced an order for equally shared

⁷ Her counsel's legal assistant swore that the dissolution findings had been before the lower BC judge. CP 368 at 6.

⁸ The BC appellate court took notice of the dissolution findings but ignored dissolution finding 2.7 terminating the 2009 agreement. CP 372-373 at 13.

custody. CP 60:4-5. In BC, the court adopted Raluca's proposed order for her equal obligation for child support and for the special and extraordinary expenses for the children, and which incorporated a clause to automatically escalate Grigore's imputed income to preclude the transfer of payments of child support regardless of her income. CP 67 at 14, 15. Raluca also challenged the decree and asserted not intending to determine custody or division of property at dissolution, but that they were dealt with by the 2009 agreement. CP 61:2-3. She further asserted that she has claimed the tax exemptions for one child since there is no governing court order. CP 60:6-7; 61:15-18. She also declared that the dissolution court had determined that the children's account was outside Washington's jurisdiction. CP 60:15-16. Contrary to the petition where she pleaded that the children had also lived with her in Washington at dissolution (CP 13), Raluca now declared only that they had lived in Canada. CP 60:4.

Although Raluca declared that she last resided in Washington four years before on a student visa (CP 60:1-2), she did not dispute evidence that she had a US permanent resident card from 2011 or that she testified at the BC trial to her intent to maintain that status. CP 83, 457, 458.

Contempt proceedings

On December 24, 2015 at the hearing, a commissioner denied the motion for contempt. CP 90. He found that findings of fact and conclusions of law are not court order. *Id.* He found that the decree does not incorporate the separation contract. *Id.* He found the decree ambiguous: it awards the children's account to Raluca or leaves it to Canadian courts to decide. *Id.* He concluded that she was not in contempt under either interpretation. *Id.*

On January 26, 2016 upon reconsideration, the commissioner withdrew his finding that findings of fact and conclusions of law are not court order. CP 100.

On February 16, 2016, Raluca's attorney moved for attorney fees (CP 125-126), alleging intransigence (CP 125:20) and bad faith (CP 126:12). Grigore challenged the motion. CP 182-218.

Revision hearing

On March 4, 2016 at the revision hearing, the trial judge refused to acknowledge the community property status of the RESP. RP 9:7-9, 18, 21-25; 10:3-5, 10-11. He directed that Raluca's relitigation of the 2009 agreement should be addressed by the BC court. RP 12:13-16. Raluca challenged the jurisdiction of the dissolution court under the UCCJEA. RP 17:25. She further

argued that the parties had minimal contact with Washington, and just wanted to get a bifurcated divorce. RP 18:12-15. The judge denied the motion to revise from the bench. CP 174.

On March 30, 2016, reconsideration was denied. CP 231. The court took Grigore's proposed findings of March 25, 2016 under consideration (CP 219-230) and ordered Raluca's attorney to file proposed findings to support denial of revision. CP 231; 289.

On April 1, 2016, this timely appeal followed. CP 233-237.

Raluca's proposed findings and conclusions were filed April 15, 2016 (CP 238-243), and opposed by Grigore on April 22, 2016 (CP 265-283) and supplemented on April 25, 2016 (CP 253-264). With a few alterations, Raluca's proposed findings and conclusions were entered together with a written decision on May 19, 2016. CP 283-290.

IV. SUMMARY OF ARGUMENT

This case addresses three very important principles. First, Washington has an interest and a duty to enforce its own orders as written and may not modify or create ambiguity where none exists, for otherwise they are meaningless and have no value. Second, a party who incurs financial losses suffered from another party's contempt is entitled to claim those losses. Third, the court has a

duty to look after the welfare of children.

The contempt action seeks: to enforce the terms in the decree setting out that the children reside with the father, that the 2009 agreement is terminated, and that the educational account is community property held in trust for the children; to enforce the term in the joint petition assigning the tax exemptions for the children; to recover back child support including that dating to separation; to recover losses incurred as a result of the relitigation including legal costs and fees in Canada and Washington, the continuing expenses to support the children in Vancouver, and lost income from employment opportunities outside BC. The expenses for the children were equally shared under the 2009 agreement, the repudiation of which caused Grigore to incur all of the expenses for housing the children in Vancouver, when his half-share would otherwise have been waived in Calgary. These constitute damages under the 2009 agreement that were not waived under the decree. Relitigation of the 2009 agreement created further damages as Grigore was prevented from returning to Calgary with the children or moving elsewhere for employment.

There are no genuine issues of material fact. Raluca either concedes or does not dispute that: she relitigated the 2009

agreement; she obtained an order under which the children do not reside solely with Grigore as under the decree; she has not paid any child support; the children were moved from Calgary where Grigore had minimal expense to Vancouver where Grigore incurred expenses to support the children for her benefit; she claimed tax exemptions for the children contrary to agreement; she dissipated the account for the children; and in the process of relitigating the 2009 agreement for which Grigore incurred court costs, legal expenses and further losses, she obtained an order to effectively prevent Grigore from moving from Vancouver for employment or returning to Calgary.

Raluca's affirmative defense relies on the fruits of her contempt. Given mandatory findings of contempt under *RCW 26.09.160* and *RCW 26.18.050*, the dispositive questions on this appeal include whether the statement "reside with father" is enforceable as a parenting plan and an order of child support under statute, whether forum shopping or relitigation of the 2009 agreement can support a finding of contempt, and whether the statement "not part of the action" is a sufficient disposition of property to support a finding of contempt for dissipation of the RESP account established for the children's benefit.

V. ARGUMENT

Contempt and the statutory schemes

Contempt is addressed by chapter 7.21 RCW. Contempt can be initiated under *RCW 7.21.010*. Under *RCW 7.21.010(1)(b)* contempt is defined as "[d]isobedience of any lawful judgment, decree, order, or process of the court."⁹ Remedial sanctions are "imposed for the purpose of coercing performance when the contempt consists of the omission or refusal to perform an act that is yet in the person's power to perform." *RCW 7.21.010(3)*. Losses suffered as a result of the contempt are recoverable under *RCW 7.21.030(3)*.

RCW 26.09.160(2)(a) allows a parent to initiate a contempt action to coerce a parent to comply with an order establishing residential provisions for a child.¹⁰ (7) sets out a presumption of an ability to comply.¹¹ (2)(b) makes the finding of contempt mandatory

⁹ To find contempt, a superior court must find that a party's violation of a previous court order was intentional. *Holiday v. City of Moses Lake*, 157 Wn. App. 347, 355, 236 P.3d 981 (2010). Contempt requires that the contemnor have knowledge of the existence and substantive effect of the court's order." *In re Estates of Smaldino*, 151 Wn. App. 356, 365, 212 P.3d 579 (2009). An order is read in light of the issues and the purposes for which the suit was brought. *Johnston v. Beneficial Mgmt. Corp.*, 96 Wn.2d 708, 638 P.2d 1201 (1982).

¹⁰ The moving party has the burden of proving contempt by a preponderance of the evidence. This showing must include evidence from which the trial court can find that the offending party has acted in bad faith or engaged in intentional misconduct. *In re Marriage of James*, 79 Wn.App. 436, 903 P.2d 470 (1995).

¹¹ Parents are deemed to have the ability to comply with orders establishing residential provisions and the burden is on a noncomplying parent to establish by a preponderance of the evidence that he or she lacked the ability to comply with the residential provisions or had a reasonable excuse for noncompliance. *In re*

upon the finding of bad faith and provides relief. (1) requires that the hindering of one parent's performance of the duties provided in the parenting plan by the other, a parent's conditioning of payment of child support upon an aspect of the parenting plan or the refusal to pay child support be deemed bad faith. Besides restoration of time with the child under (2)(b)(i), at (ii) the statute requires payment of courts costs and attorneys' fees incurred by the noncompliance and the expenses of returning the child.

RCW 26.18.050(1) allows an obligee to initiate a contempt action to coerce an obligor to comply with a child support order. With reference to *RCW 26.18.040*, the court retains continuing jurisdiction to use contempt to enforce a support order until the obligor satisfies all duties of support including arrearages.¹² Under *RCW 26.18.040*, a proceeding can be started under an existing action to enforce a duty of support. *Inter alia*, *RCW 26.18.040* provides that one venue for enforcement is that where the prior support order was entered. Child support law "shall" be liberally construed to assure that all dependent children are adequately supported.¹³ *RCW 26.18.030(3)*. An obligee is a custodian of a

Marriage of Rideout, 150 Wn.2d 337, 352-53, 77 P.3d 1174 (2003).

¹² Remedy of contempt was available to enforce former husband's prior child support obligations. *State ex rel. Wulfsberg v. MacDonald*, 103 Wn.App. 208, 11 P.3d 333 (2000), review denied 143 Wn.2d 1010, 21 P.3d 291.

¹³ Contempt of court can be used to enforce a provision of a property division so long as the provision has a reasonable relationship to the duty of support." *In re*

dependent child; the obligor is one owing a duty of support. *RCW 26.18.020*. That duty is spelled out,

"Duty of support" means the duty to provide for the needs of a dependent child, which may include necessary food, clothing, shelter, education, and health care. The duty includes any obligation to make monetary payments, to pay expenses, including maintenance in cases in which there is a dependent child, or to reimburse another person ... for the cost of necessary support furnished a dependent child. The duty may be imposed by court order, by operation of law, or otherwise.¹⁴

RCW 26.18.020(3). In the past, in the absence of a provision in a divorce decree, the obligation for providing necessities for one's dependent children has been equal to one half of the actual expenditures on behalf of the child.¹⁵ *In re Marriage of Shoemaker*, 128 Wn.2d 116, 904 P.2d 1150 (1995). With the enactment of *Laws of 1988, c. 275*, Washington adopted a mandatory statewide child support schedule. Since then, the legislature's stated intent has been that child support orders be commensurate with the parents' income, resources, and standard of living, and also that the child support obligation should be equitably apportioned between the parents. *RCW 26.19.001*. The presumptive minimum

Marriage of Young, 26 Wn. App. 843, 844-45, 615 P.2d 508 (1980).

¹⁴ See also *In re Parentage of L.B.*, 155 Wn.2d 679, 122 P.3d 161 (2005), certiorari denied 126 S.Ct. 2021, 547 U.S. 1143, 164 L.Ed.2d 806. Child support obligations, while now addressed by statutes, continue to be additionally addressed through the common law and its adaptations.

¹⁵ Under *RCW 26.16.205* and common law, until a decree alters "the equal obligation to support minor children imposed by law upon the parents, or otherwise provide for child support, the equal obligation which obtains during the marriage of the parents is held to continue unchanged." *Hughes v. Hughes*, 11 Wn. App. 454, 461, 524 P.2d 472 (1974).

obligation has been \$50 per child per month since October 1, 2009¹⁶. *RCW 26.19.065*. Upon issue of a show cause order for non-payment of support, the sole basis upon which the court may not make a finding of contempt is the obligor's contention of both an inability to comply and the exercise of due diligence in rendering herself able to comply. *RCW 26.18.050(4)*.

Enforceability of residential provisions and child support

For enforcement of a residential provision, *RCW 26.09.160* uses the terms "court-ordered parenting plan" and "residential provision of a court-ordered parenting plan", and also uses the term "order establishing residential provisions for a child. The Court in *In re Parentage of C.M.F.*, 179 Wn.2d 411, 314 P.3d 1109 (2013) reviewed *State v. Veliz*, 176 Wn.2d 849 (2013) which addressed a case of custodial interference, and inferred that the legislature unmistakably recognized that "custody decree" and "parenting plan" are two separate and distinct types of orders. Under *C.M.F.*, an order making residential provisions for a child is a custody decree but not a parenting plan.¹⁷ In neither *C.M.F.* nor *Veliz* did the Court cite to *RCW 26.09.909*, which deemed all orders involving custody, visitation and child support prior to 1988

¹⁶ \$25 per child per month before October 1, 2009

¹⁷ There both parties conceded that no parenting plan was established and the Court did not need to rely on its definition of parenting plan to decide the case.

to be parenting plans. The UCCJEA treats both custody decrees and parenting plans as child custody determinations. *RCW 26.27.021(3)*. (A child custody determination is any judgement, custody decree, parenting plan or other order with respect to the children, whether permanent, initial, temporary or for modification.) Subsequent to *C.M.F.*, and specifically addressing *Veliz*, the legislature passed *Laws of 2015*, c. 38, crossing out "court-ordered parenting plan" and "parenting plan" and replaced them with "court order making residential provisions for the child", and in a new section addressed its intent specifying that the statute is "applicable in cases in which a court has entered **any** order making residential provisions for a child..." (emphasis added) in order to denote that the residential provision is the essential element where children's care and control are concerned. Thus, it is evident that the critical element to focus on where a statute refers to or requires proof of a parenting plan, as intended by the legislature, is and has been the residential provision and that the term "parenting plan" is of little consequence.

In deeming a child support order to be a parenting plan under *RCW 26.09.909*, the legislature sought to make support orders enforceable under *RCW 26.09.160* and recognized that any

order addressing children by way of residential provisions, custody or visitation, is also an enforceable support order for those children. *State v. Wood*, 89 Wn.2d 97, 569 P.2d 1148 (1977) (parent's obligation for care and support of child is a basic tenet recognized in Washington without reference to a particular statute). The legislature is presumed to know the decisions of the Supreme Court. *In re Marriage of Gimlett*, 95 Wn.2d 699, 629 P.2d 450 (1981). In *State v. Rutledge*, 122 Wash. 281, 210 P. 669 (1922), a divorce decree which was silent on the question of support – awarding custody of the children to their mother and thus establishing the father's obligation to support his children by way of their dependency – was sufficient proof to sustain an information against a divorced husband charging the offense of nonsupport. When the parent of a child fails to provide money for a child's necessities, common sense and experience dictate that the parent knows both that the child has such needs, and that he or she is failing to provide for them. *State v. Bauer*, 92 Wn.2d 162, 595 P.2d 544 (1979). Since the higher criminal standard of proof of a parent's obligation to their child is met by a custody decree without a specific order of child support, then *a fortiori* the lower civil standard of proof of a support obligation required to establish

contempt for non-payment of support is met by that same order making residential provisions for a child, whether it be a custody decree or a parenting plan, even if silent as to support. Thus, a child's dependency on a parent is the essential element of a support order to be proven on a motion for contempt.

Any order making residential provisions for a child is enforceable by contempt as a parenting plan under *RCW 26.09.160* and under *RCW 26.18.050*. Here, the Court is asked to adopt and use this rule of law to decide the case.

A. Is a stipulated decree of dissolution reciting a residential provision for a child enforceable as a parenting plan or a child support order notwithstanding, in this case, that the sections under parenting plan and child support have checked boxes stating they do not apply, that the agreement regarding tax exemptions appears in the joint petition, and that the educational account for the children listed under community property is stated to not be part of the action?

Standard of review

Interpretation of a statutory scheme and application of that scheme present questions of law reviewed de novo. *In re Ruff*, 168 Wn. App. 109, 275 P.3d 1175 (2012). The construction or legal effect of a contract is a question of law to be reviewed de novo. *Yeats v. Estate of Yeats*, 90 Wn.2d 201, 204, 580 P.2d 617 (1978). Washington courts apply rules of construction applicable to statutes and contracts to determine the intent of the dissolution

court. *Stokes v. Polley*, 145 Wn.2d 341, 37 P.3d 1211 (2001). Decrees should be construed as a whole, giving meaning and effect to each word. *Id.* Findings of fact are reviewed for substantial evidence. *In re Marriage of Rideout*, 150 Wn.2d 337. Questions regarding foreign law are issues of law that are reviewed de novo on appeal and any trial court finding concerning foreign law must be supported by substantial evidence. *State v. Rivera*, 95 Wn. App. 961, 966, 977 P.2d 1247 (1999).

The enforceability of the stipulated decree of dissolution is driven by its construction in view of statutory intent, all of which the court reviews de novo.

1. Construction of the decree's stipulated terms

RCW 26.09.070(8) allows parties to a separation agreement to informally terminate it. In the agreed findings of fact, the date of separation is that of the June 18, 2009 agreement rather than the date of May 17, 2009 in the petition.¹⁸ CP 26 at 2.5. "There is no written separation contract" at 2.7 is checked. CP 26. The parties formally terminated the 2009 separation agreement which provided for shared custody.

"A judgment by consent or stipulation of the parties is construed as a contract between them embodying the terms of the

¹⁸ The parties addressed the date before the dissolution court. CP 51, ll. 14-21.

judgment.” *Washington Asphalt Co. v. Harold Kaeser Co.*, 51 Wn.2d 89, 91, 316 P.3d 126 (1957). A decree of dissolution embodies a separation contract despite an agreed finding holding that there is no written separation contract. *In re Marriage of Hulscher*, 143 Wn.App. 708, 180 P.3d 199 (2008). As a general rule parties to a marriage settlement are presumed to contract with reference to existing statutes, and statutes which directly bear upon the subject matter of the settlement are incorporated into and become part of the decree. *In re Marriage of Briscoe*, 134 Wn.2d 344, 348, 949 P.2d 1388 (1998). The state law became as much a part of the contract as if the applicable statutes were actually written into it. The decree was stipulated; the parties entered into a written separation contract providing for the disposition of their property, the parenting plan and support for their children under *RCW 26.09.070(1)*. CP 240:13; 243:10-11. The stipulated decree as a separation contract incorporates the statutes bearing on the dispositions of the court.

An agreement is enforceable if stipulated to on the record in open court or memorialized by a writing signed by the party to be bound, with the objective of giving certainty and finality to settlements and compromises. *Bryant v. Palmer Coking Coal Co.*,

67 Wn. App. 176, 178, 834 P.2d 662 (1992). Under *RCW 26.09.070(6)*, terms of a separation contract are enforceable as contract terms and may be enforced by all remedies available for the enforcement of a judgment, including contempt.

In June 2010, Raluca relied on the joint petition as the parties' substitute settlement agreement. CP 428-429. "In so far as [contracts] are inconsistent, the later one prevails; the remainder of the first contract, being quite consistent with the second in substance and in purpose may be enforced." *Flower v. TRA Industries, Inc.*, 127 Wn. App. 13, 111 P.3d 1192 (2005)¹⁹. The petition, and specifically terms not replaced by the decree, is part of the parties' separation contract.

a) Jurisdiction of dissolution court

Neither physical presence nor personal jurisdiction over a child is necessary to make a child custody determination. *RCW 26.27.201(3)*. Under UCCJEA, jurisdiction exists if Washington is a home state at **commencement** of dissolution. *RCW 26.27.201(1)(a)*. Home state is where a child lived with a parent for six months including temporary absences before commencement of the dissolution²⁰. *RCW 26.27.021(7)*. A child of divorced parents who

¹⁹ Citing John D. Calamari & Joseph Perillo, *CONTRACTS* § 3-2, at 136 (3d ed.1987). See also *RESTATEMENT (SECOND) OF CONTRACTS* § 279 (1981).

²⁰ Dissolution was founded on the mother's residence in Washington. CP 11 at 1.1; 25 at 2.1. Washington residency under *RCW 26.09.030* does not require

regularly spends every weekend in his father's house and every weekday in his mother's house is a resident²¹ of both households. *Pierce v. Aetna Cas. & Sur. Co.*, 29 Wn. App. 32, 627 P.2d 152 (1981). The court, "before hearing a child custody proceeding," must examine the information provided by the parties. *RCW 26.27.251(2)*. The children were living regularly in Washington; with absences, they had lived in Washington for over three years, and by the time of the dissolution had lived in Washington for over six months with their mother alone. CP 13. The dissolution court had jurisdiction to enter a decree in this matter. CP 32 at 3.1 of the Conclusions of Law. The commissioner was resolute that certificates of completion be filed for the mandatory parenting seminar. CP 50:21-25. *RCW 26.09.050* provides that a dissolution court "shall" make provision for a parenting plan for the children and for their support, and make provision for the allocation of the children as federal tax exemptions. The decree incorporates that statute at 3.4: the dispositions of the court were to make provision for a parenting plan and child support for the children and for allocation of the children as federal tax exemptions, and for the

permanence such as permanent resident status implicit in domicile, but is satisfied by minimum ties with legal significance, such as a driver's license.
²¹ The distinction between "reside" and "lived with" was addressed in *State Farm Mut. Auto. Ins. Co. v. Ruiz*, 134 Wn.2d 713, 952 P.2d 157 (1998). In context here, "resident of both households" should be read as "lived with both parents".

disposition of property. CP 32. The distribution of property as set out in the decree was “fair and equitable”. *Id.* The dissolution court exercised jurisdiction to make a custody determination and entered the decree of dissolution with the stipulated term establishing a residential provision for the children: children reside with father.

b) Express provision that children reside with father

In the decree, Raluca wrote, “The court has no jurisdiction over children as they reside in Canada with father”. CP 40. Under *C.M.F.*, the decree is a custody decree as it establishes that the children reside with Grigore. Under *RCW 26.27.021(3)*, as an entered order, this stipulation is a child custody determination.

The meaning of “does not apply” under the Parenting Plan and Child Support headings at 3.11 and 3.12 of the decree (CP 41) is that these are not incorporated as separate documents. The words used have the legal effect as understood by the law at the time the decree was entered. *Stokes v. Polley*, 145 Wn.2d 341 (2001). *RCW 26.09.006* makes mandatory the use of approved forms. Under these headings, the mandatory decree form *Decree (DCD) (DCLGSP) (DCINMG) WPF DR 04.0400 Mandatory (6/2008)* addresses the mandatory forms for parenting plans and child support. “[S]tatutes should be construed to effect their

purpose". *State v. Fjermestad*, 114 Wn.2d 828, 835, 791 P.2d 897 (1990). Under *RCW 26.18.220(3)* and *C.M.F.*, a failure to use the mandatory forms is not fatal. The parenting plan and order of child support did not require the forms mandated by statute.

i. Parenting Plan

RCW 26.09.181(4) states that parents may make an agreed permanent parenting plan. Terms of the parenting plan shall be set out in the decree. *RCW 26.09.070(5)*. *RCW 26.09.070(5)* provides that parties to a parenting plan "shall" be ordered to comply with its terms. The mandatory form for parenting plans *Parenting Plan (PPP, PPT, PP) WPF DR 01.0400 Mandatory (6/2008)* addresses the required provisions of parenting plans as specified at *RCW 26.09.184* for resolution of future disputes between the parents, allocation of decision-making authority, and residential provisions for children. The purpose of a parenting plan is met by the decree's term that the children reside with the father. The residential parent may make decisions regarding care and control of the child. *RCW 26.09.184(5)(b)*.²² The custodial parent is determined on the basis of *RCW 26.09.285* as the one with whom the children reside the majority of the time. *C.M.F.* A residential provision which only provides that the children reside with one parent also necessarily

²²See also *RCW 26.10.170*. The custodian may determine the child's upbringing.

provides that the children reside the majority of the time with that parent. Structuring of the residential schedule contained in a parenting plan must be based on the statutory factors and circumstances of the parties as they exist at the time of trial. *In re Marriage of Littlefield*, 133 Wn.2d 39, 940 P.2d 1362 (1997). Under *RCW 26.09.187(2)(a)*, the court shall approve agreements of the parties allocating decision-making authority and under (2)(b) shall order sole decision-making to one parent if one or both are opposed to mutual decision-making. Common sense and the requirement for timely decision making under *RCW 26.09.187(2)(c)(iv)* dictate that sole decision-making lies with Grigore as the custodial parent when children reside only with that parent. Sole decision making for a sole residential parent is consistent with the policy considerations cited in *C.M.F.* for stability of children. Dispute resolution is moot as there are no disputes when children reside with only one parent and that parent has sole decision-making. In this case, a parenting plan, as a term-of-art under *RCW 26.09.184*, has no element other than the residential provision. Grigore as the custodial parent is solely expected to make decisions for the children without need for or the interference of dispute resolution by the other parent.

ii. Child Support

The court "shall" order a parent owing a duty of support to pay child support determined under chapter 26.19 RCW. RCW 26.09.100(1). The mandatory form for child support *Order of Child Support (TMORS, ORS) PF DR 01.0500 Mandatory (6/2008)* identifies the obligor parent and obligee parent, addresses agreed post-secondary support provisions, income tax exemptions for the children, back child support and interest. The purpose of a child support order is met by the terms of the parties' contracts. The income tax exemptions were addressed in the petition. Under RCW 26.18.020, the father Grigore – as the custodian of the dependent children to whom the duty of support is owed – is the obligee. Raluca is the obligor owing the duty of support. Without specified support, Raluca's obligation since dissolution is equitably apportioned based on her family income under the mandatory statewide child support schedule. Her contracted obligation under the 2009 agreement for equal sharing of child support from separation until dissolution is confirmed by her litigation in BC for an equal obligation. The support furnished to the children on Raluca's behalf remains part of her duty of support as back child support and survives termination of the 2009 agreement.

Under *RCW 26.19.100* which is found in the child support section of the statutes, parties may agree on entitlement to the tax exemptions for the children. The agreement shall be filed in the action. *RCW 26.09.070(5)*. The parties agreed in the petition that tax exemptions go to the father (CP 14), and the petition was filed in the action. The term on tax exemptions for the children is enforceable by contempt.

c) RESP expressly devised as community property

The decree's term pertaining to the children's account addresses post-secondary support, but its character is that of property division since it recognizes the community interest of the parties²³. The fund was community property as it had been funded out of the joint account of the parties. CP 298, 395²⁴. There must be sufficient specificity in decrees of dissolution to identify assets and their disposition. *Yeats v. Estate of Yeats*, 90 Wn.2d 201, 205, 580 P.2d 617 (1978). The RESP was expressly set out "for the children" as an "educational account" (CP 27 at 2.8 Community Property), where the marital community was the trustee to the children, with

²³ Agreement that husband maintain policies with children as beneficiaries constituted division of property and was not subject to subsequent modification, as the agreement recognized the community interest of the parties. *Lynch v. Lynch*, 67 Wn.2d 84, 406 P.2d 621 (1965).

²⁴ It is anticipated that Raluca will confirm in response that the amounts here were intended to be equal between the children, such that a restitution order, if made, will acknowledge the children's equal share in the RESP.

the effect of impounding the RESP in a trust for the children's future education. Since the account was held in her name, Raluca became trustee to the community. CP 27.²⁵ Raluca asserts that the account was a trust (CP 126:9), for the children's benefit (CP 240:14). The relationship between married spouses is a relationship of trust imposing fiduciary duties to one another and to the marital community. *See, e.g., In re Marriage of Chumbley*, 150 Wn.2d 1, 9, 74 P.3d 129, 133 (2003). ("A spouse is required to act in good faith when managing community property.") The relationship between a husband and wife after marriage is not and is not expected to be an arm's length relationship. That relationship is one of trust and confidence in which the managing husband stands in a fiduciary relationship to his wife. *In re Marriage of Hadley*, 88 Wn.2d 649, 565 P.2d 790 (1977). As trustee, Raluca had a fiduciary duty to manage the community property in the interests of the community, which meant leaving it alone or investing it for higher returns.

d) Washington was expected to lose jurisdiction to modify

The UCCJEA contemplates continuing, exclusive jurisdiction from the initial custody determination until a Washington court

²⁵ In giving effect to the court's duty to make provision for the welfare of children, property may be impounded in a trust with one party as trustee. *Sutherland v. Sutherland*, 77 Wn.2d 6, 10, 459 P.2d 397 (1969).

determines that neither the child nor both parents have a significant connection with the state and that substantial evidence is no longer available in the state. *RCW 26.27.211(1)*. In *In re Marriage of Greenlaw & Smith*, 123 Wn.2d 593, 869 P.2d 1024 (1994), the Court cited *Kumar v. Superior Court*, 32 Cal.3d 689, 700, 652 P.2d 1003, 186 Cal.Rptr. 772 (1982) which held that a "significant connection" to the original state continues to exist as a matter of law as long as one parent who is exercising visitation rights still lives in that state. Raluca renounced custody and visitation in the petition (CP 13) and decree (CP 40). The dissolution commissioner recognized that this case was "a little different." CP 51:1-7. Upon entry of the decree, the Washington court was expected to lose jurisdiction over the children to modify the residential provision since continued visitation was expected to cease.

A superior court has the right to enter a modification order to defer final determination on custody questions until after a trial period during which the effectiveness and propriety of its order can be observed. *In re Marriage of Little*, 96 Wn.2d 183, 190, 634 P.2d 498 (1981). The dissolution minutes show reservation of the "final parenting plan". CP 23. Deferring the final parenting plan did not

imply a de novo child custody determination but made allowance for a trial period.

The dissolution court's function was "to ascertain that the parties and counsel understand the stipulation and to implement that agreement." *Baird v. Baird*, 6 Wn. App. 587, 589-90, 494 P.2d 1387 (1972). The dissolution commissioner was alive to the issues and was aware of the immediate effect of Raluca's withdrawal of her claims to custody and visitation. The commissioner solicited assent that "... any issue ... regarding child support or the parenting plan ... will be dealt with in Canada". CP 55:16-20.

Under *C.M.F.*, an indefinite reservation of a child custody determination is invalid. Whether an initial parenting order is a temporary order or a permanent parenting plan is largely semantic. *In re Marriage of Possinger*, 105 Wn. App. 326, 19 P.3d 1109 (2001). Now, the issue is not modification nor an initial determination but enforcement of the defeated decree.

2. Raluca's intentional misconduct

a) Raluca breached her fiduciary duties

Raluca consciously dissipated the account meant to provide her children with funds for their post-secondary education and threw away the government contributions in the process.

Raluca's fiduciary duty extended to not relitigating the 2009

separation agreement. In BC, Raluca asserted that she was “not seeking to suspend, change or cancel the Decree of Dissolution.” CP 461 at 24. But by her actions, the children are no longer residing solely with the father as stipulated in the decree, and the community property has been dissipated. The Court in *In re Marriage of Verbin*, 92 Wn.2d 171, 595 P.2d 905 (1979) said the practice of forum shopping is “deplorable”. She has frustrated not only the other parent, but also the process that led to the issuance of the original court order. She acted with intent contrary to the decree as she had a conscious objective or purpose to accomplish a particular result, that of securing for herself a ruling favorable to her objective of having parenting time with the children so as not to pay child support.

Raluca's bad faith in the exercise of her fiduciary duty extends to the non-payment of child support, which as the court in *In re Marriage of Pippins*, 46 Wn.App. 805, 732 P.2d 1005 (1987) pointed out, is held in trust. She has not met her statutory duty of support, and has not paid even the minimum presumptive amount.

b) Breach of terms incurs losses

The parties' original intentions, as expressed in the 2009 separation agreement and by Raluca's subsequent conduct, were

to equally share custody of and the support of their children.²⁶ The parties shared the children equally in Calgary. CP 47. Grigore had minimal expenses there (CP 292), as he was living with the children's grandparents. CP 13. Raluca soon repudiated the 2009 agreement for shared custody. *Id.* Grigore incurred expenses in moving and supporting the children in Vancouver. CP 388. Raluca then relitigated the 2009 agreement and held it out as valid; she claimed she shared custody under it. CP 323. She argued to block Grigore from leaving Vancouver for work. CP 443:6-9. She obtained a non-removal order to keep the children from being moved from BC. CP 66 at 9. Grigore was thus restricted from leaving BC for work or returning to Calgary with the children. CP 47. Raluca relies on the BC judgment to justify her continued non-payment of child support even as her income has increased. CP 430-433. Grigore's legal costs have continued to grow as he continues to try to restore the terms of the decree and undo the damage of Raluca's relitigation of the 2009 agreement. CP 389-392. Raluca has profited from the tax exemption claims. Grigore's expenses of living in Vancouver, the non-support for the children,

²⁶ Raluca argued in BC that all ancillary matters related to the children (obviously including child support) were set out in the 2009 agreement. CP 461 at 24. She sought equal child support when relitigating the agreement in BC. In this contempt motion, she again declares that all matters were set out in the 2009 agreement. CP 60:3.

loss of the children's account, and loss of potential employment income elsewhere, all continue since dissolution in 2010. The reasonableness of the legal fees in BC that Grigore seeks is set out at CP 389, citing *Dawson v. Dawson*, 2014 BCSC 44. The decree is enforceable by contempt, and Raluca is liable for the losses from its breach. Under *RCW 7.21.030(3)*, the court can make the order against Raluca to pay Grigore for the losses suffered as a result of the contempt and any costs incurred in connection with the contempt proceeding, including reasonable attorney's fees. "Equity will not suffer a wrong to be without a remedy." *Manning v. Potomac Elec. Power Co.*, 230 Md. 415, 422, 187 A.2d 468, 472 (1963).

Raluca did not dispute the allegations that she has never paid child support. Nor did she controvert any of the costs, expenses, back child support, lost employment opportunities, or the present value calculation of the monies lost from the account upon her dissipation. The court should order that the financial damages done by Raluca be undone, and that the children be returned into Grigore's care.

3. Raluca affirms but does not defend

The inability to comply is an affirmative defense. At the show

cause hearing, Raluca had both the burden of production and the burden of persuasion regarding her claimed inability to comply with the court's order. Raluca did not offer evidence of an inability to comply. Instead, Raluca relied on the fruits of her contempt. She offers the BC appeal ruling and trial order, after prevailing with relitigation of the 2009 agreement, as a defense to excuse noncompliance. She refuses to recognize that she obtained these in violation of the decree. She does not carry her burden of proving with credible evidence that compliance was impossible.

a) Raluca's extrinsic evidence

Raluca's subjective opinions about the intent of the decree cannot alter or replace objective terms of agreement that the children reside with the father, that the 2009 agreement is of no legal effect, that the children's account is community property, that she is obligated to share in the support of the children, and that the tax exemptions go to the father. Even if a court could consider extrinsic evidence to interpret the stipulated decree, the evidence offered by Raluca does not raise a genuine issue of material fact regarding her relitigation of the 2009 agreement, dissipation of the children's account, her interference with the residential provision, non-payment of child support and claiming the tax exemptions.

b) Raluca is estopped from challenging jurisdiction

It is well settled that parents cannot waive subject matter jurisdiction to child custody determination. *In re Custody of A.C.*, 165 Wn.2d 568, 200 P.3d 689 (2009). It is also well settled that parents cannot agree to waive child support obligations²⁷. *Pippins*, 46 Wn.App. 805. It is common knowledge that children require food, clothing, and shelter. *State v. Bauer*, 92 Wn.2d 162, 595 P.2d 544 (1979). Raluca said “[w]e decided to just get a divorce”. CP 61. By application of the concept of estoppel as espoused in *Bauer v. Bauer*, 5 Wn. App. 781, 792-94, 490 P.2d 1350 (1971), where the rule against inconsistent positions was extended as far as separate actions or proceedings involving the same parties and questions, Raluca cannot take an inconsistent position and say she had no legal obligation for child support. Having invoked the dissolution court's jurisdiction to determine child support, Raluca cannot be allowed to say that there was no order for child support after not paying it and then receiving a waiver from the BC courts²⁸ on the basis of the relitigated 2009 agreement. Bifurcation of child support

²⁷ Such agreements are against public policy and do not affect subsequent requests for child support. Courts have found such agreements unenforceable even if in a final order agreed upon by the parties and not appealed. *Pippins*, 46 Wn.App. 808. This is based on the principle that child support is held in trust by the parents for the children and, hence, parents have no right to waive their children's right to that support. *Id.*

²⁸ Here, the Canadian court has pronounced judgment contrary to Washington's public policy by waiving back child support over four years. CP 67 at 13-14.

(RP 18:12-15) in a consensual decree when the court has jurisdiction would amount to an agreement to waive child support.

4. Finding of contempt is mandatory and necessary

A court not only has the right, but it has the duty to make its decrees effective and prevent evasions thereof. *Goodsell v. Goodsell*, 38 Wn.2d 135, 138, 228 P.2d 155 (1951). Inadvertence or good faith failure to comply with a consent judgment exposes the violator to civil contempt because the sanction is partly remedial in nature. *McComb v. Jacksonville Paper Co.*, 336 U.S. 187, 191, 69 S.Ct. 497, 499, 93 L.Ed. 599, 604 (1949) ("Since the purpose is remedial, it matters not with what intent the defendant did the prohibited act. The decree was not fashioned so as to grant or withhold its benefits dependent on the state of mind of respondents.... An act does not cease to be a violation of a law and of a decree merely because it may have been done innocently." (footnote omitted)). Under *C.M.F.*, the trial judge abused his discretion when he failed to follow the statutory procedures under *RCW 7.21.010*, *RCW 26.09.160* and *RCW 26.18.050* and denied contempt. In relitigating the 2009 agreement and dissipating the account, Raluca acted in bad faith directly against the decree and in bad faith against the residential provision. In claiming the tax

exemptions, she acted in bad faith against the separation contract. In withholding child support, she acted in bad faith against her duty of support to her children.

a) Contempt is supported by Raluca's bad faith

Ambiguities in an agreement should be construed against the drafter. *Holaday v. Merceri*, 49 Wn.App. 321, 322-23, 325, 742 P.2d 127 (1987). Contempt of a court order is from the perspective of the mind of the alleged contemnor. *United States v. Joyce*, 498 F.2d 592, 596 (7th Cir. 1974). A defendant's action must be based on good faith and a reasonable interpretation to avoid contempt. *Rinehart v. Brewer*, 483 F.Supp. 165, 171 (S.D.Iowa 1980). As the decree was drafted by Raluca and it is being enforced against her, there is nothing for the court to interpret. Raluca acted in bad faith by dissipating the account without giving notice after an injunction was sought against that dissipation (CP 46; 276). She did so with knowledge of the effect of the decree²⁹. Raluca was fully cognizant of the legal consequences of the decree as it related to her relitigation of the 2009 agreement. Despite such knowledge, the record clearly sustains the conclusion that she intentionally and personally defied and disobeyed the decree; she herself filed the

²⁹ Raluca assented to the account not being divided under the property settlement. COURT: That wouldn't cover a financial account. RALUCA: Okay. That's fine. CP 54:3-5.

2009 agreement in BC. She claimed half of the available tax exemptions, consistent with her agreed share of child support under the 2009 agreement. And by her expressed intent, she sought to change the residential provision in order to rescind her obligation to pay child support (CP 314), never even having paid the presumptive minimum. Her conduct in this respect prejudiced, frustrated, and defeated the dissolution process and the consensual judgment.

b) Trial judge's findings unsupported by substantial evidence

Finding of Fact (FF) 2: Raluca's counsel relied on CP 59:24-60:1. But Raluca's declaration is not in chronological order. She contends that she resided in Washington as a student (CP 60:2), and Grigore was residing in Canada (CP 30; 40). FF2 is erroneous.

FF 3: The trial judge did not establish sufficient facts for jurisdiction. The trial judge misapplied the law to the facts in FF 3. Raluca did not argue, and the trial judge's findings do not articulate, why the statutory framework adopted by the legislature in the State of Washington regarding child custody determinations was not fit for purpose at dissolution. FF 3 is erroneous.

FF 2 and 3 have the children living separately from the father. This is tantamount to an impermissible modification of the

residential provision outside the statutory scheme defined by RCW 26.09.260 under *C.M.F.*

FF 4: The trial judge found that the dissolution court entered neither a parenting plan nor an order of child support. While no separate parenting plan or child support order was entered on mandatory forms, the finding mischaracterizes the decree and modifies the rights and responsibilities of the parties. Specific language is necessary to overcome legal presumptions. *In re Marriage of Allen*, 78 Wn. App. 672, 898 P.2d 1390 (1995). The law must drive the forms, not vice versa. *Id.* Under *C.M.F.*, the absence of mandatory forms does not justify a court's dismissal of a contempt action. Here, the trial judge effectively dismissed the contempt action because Raluca did not file mandatory forms at dissolution for the parenting plan and an order of child support.

FF 5: Instead of examining whether the BC court had jurisdiction and making his own findings, the trial judge relied on the BC court's improper and unfounded assessment of property division under the void 2009 agreement to determine its effect. CP 71 at 8. Such a finding contradicts the finality of the decree which holds by stipulation that the division of property was fair and equitable. CP 32 at 3.4. A direct appeal was not taken and a court

is not justified in looking behind the face of the judgment. *Sievers v. Sievers*, 11 Wn.2d 446, 119 P.2d 668 (1941); *Rufener v. Scott*, 46 Wn.2d 240, 280 P.2d 253 (1955). Division of property became *res judicata* with entry of the decree in Washington.³⁰ FF5 is improper.

FF 6: The commissioner merely read the stipulation and said, “[t]he decree indicates this Court has no jurisdiction over the children as they reside in Canada.” CP 53:6-8. That does not constitute an explanation denying jurisdiction over the children. Such a decision by the dissolution court would render superfluous the court’s earlier inquiry into the completion of the parenting seminar. FF 6 is not supported by substantial evidence.

FF 7: At trial, counsel misstated or misrepresented the sequence of the commissioner’s statements (RP 18:6-9), and argued that absence of jurisdiction to property division extended from absence of jurisdiction under UCCJEA. RP 18:16-23. The superior court has subject matter jurisdiction over the property of children. *C.M.F.*³¹ At dissolution, the account for the children had been brought to the attention of the commissioner with the

³⁰ The trial judge concluded that the contempt motion was an effort by Grigore to “harass and further impoverish” Raluca, “to further punish [her] for using the minimal funds that were available to her following the parties’ separation”, and “to marginalize [her] as a parent and limit her resources.” CP 290. This finding is also unfounded since Raluca did not make such an argument, she has a substantial income (CP 430-433), and the judge misapprehended the accuracy of Raluca’s financial declaration (CP 5; 341:43-44; 299 at net worth).

³¹ Citing *In re Parentage of L.B.*, 155 Wn.2d 679, 122 P.3d 161 (2005).

erroneous statement that it was “in the name of the kids”. CP 53:1-3. Upon correction that it had been in Raluca's name (CP 53:23-24), the commissioner intended to put it with the children (CP 54:8-9), and thereby asserting the court's jurisdiction. FF 7 is erroneous.

FF 10: Intention to relocate was not a substantial change of circumstances justifying modification of the parenting plan or the custody decree. At dissolution, or child custody proceeding under *UCCJEA RCW 26.27.021(3)*, Raluca was a student. CP 60:2. Under *Gaudin v. Remis*, 379 F.3d 631 (9th Cir. 2004) and INA §101(a)(15), Raluca was barred by law from possessing the requisite intent to establish domicile in Washington.³² Because she cannot lawfully have moved permanently to this state at that time, her return to Canada was not an unanticipated event. As in Washington under RCW 26.09.260, modification of an initial parenting order in BC requires a finding of a change in circumstances affecting the best interests of the child, at s. 76. CP 200. As the BC judge found the children were thriving (CP 350 at 26), modification was improper. BC had assumed jurisdiction to make an initial child custody determination in violation of its own provision, s. 75 of the *Family Law Act*. CP 199.

Raluca, by her acts or representations, caused Grigore to

³² See footnote 20.

change his position to his detriment in making an alternative argument in respect of the RESP. CP 281.³³ In such a case, Raluca is precluded from asserting to her own advantage the conduct or forbearance of Grigore. *Hunter v. Hunter*, 52 Wn. App. 265, 271, 758 P.2d 1019 (1988). Regardless, property disposition could not be modified under RCW 26.09.170 even in the decree state. As the BC court did not have jurisdiction to modify the decree, the trial judge could not rule that the issue is *res judicata*.

FF 11: Raluca proposed this finding with “separation agreement” where the judge inserted “decree of dissolution.” A reasonable person would say that the BC court relied on the 2009 agreement, not the decree. CP 78 at 33. FF 11 conflicts with FF 7 – that the dissolution court did not take jurisdiction over the account. Finding the RESP to be separate property is not supported by the record.

When the rights of parents and the welfare of their children are in conflict, the welfare of the minor children must prevail. *In re Welfare of Sego*, 82 Wn.2d 736, 738, 513 P.2d 831 (1973). Raluca remarried in early 2011 (CP 314 at Schedule 2, 5th line from bottom

³³ Grigore's original counterclaim seeking an injunction against dissipation or alternatively restoration of the account since its status was unknown. CP 275-283. Raluca's settlement offer for custody under the 2009 separation agreement. CP 277-279. Grigore's amended counterclaim showing his primary interest to have the account restored. CP 280-282. Grigore's counteroffer waiving part of the account and child support arrearages. CP 283

of block; CP 73 at 14), before dissipating the account in December (CP 316). RCW 26.20.035 puts an obligation, so forceful that it is punishable as a crime, on Raluca's husband to support her as much as it puts an obligation on Raluca to support her children. There is no meritable argument available to Raluca justifying putting her own needs before her children's welfare and dissipating the account in trust for their future education.

FF 13: Date of the contempt motion was November 10, 2015. CP 43. Grigore adduced relevant evidence prior to December 3. FF 13 is unsupported by substantial evidence.

FF 17: Findings and conclusions are not irrelevant; they are the foundation of judgments and orders and establish the authority of the courts. This case is founded upon the relevancy of the dissolution findings misrepresented by Raluca's lawyer in BC.

FF 19: The motion to amend a clerical mistake was made pursuant to CR 60(a); it was not "in fact" the court's determination. CP 101. The hearing was not ex parte; counsel for Raluca was at the hearing and presented the order "finding good cause". CP 107. Raluca conceded "stipulation". CP 243:10. FF 19 is unfounded.

B. May CR 11 sanctions be imposed against the moving party for a contempt motion after the court found reasonable cause to issue a show cause order?

Standard of review

Whether there is a statutory, contractual, or equitable basis for an award of attorney fees is a question of law reviewed de novo. *Gander v. Yeager*, 167 Wn.App. 638, 282 P.3d 1100 (2012). The reasonableness of an attorney fees award, including CR 11 sanctions, is reviewed for abuse of discretion. *Skimming v. Boxer*, 119 Wn.App. 748, 754, 82 P.3d 707 (2004).

1. CR 11 sanctions require a finding that an attorney failed to conduct a reasonable inquiry

CR 11 authorizes sanctions when a complaint lacks a factual or legal basis and the attorney who signed the complaint failed to conduct a reasonable inquiry into the factual and legal bases of the claims. *Bryant v. Joseph Tree, Inc.*, 119 Wn.2d 210, 220, 829 P.2d 1099 (1992). Here the trial judge did not make a finding of a failure to conduct a reasonable inquiry into factual and legal bases of the claims. Although the judge decided there was no reasonable legal basis for Grigore's claim, the judge nevertheless found the complaint sufficient to make a determination as to one of the principal merits of the cause of action, that the 2009 agreement was void. Although the judge presented the status of the 2009

agreement as a fact, the invalidity of the agreement is a legal effect. The legal effect of a contract is an issue of law. The judge found a reasonable legal basis. The factual basis that the 2009 agreement was relitigated is not in dispute. As there was a factual and legal basis, the contempt motion was not the proper subject of CR 11 sanctions.

2. Reasonableness of fees must be proven

The burden of establishing the reasonableness of fees is on the party seeking an award. *Absher Constr. Co. v. Kent School Dist.*, 79 Wn. App. 841, 917 P.2d 1086 (1995). The Supreme Court summarized the rules relating to the calculation of a reasonable attorney fee in *Mahler v. Szucs*, 135 Wn.2d 398, 957 P.2d 632 (1998). The least severe sanctions adequate to serve the purpose should be imposed. Raluca did not establish the reasonableness of the fees.

3. CR 11 sanctions require specific notice in order to provide opportunity to withdraw or amend a pleading

The order for attorney fees under CR 11 is void, as it was made without due process, and should be reversed. Procedural due process requires notice and an opportunity to be heard; when due process is denied, the court does not have the power to impose monetary sanctions. *Tom Growney Equip. v. Shelley Irr.*

Development, 834 F.2d 833 (9th Cir. 1987). Here, after denying revision, the trial court made the order in its later findings and conclusions. No specific notice was given that CR 11 sanctions would be imposed, and no opportunity was given to respond to the CR 11 sanctions to show cause. The individual's right to fairness and accuracy must be respected by procedural protections.

CR 11 requires attorneys to stop, think and investigate more carefully before serving and filing papers. *Bryant*, 119 Wn.2d 219, (stating that “[t]he purpose behind CR 11 is to deter baseless filings and to curb abuses of the judicial system”). Without an opportunity to withdraw or amend the pleading to the root action on a motion to revise, CR 11 sanctions are inappropriate as there is no opportunity to mitigate, and the objective of early deterrence is lost.

C. Attorney fees and costs in the action and on appeal

Attorney fees and costs on appeal must be apportioned to Grigore as a matter of law under the contempt statutes. *Rideout*, 150 Wn.2d 337.

Since Raluca's attorneys present no meritable argument of defense to contempt, Grigore requests that their paid and payable fees be waived by the Court in favor of restitution of losses, with

priority to restoring the educational trust for the children.

VI. CONCLUSION

The Court should reverse the decision denying revision and remand to the trial court: to enter findings of bad faith and contempt; to enter the orders sought in the contempt motion including restitution of the children's account, payment of back child support, repayment of the losses suffered in Canada and Washington due to the contempt and damages under the contract, court costs, reasonable attorney fees and civil penalty, and an order that Raluca file the judgments and orders with the BC courts; and to enter findings of losses accrued since filing of the motion for contempt.

Raluca dissipated the educational account for the children while in her trust and the decree should be modified³⁴ – to prevent a recurring loss after the trust is restored – by assigning Grigore as trustee.

Respectfully submitted November 16, 2016.

s/ Grigore Vetrici
Appellant, pro se

³⁴ It is unnecessary for a dissolution court to specifically order future child support for educational needs as parents are not presumed to withhold money from children, and where they do, the decree can be modified. *In re Marriage of Peters*, 33 Wn. App. 48, 651 P.2d 262 (1982) at footnote 1.

VII. APPENDIX

10

FILED
SUPERIOR COURT
THURSTON COUNTY WA
2010 MAY -3 AM 9:21
SETTY J. GOULD, CLERK
BY _____
DEPUTY

**Superior Court of Washington
County of THURSTON**

In re the Marriage of:

RALUCA VETRICI
Petitioner,
and
GRIGORE VETRICI
Respondent.

No. 10-3-00585-5

**Petition for Dissolution of Marriage
(PTDSS)**

Para. 1.12: check box if petition is
attached for:

- Order for protection DV (PTORPRT)
- Order for protection UH (PTORAH)

I. Basis

1.1 Identification of Petitioner

Name (first/last) RALUCA VETRICI, Birth date MAY 06 1978

Last known residence (county and state only) THURSTON WA

1.2 Identification of Respondent

Name (first/last) GRIGORE VETRICI, Birth date JAN. 13 1972

Last known residence (county and state only) BRITISH COLUMBIA CANADA

1.3 Children of the Marriage Dependent Upon Either or Both Spouses

Does not apply. There are no children dependent upon either or both spouses.

The husband and wife are both the legal (biological or adoptive) parents of the following dependent children:

Name (first/last) MARIA VETRICI Age 6

Name (first/last) SOPHIA VETRICI Age 6

Name (first/last) _____ Age _____

The husband is and the wife is not the legal parent of the following dependent children:

Name (first/last) _____ Age _____

Name (first/last) _____ Age _____

The wife is and the husband is not the legal parent of the following dependent children:

Name (first/last) _____ Age _____

Name (first/last) _____ Age _____

1.4 Allegation Regarding Marriage

This marriage is irretrievably broken.

1.5 Date and Place of Marriage

The parties were married on (date) JAN 11 2003 at (city and state) TIREOVISTE ROMANIA.

1.6 Separation

Husband and wife are not separated.

Husband and wife separated on (date) MAY 17 2009.

This is the date (check all that apply):

the parties moved into separate residences

the parties divided their assets and liabilities

petitioner filed this petition

both parties agreed is the date of separation

other:

1.7 Jurisdiction

This court has jurisdiction over the marriage.

This court has jurisdiction over the respondent because:

the respondent is currently residing in Washington.

the petitioner and respondent lived in Washington during their marriage and the petitioner continues to reside, or be a member of the armed forces stationed, in this state.

the petitioner and respondent may have conceived a child while within Washington.

Other:

This court does not have jurisdiction over the respondent.

1.8 Property

There is community or separate property owned by the parties. The court should make a fair and equitable division of all the property.

The division of property should be determined by the court at a later date.

The petitioner's recommendation for the division of property is set forth below.

The petitioner should be awarded the parties' interest in the following property:

All personal and household items currently in her possession.

The respondent should be awarded the parties' interest in the following property:

All personal and household items currently in his possession.

Other:

1.9 Debts and Liabilities

- The parties have no debts and liabilities.
- The parties have debts and liabilities. The court should make a fair and equitable division of all debts and liabilities.
- The division of debts and liabilities should be determined by the court at a later date.
- The petitioner's recommendation for the division of debts and liabilities is set forth below.
- The petitioner should be ordered to pay the following debts and liabilities to the following creditors:

- The respondent should be ordered to pay the following debts and liabilities to the following creditors:

- Each party should pay their debts incurred since separation.
- Other:

1.10 Maintenance

- Maintenance should not be ordered.

There is a need for maintenance as follows:

Other:

1.11 Continuing Restraining Order

- Does not apply.
- A continuing restraining order should be entered which restrains or enjoins the
 husband wife from disturbing the peace of the other party.
- A continuing restraining order should be entered which restrains or enjoins the
 husband wife from going onto the grounds of or entering the home, work place or
school of the other party or the day care or school of the following children:
- A continuing restraining order should be entered which restrains or enjoins the husband
 wife from knowingly coming within or knowingly remaining within
(distance) _____ of the home, work place or school of the other party or the
day care or school of these children:
- Other: _____
- A continuing restraining order should be entered which restrains or enjoins
(name) _____ from molesting, assaulting, harassing,
or stalking (name) _____. (If the court orders this
relief, the restrained person will be prohibited from possessing a firearm or ammunition
under federal law for the duration of the order. An exception exists for law enforcement
officers and military personnel when carrying department/government-issued firearms.
18 U.S.C. § 925(a)(1).)
- Other:

1.12 Protection Order

- Does not apply.
- There is a protection order between the parties filed in case number _____,
court _____, which expires on (date) _____.

- The court should grant the domestic violence antiharassment petition for order for protection:
 attached to this petition.
 filed separately under this case number case number _____.

If you need immediate protection, contact the clerk/court for RCW 26.50 Domestic Violence forms or RCW 10.14 Antiharassment forms.

1.13 Pregnancy

- The wife is not pregnant.
 The wife is pregnant. **Note: Under RCW 26.26.116, the husband is the presumed father. If husband or wife believes the husband is not the father, this presumption may be challenged up to two years after the birth of the child or as otherwise provided in RCW 26.26.500 through 26.26.625.**
- Other:

1.14 Jurisdiction Over the Children

- Does not apply because there are no dependent children.
- This court has jurisdiction over the children for the reasons set forth below:
- This court has exclusive continuing jurisdiction. The court has previously made a child custody, parenting plan, residential schedule or visitation determination in this matter and retains jurisdiction under RCW 26.27.211.
- This state is the home state of the children because:
- the children lived in Washington with a parent or a person acting as a parent for at least six consecutive months immediately preceding the commencement of this proceeding.
 - the children are less than six months old and have lived in Washington with a parent or a person acting as parent since birth.
 - any absences from Washington have been only temporary.
 - Washington was the home state of the children within six months before the commencement of this proceeding and the children are absent from the state but a parent or person acting as a parent continued to live in this state.
- The children and the parents or the children and at least one parent or person acting as a parent have significant connection with the state other than mere physical presence; and substantial evidence is available in this state concerning the children's care, protection, training and personal relationships, and
- the children have no home state elsewhere.

- the children's home state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under RCW 26.27.261 or .271.
- All courts in the children's home state have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the children under RCW 26.27.261 or .271.
- No other state has jurisdiction.
- This court has temporary emergency jurisdiction over this proceeding because the children are present in this state and the children have been abandoned or it is necessary in an emergency to protect the children because the children, or a sibling or parent of the children is subjected to or threatened with abuse. RCW 26.27.231.
- There is a previous custody determination that is entitled to be enforced under this chapter or a child custody proceeding has been commenced in a court of a state having jurisdiction under RCW 26.27.201 through 26.27.221. The requirements of RCW 26.27.231(3) apply to this matter. This state's jurisdiction over the children shall last until (date) _____.
- There is no previous custody determination that is entitled to be enforced under this chapter and a child custody proceeding has not been commenced in a court of a state having jurisdiction under RCW 26.27.201 through 26.27.221. If an action is not filed in (potential home state) _____ by the time the child has been in Washington for six months, (date) _____, then Washington's jurisdiction will be final and continuing.
- Other:

The Canadian Courts have jurisdiction over the children at the present time, due to the children residing in Canada.

1.15 Child Support and Parenting Plan for Dependent Children

- The parties have no dependent children.
- A parenting plan and an order of child support pursuant to the Washington State child support statutes should be entered for the following children who are dependent upon both parties:

Names of Children

MARIA VETRICI
SOPHIA VETRICI

The petitioner's proposed parenting plan for the children listed above:

- is attached and is incorporated by reference as part of this Petition.
 will be filed and served at a later date pursuant to RCW 26.09.181.

(The following information is required only for those children who are included in the petitioner's proposed parenting plan.)

During the last five years, the children have lived:

- in no place other than the state of Washington and with no person other than the petitioner or the respondent.
 in the following places with the following persons (list each place the children lived, including the state of Washington, the dates the children lived there and the names of the persons with whom the children lived. The present addresses of those persons must be listed in the required Confidential Information Form):

2005 - MAR 2007 Calgary AB Raluca Vetrnici & Grigore Vetrnici
March 2007 - June 2009 Olympia WA Raluca Vetrnici & Grigore Vetrnici
June 2009 - July 2009 Olympia WA / Calgary AB Grigore Vetrnici / Nancy Vetrnici / Davketri
Aug. 2009 - Oct. 2009 Calgary AB / Vancouver BC Raluca Vetrnici / Grigore Vetrnici
Oct. 2009 - Present Vancouver, BC Grigore Vetrnici ; weekends and holidays in Olympia, WA with Raluca Vetrnici

Claims to custody or visitation:

- The petitioner does not know of any person other than the respondent who has physical custody of, or claims to have custody or visitation rights to, the children.
 The following persons have physical custody of, or claim to have custody or visitation rights to the children (list their names and the children concerned below and list their present addresses in the Confidential Information Form. Do not list the responding party):

Involvement in any other proceeding concerning the children:

- The petitioner has not been involved in any other proceeding regarding the children.
 The petitioner has been involved in the following proceedings regarding the children (list the court, the case number, and the date of the judgment or order):

Other legal proceedings concerning the children:

- The petitioner does not know of any other legal proceedings concerning the children.
- The petitioner knows of the following legal proceedings that concern the children (list the children concerned, the court, the case number, and the kind of proceeding):

1.16 Other

II. Relief Requested

The petitioner **Requests** the court to enter a decree of dissolution and to grant the relief below.

- Provide reasonable maintenance for the husband wife.
- Approve the petitioner's proposed parenting plan for the dependent children listed in paragraph 1.15.
- Determine support for the dependent children listed in paragraph 1.15 pursuant to the Washington State child support statutes.
- Approve the separation contract or prenuptial agreement.
- Divide the property and liabilities.
- Change name of wife to (first, middle, last): _____
- Change name of husband to (first, middle, last): _____
- Enter a domestic violence protection order.
- Enter an antiharassment protection order.
- Enter a continuing restraining order.
- Order payment of day care expenses for the children listed in paragraph 1.15.
- Award the tax exemptions for the dependent children listed in paragraph 1.15 as follows:
to respondent unless agreed otherwise
between parties for each year
- Order payment of attorney fees, other professional fees and costs.

Other:

Dated: April 9th 2010

Raluca Vetrici
Signature of Petitioner or Lawyer/WSBA No.

RALUCA VETRICI
Print Name

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

Signed at (city) Olympia, (state) WA on (date) April 9 2010.

Raluca Vetrici
Signature of Petitioner

RALUCA VETRICI
Print Name

Joinder

I, the respondent, join in the petition. I understand that by joining in the petition, a decree or judgment and order may be entered in accordance with the relief requested in the petition, unless prior to the entry of the decree or judgment and order, a response is filed and served.

I waive notice of entry of the decree.

I demand notice of all further proceedings in this matter. Further notice should be sent to the following address (you may list an address that is not your residential address where you agree to accept legal documents):

1477 INGLEWOOD AVE
WEST VANCOUVER, BC V7T 1Z2 CANADA

Any time this address changes while this action is pending, you must notify the opposing parties in writing and file an updated Confidential Information Form (WPF DRPSCU 09.0200) with the court clerk.

Dated: APRIL 9, 2010

Grigore Vetrici
Signature of Respondent

GRIGORE VETRICI
Print Name

10

EXPEDITE (if filing within 5 court days of hearing)

Hearing is set:
 Date: _____
 Time: _____
 Judge/Calendar: _____

FILED
 SUPERIOR COURT
 THURSTON COUNTY WA
 2010 AUG -6 PM 4:20
 JETTY J. GOULD, CLERK
 BY _____
 DEPUTY

**Superior Court of Washington
 County of Thurston
 Family & Juvenile Court**

In re the Marriage of:

Raluca Vetrici'

Petitioner,

and

Ghizela Vetrici'

Respondent.

No. *10-3-00585-5*

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

I. Basis for Findings

The findings are based on:

- agreement.
- an order of default signed on this date or dated _____.
- trial. The following people attended:
 - Petitioner.
 - Petitioner's Lawyer.
 - Respondent.
 - Respondent's Lawyer.
 - Other:

II. Findings of Fact

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

2.1 Residency of Petitioner

The Petitioner

- is a resident of the state of Washington.
- is not a resident of the state of Washington.
- is a member of the armed forces and has been stationed in this state for at least 90 days.

~~FAXED TO OSET~~

2.2 Notice to the Respondent

The respondent

- appeared, responded or joined in the petition.
- was served in the following manner:

2.3 Basis of Personal Jurisdiction Over the Respondent

- There are no facts to establish personal jurisdiction over the respondent.
- The facts below establish personal jurisdiction over the respondent.
 - The respondent is currently residing in Washington.
 - The parties lived in Washington during their marriage and the petitioner continues to reside, or be a member of the armed forces stationed, in this state.
 - The parties may have conceived a child while within Washington.
 - Other: *Respondent consents to jurisdiction*

2.4 Date and Place of Marriage

The parties were married on (date) Jan. 11 2003 at
(city and state only) TIRGOVIȘTE, ROMANIA

2.5 Status of the Parties

Husband and wife separated on (date) June 18, 2009

2.6 Status of Marriage

- The marriage is irretrievably broken and at least 90 days have elapsed since the date the petition was filed and since the date the summons was served or the respondent joined.
- The petitioner wishes to be legally separated.
- The petitioner is petitioning for a declaration concerning the invalidity of the marriage. The court *finds* the following facts concerning the validity of the marriage:

2.7 Separation Contract or Prenuptial Agreement

- There is no written separation contract or prenuptial agreement.
- A written separation contract or prenuptial agreement was executed on (date) _____ and is incorporated herein.
 - The separation contract or prenuptial agreement should be approved.
 - The separation contract or prenuptial agreement should not be approved because:
- Other:

2.8 Community Property

- The parties do not have real or personal community property.
- The parties have real or personal community property as set forth in Exhibit _____. This exhibit is attached or filed and incorporated by reference as part of these findings.
- The parties have real or personal community property as set forth in the separation contract or prenuptial agreement referenced above.
- The parties have the following real or personal community property:

See Exhibit 1.

Other: *The Educational account for the children is not part of this action*

WJF

2.9 Separate Property

- The husband has no real or personal separate property.
- The wife has no real or personal separate property.
- The parties have separate property as set forth in the separation contract or prenuptial agreement referenced above.
- The husband has real or personal separate property as set forth in Exhibit _____. This exhibit is attached or filed and incorporated by reference as part of these findings.
- The wife has real or personal separate property as set forth in Exhibit _____. This exhibit is attached or filed and incorporated by reference as part of these findings.
- The husband has the following real or personal separate property:

Personal and household items currently in his possession.

- The wife has the following real or personal separate property:

Personal and household items currently in her possession.

Other:

2.12 Maintenance

- Maintenance was not requested.
- Maintenance shall be paid as set forth in the separation contract or prenuptial agreement referenced above.
- Maintenance should not be ordered because:

- Maintenance should be ordered because:

- Other:

2.13 Continuing Restraining Order

- Does not apply.
- A continuing restraining order against the husband wife both parties is necessary because:

- Other:

2.14 Protection Order

- Does not apply.
- The domestic violence antiharassment Order for Protection signed by the court on this date or dated _____ in Cause No. _____, is approved and incorporated as part of these findings.

2.15 Fees and Costs

- There is no award of fees or costs.
- Attorney fees, other professional fees and costs shall be paid as set forth in the separation contract or prenuptial agreement referenced above.
- The husband wife has the need for the payment of fees and costs and the other spouse has the ability to pay these fees and costs. The husband wife has incurred reasonable attorney fees and costs in the amount of \$ _____.
- Other:

2.16 Pregnancy

- The wife is not pregnant.
- The wife is pregnant. **Note: Under RCW 26.26.116, the husband is the presumed father. If husband or wife believes the husband is not the father, this presumption may be challenged up to two years after the birth of the child or as otherwise provided in RCW 26.26.500 through 26.26.625.**

- Other:

2.17 Dependent Children

- The parties have no dependent children of this marriage.
 The children listed below are dependent upon either or both spouses.

<u>Name of Child</u>	<u>Age</u>	<u>Mother's Name</u>	<u>Father's Name</u>
Marta Vetm'ei	6	Kaluca Vetm'ei	Ginzore Vetm'ei
Sophia Vetm'ei	6	Kaluca Vetm'ei	Ginzore Vetm'ei

- Other:

2.18 Jurisdiction Over the Children

- Does not apply because there are no dependent children.
 This court does not have jurisdiction over the children. - they reside in Canada with father
 This court has jurisdiction over the children for the reasons set forth below.

- This court has exclusive continuing jurisdiction. The court has previously made a child custody, parenting plan, residential schedule or visitation determination in this matter and retains jurisdiction under RCW 26.27.211.
- This state is the home state of the children because:
- the children lived in Washington with a parent or a person acting as a parent for at least six consecutive months immediately preceding the commencement of this proceeding.
 - the children are less than six months old and have lived in Washington with a parent or a person acting as parent since birth.
 - any absences from Washington have been only temporary.
 - Washington was the home state of the children within six months before the commencement of this proceeding and the children are absent from the state but a parent or person acting as a parent continued to live in this state.
- The children and the parents or the children and at least one parent or person acting as a parent, have significant connection with the state other than mere physical presence; and substantial evidence is available in this state concerning the children's care, protection, training and personal relationships; and
- the children have no home state elsewhere.
 - the children's home state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under RCW 6.27.261 or .271.

- All courts in the children's home state have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the children under RCW 26.27.261 or .271.
- No other state has jurisdiction.
- This court has temporary emergency jurisdiction over this proceeding because the children are present in this state and the children have been abandoned or it is necessary in an emergency to protect the children because the children, or a sibling or parent of the children is subjected to or threatened with abuse. RCW 26.27.231.
- There is a previous custody determination that is entitled to be enforced under this chapter or a child custody proceeding has been commenced in a court of a state having jurisdiction under RCW 26.27.201 through 26.27.221. The requirements of RCW 26.27.231(3) apply to this matter. This state's jurisdiction over the children shall last until (date) _____.
- There is no previous custody determination that is entitled to be enforced under this chapter and a child custody proceeding has not been commenced in a court of a state having jurisdiction under RCW 26.27.201 through 26.27.221. If an action is not filed in (potential home state) _____ by the time the child has been in Washington for six months, (date) _____, then Washington's jurisdiction will be final and continuing.

Other:

2.19 Parenting Plan

- Does not apply.
- The parenting plan signed by the court on this date or dated _____, is approved and incorporated as part of these findings.
- This parenting plan is the result of an agreement of the parties.
- Other:

2.20 Child Support

- Does not apply.
- There are children in need of support and child support should be set pursuant to the Washington State Child Support Schedule. The Order of Child Support signed by the court on this date or dated _____, and the child support worksheet, which has been approved by the court, are incorporated by reference in these findings.
- Other:

2.21 Other *none*

not

III. Conclusions of Law

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

3.1 Jurisdiction

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

3.2 Granting a Decree

- The parties should be granted a decree.
 Other:

3.3 Pregnancy

- Does not apply.
 The wife is pregnant. Any challenge to the husband's presumed paternity shall be initiated by: 1) signing and filing a valid denial of paternity and a valid acknowledgement of paternity under RCW 26.26.300 through 26.26.375; or, 2) a proceeding to determine the parentage of the unborn child under RCW 26.26.500 through 26.26.625.

3.4 Disposition

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

3.5 Continuing Restraining Order

- Does not apply.
 A continuing restraining order should be entered.

Fndngs of Fact and Concl of Law (FNFCL) – Page 8 of 9
WPF DR 04.0300 Mandatory (6/2008) – CR 52; RCW 26.09.030; .070(3)

3.6 Protection Order

- Does not apply.
- A domestic violence antiharassment Order for Protection has been entered in Cause No. _____.

3.7 Attorney Fees and Costs

- Does not apply.
- Attorney fees, other professional fees and costs should be paid.

3.8 Other

Dated: 8-6-10

[Signature]
 Judge/Commissioner

Approved for entry:
Notice of presentation waived:

Presented by:

Raluca Vetrici
 Signature of Party or Lawyer/WSBA No.

 Signature of Party or Lawyer/WSBA No.

RALUCA VETRICI *June 7th 2010*
 Print or Type Name Date

 Print or Type Name Date

EXHIBIT 1

2.8 The parties have the following real or personal community property: All property acquired during marriage, except property acquired by gift or inheritance.

7

EXPEDITE (if filing within 5 court days of hearing)

Hearing is set:
 Date: _____
 Time: _____
 Judge/Calendar: _____

FILED
 SUPERIOR COURT
 THURSTON COUNTY WA
 2010 AUG -6 PM 4:20
 BETTY J. GOULD, CLERK
 BY _____
 DEPUTY

**Superior Court of Washington
 County of Thurston
 Family & Juvenile Court**

In re the Marriage of:
Raluca Vetruciu
 Petitioner,
 and
Grigore Vetruciu
 Respondent.

No. *10-3-00585-5*

Decree of Dissolution (DCD)
 Decree of Legal Separation (DCLGSP)
 Declaration Concerning Validity (DCINMG) (Marriage)
 Clerk's action required
 Law Enforcement Notification, ¶ 3.8

I. Judgment/Order Summaries

1.1 Restraining Order Summary:

Does not apply. Restraining Order Summary is set forth below:

Name of person(s) restrained: _____ Name of person(s) protected: _____ See paragraph 3.8.

Violation of a Restraining Order in Paragraph 3.8 Below With Actual Knowledge of its Terms is a Criminal Offense Under Chapter 26.50 RCW and Will Subject the Violator to Arrest. RCW 26.09.050.

1.2 Real Property Judgment Summary:

Does not apply. Real Property Judgment Summary is set forth below:

Assessor's property tax parcel or account number: _____
 Or
 Legal description of the property awarded (including lot, block, plat, or section, township, range, county and state):

 See Page _____ for full legal description

FAXED/COPY TO: _____
 (Law Enforcement Agency where Petitioner resides for input into statewide computer system)
 Deputy Clerk Initials _____

Decree (DCD) (DCLGSP) (DCINMG) - Page 1 of 7
 WPF DR 04.0400 Mandatory (6/2008) - RCW 26.09.030; .0

1.3 Money Judgment Summary:

Does not apply. Judgment Summary is set forth below.

- A. Judgment creditor _____
- B. Judgment debtor _____
- C. Principal judgment amount \$ _____
- D. Interest to date of judgment \$ _____
- E. Attorney fees \$ _____
- F. Costs \$ _____
- G. Other recovery amount \$ _____
- H. Principal judgment shall bear interest at _____ % per annum
- I. Attorney fees, costs and other recovery amounts shall bear interest at _____ % per annum
- J. Attorney for judgment creditor _____
- K. Attorney for judgment debtor _____
- L. Other: _____

End of Summaries

II. Basis

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

III. Decree

It Is Decreed that:

3.1 Status of the Marriage

- The marriage of the parties is dissolved.
- The husband and wife are legally separated.
- The marriage of the parties is invalid.
- The marriage of the parties is valid.

3.2 Property to be Awarded the Husband

- The husband is awarded as his separate property the property set forth in Exhibit _____. This exhibit is attached or filed and incorporated by reference as part of this decree.
- The husband is awarded as his separate property the property set forth in the separation contract or prenuptial agreement executed by the parties on (date) _____. The separation contract or prenuptial agreement is incorporated by reference as part of this Decree. The prenuptial agreement or, pursuant to RCW 26.09.070(5), the separation contract is is not filed with the court.
- The husband is awarded as his separate property the following property (list real estate, furniture, vehicles, pensions, insurance, bank accounts, etc.):

all personal and household items currently in his possession

Other:

3.3 Property to be Awarded to the Wife

- The wife is awarded as her separate property the property set forth in Exhibit _____. This exhibit is attached or filed and incorporated by reference as part of this decree.
- The wife is awarded as her separate property the property set forth in the separation contract or prenuptial agreement referenced above.
- The wife is awarded as her separate property the following property (list real estate, furniture, vehicles, pensions, insurance, bank accounts, etc.):

all personal and household items currently in her possession.

Other:

3.4 Liabilities to be Paid by the Husband

- Does not apply.
- The husband shall pay the community or separate liabilities set forth in Exhibit _____. This exhibit is attached or filed and incorporated by reference as part of this decree.
- The husband shall pay the community or separate liabilities as set forth in the separation contract or prenuptial agreement referenced above.
- The husband shall pay the following community or separate liabilities:

Creditor

Amount

Other:

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

3.5 Liabilities to be Paid by the Wife

- Does not apply.
- The wife shall pay the community or separate liabilities set forth in Exhibit _____. This exhibit is attached or filed and incorporated by reference as part of this decree.
- The wife shall pay the community or separate liabilities as set forth in the separation contract or prenuptial agreement referenced above.
- The wife shall pay the following community or separate liabilities:

<u>Creditor</u>	<u>Amount</u>
-----------------	---------------

Other:

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

3.6 Hold Harmless Provision

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

3.7 Maintenance

- Does not apply.
- The husband wife shall pay maintenance as set forth in Exhibit _____. This exhibit is attached or filed and incorporated by reference as part of this decree.
- Maintenance shall be paid as set forth in the separation contract or prenuptial agreement referenced above.
- The husband wife shall pay \$ _____ maintenance. Maintenance shall be paid weekly semi-monthly monthly.
The first maintenance payment shall be due on (date) _____.

The obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance unless otherwise specified below:

Payments shall be made:

- directly to the other spouse.
- to the Washington State Child Support Registry (only available if child support is ordered).
- to the clerk of this court as trustee for remittance to the other spouse (only available if there are no dependent children).
- If a maintenance payment is more than 15 days past due and the total of such past due payments is equal to or greater than \$100, or if the obligor requests a withdrawal of accumulated contributions from the Department of Retirement Systems, the obligee may seek a mandatory benefits assignment order under Chapter 41.50 RCW without prior notice to the obligor.
- The Department of Retirement Systems may make a direct payment of all or part of a withdrawal of accumulated contributions pursuant to RCW 41.50.550(3).
- Other:

3.8 Continuing Restraining Order

Does not apply.

A continuing restraining order is entered as follows:

The husband wife is restrained and enjoined from disturbing the peace of the other party.

The husband wife is restrained and enjoined from going onto the grounds of or entering the home, work place or school of the other party, or the day care or school of the following named children: _____

The husband wife is restrained and enjoined from knowingly coming within or knowingly remaining within (distance) _____ of the home, work place or school of the other party, or the day care or school of these children: _____
other: _____

(Name) _____ is restrained and enjoined from molesting, assaulting, harassing, or stalking (name) _____.
(The following firearm restrictions apply if this box is checked: Effective immediately and continuing as long as this continuing restraining order is in effect, the restrained person may not possess a firearm or ammunition. 18 U.S.C. § 922(g)(8). A violation of this federal firearms law carries a maximum possible penalty of 10 years in prison and a \$250,000 fine. An exception exists for law enforcement officers and military personnel when carrying department/government-issue firearms. 18 U.S.C. § 925(a)(1).)

Other:

Violation of a Restraining Order in Paragraph 3.8 With Actual Knowledge of its Terms Is a Criminal Offense Under Chapter 26.50 RCW and Will Subject the Violator to Arrest. RCW 26.09.060.

- Clerk's Action.** The clerk of the court shall forward a copy of this order, on or before the next judicial day, to: the law enforcement agency listed on page 1 which shall enter this order into any computer-based criminal intelligence system available in this state used by law enforcement agencies to list outstanding warrants. (A law enforcement information sheet must be completed by the party or the party's attorney and provided with this order before this order will be entered into the law enforcement computer system.)

Service

- The restrained party or attorney appeared in court or signed this order; service of this order is not required.
- The restrained party or attorney did not appear in court; service of this order is required. The protected party must arrange for service of this order on the restrained party. File the original Return of Service with the clerk and provide a copy to the law enforcement agency listed above.

Expiration

This restraining order expires on: (month/day/year) _____ .
This restraining order supersedes all previous temporary restraining orders in this cause number.

- Any temporary restraining order signed by the court in this cause number is terminated.

Clerk's Action. The clerk of the court shall forward a copy of this order, on or before the next judicial day, to the law enforcement agency listed on page 1 which shall enter this order into any computer-based criminal intelligence system available in this state used by law enforcement agencies to list outstanding warrants.

Full Faith and Credit

Pursuant to 18 U.S.C. § 2265, a court in any of the 50 states, the District of Columbia, Puerto Rico, any United States territory, and any tribal land within the United States shall accord full faith and credit to the order.

3.9 Protection Order

- Does not apply.
- The parties shall comply with the domestic violence antiharassment Order for Protection signed by the court on _____ in cause number _____.
The Order for Protection signed by the court is approved and incorporated as part of this decree.

3.10 Jurisdiction Over the Children

- Does not apply because there are no dependent children.
- The court has jurisdiction over the children as set forth in the Findings of Fact and Conclusions of Law.

The court has no jurisdiction over children as they reside in Canada with father.

3.11 Parenting Plan

- Does not apply.
- The parties shall comply with the Parenting Plan signed by the court on this date or dated _____ . The Parenting Plan signed by the court is approved and incorporated as part of this decree.

3.12 Child Support

- Does not apply.
- Child support shall be paid in accordance with the Order of Child Support signed by the court on this date or dated _____ . This order is incorporated as part of this decree.

3.13 Attorney Fees, Other Professional Fees and Costs

- Does not apply.
- Attorney fees, other professional fees and costs shall be paid as set forth in the separation contract or prenuptial agreement referenced above.
- Attorney fees, other professional fees and costs shall be paid as follows:

3.14 Name Changes

- Does not apply.
- The wife's name shall be changed to (first, middle, last name) _____ .
- The husband's name shall be changed to (first, middle, last name) _____ .

3.15 Other

Dated: 5-6-10

[Signature]
Judge/Commissioner

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

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

Raluca Vetri'ci
Signature of Petitioner or Lawyer/WSBA No.

RALUCA VETRI'CI June 7 2010
Print or Type Name Date

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

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

Signature of Respondent or Lawyer/WSBA No.

Print or Type Name Date

**Superior Court of Washington
County of _____**

In re the Marriage of:
 In re the Domestic Partnership of:

Petitioner,

and

Respondent.

No. _____

Parenting Plan
 Proposed (PPP)
 Temporary (PPT)
 Final Order (PP)

This parenting plan is:

- the final parenting plan signed by the court pursuant to a decree of dissolution, legal separation, or declaration concerning validity signed by the court on this date or dated _____.
- _____ the final parenting plan signed by the court pursuant to an order signed by the court on this date or dated _____, which modifies a previous parenting plan or custody decree.
- _____ a temporary parenting plan signed by the court.
- proposed by (name) _____.

It Is Ordered, Adjudged and Decreed:

I. General Information

This parenting plan applies to the following children:

Name

Age

II. Basis for Restrictions

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

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

- Does not apply.
- The petitioner's respondent's residential time with the child(ren) shall be limited or restrained completely, and mutual decision-making and designation of a dispute resolution process other than court action shall not be required, because this parent a person residing with this parent has engaged in the conduct which follows:
 - Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions (this applies only to parents, not to a person who resides with a parent).
 - Physical, sexual or a pattern of emotional abuse of a child.
 - A history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm.

2.2 Other Factors (RCW 26.09.191(3))

- Does not apply.
- The petitioner's respondent's involvement or conduct may have an adverse effect on the child(ren)'s best interests because of the existence of the factors which follow:
 - Neglect or substantial nonperformance of parenting functions.
 - A long-term emotional or physical impairment which interferes with the performance of parenting functions as defined in RCW 26.09.004.
 - A long-term impairment resulting from drug, alcohol, or other substance abuse that interferes with the performance of parenting functions.
 - The absence or substantial impairment of emotional ties between the parent and child.
 - The abusive use of conflict by the parent which creates the danger of serious damage to the child's psychological development.
 - A parent has withheld from the other parent access to the child for a protracted period without good cause.
 - Other:

III. Residential Schedule

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

3.1 Schedule for Children Under School Age

- There are no children under school age.
- Prior to enrollment in school, the child(ren) shall reside with the petitioner respondent, except for the following days and times when the child(ren) will reside with or be with the other parent:

from (day and time) _____ to (day and time) _____

- every week every other week the first and third week of the month
- the second and fourth week of the month other:

from (day and time) _____ to (day and time) _____

- every week every other week the first and third week of the month
- the second and fourth week of the month other:

3.2 School Schedule

Upon enrollment in school, the child(ren) shall reside with the petitioner respondent, except for the following days and times when the child(ren) will reside with or be with the other parent:

from (day and time) _____ to (day and time) _____

- every week every other week the first and third week of the month
- the second and fourth week of the month other:

From (day and time) _____ to (day and time) _____

- every week every other week the first and third week of the month
- the second and fourth week of the month other:

- The school schedule will start when each child begins kindergarten first grade
 other:

3.3 Schedule for Winter Vacation

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

3.4 Schedule for Other School Breaks

The child(ren) shall reside with the petitioner respondent during other school breaks, except for the following days and times when the child(ren) will reside with or be with the other parent:

3.5 Summer Schedule

Upon completion of the school year, the child(ren) shall reside with the petitioner respondent, except for the following days and times when the child(ren) will reside with or be with the other parent:

- Same as school year schedule.
 Other:

3.6 Vacation With Parents

- Does not apply.
 The schedule for vacation with parents is as follows:

3.7 Schedule for Holidays

The residential schedule for the child(ren) for the holidays listed below is as follows:

	With Petitioner (Specify Year <u>Odd/Even/Every</u>)	With Respondent (Specify Year <u>Odd/Even/Every</u>)
New Year's Day	_____	_____
Martin Luther King Day	_____	_____
Presidents' Day	_____	_____
Memorial Day	_____	_____
July 4th	_____	_____
Labor Day	_____	_____
Veterans' Day	_____	_____
Thanksgiving Day	_____	_____
Christmas Eve	_____	_____
Christmas Day	_____	_____
_____	_____	_____
_____	_____	_____

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

- Holidays which fall on a Friday or a Monday shall include Saturday and Sunday.

- Other:

3.8 Schedule for Special Occasions

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

	With Petitioner (Specify Year <u>Odd/Even/Every</u>)	With Respondent (Specify Year <u>Odd/Even/Every</u>)
Mother's Day	_____	_____
Father's Day	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

- Other:

3.9 Priorities Under the Residential Schedule

- Does not apply because one parent has no visitation or restricted visitation.
- Paragraphs 3.3 - 3.8 have priority over paragraphs 3.1 and 3.2 in the following order:
 - Rank the order of priority, with 1 being given the highest priority:

____ winter vacation (3.3)	____ holidays (3.7)
____ school breaks (3.4)	____ special occasions (3.8)
____ summer schedule (3.5)	____ vacation with parents (3.6)
 - Other:

3.10 Restrictions

- Does not apply because there are no limiting factors in paragraphs 2.1 or 2.2.
- The petitioner's respondent's residential time with the children shall be limited because there are limiting factors in paragraphs 2.1 and 2.2. The following restrictions shall apply when the children spend time with this parent:
 - There are limiting factors in paragraph 2.2, but there are no restrictions on the petitioner's respondent's residential time with the children for the following reasons:

3.11 Transportation Arrangements

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

Transportation arrangements for the child(ren), between parents shall be as follows:

3.12 Designation of Custodian

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

3.13 Other

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

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

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

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

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

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

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

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

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

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

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

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

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

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

IV. Decision Making

4.1 Day-to-Day Decisions

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

4.2 Major Decisions

Major decisions regarding each child shall be made as follows:

Education decisions	<input type="checkbox"/>	petitioner	<input type="checkbox"/>	respondent	<input type="checkbox"/>	joint
Non-emergency health care	<input type="checkbox"/>	petitioner	<input type="checkbox"/>	respondent	<input type="checkbox"/>	joint
Religious upbringing	<input type="checkbox"/>	petitioner	<input type="checkbox"/>	respondent	<input type="checkbox"/>	joint
_____	<input type="checkbox"/>	petitioner	<input type="checkbox"/>	respondent	<input type="checkbox"/>	joint
_____	<input type="checkbox"/>	petitioner	<input type="checkbox"/>	respondent	<input type="checkbox"/>	joint
_____	<input type="checkbox"/>	petitioner	<input type="checkbox"/>	respondent	<input type="checkbox"/>	joint
_____	<input type="checkbox"/>	petitioner	<input type="checkbox"/>	respondent	<input type="checkbox"/>	joint
_____	<input type="checkbox"/>	petitioner	<input type="checkbox"/>	respondent	<input type="checkbox"/>	joint

4.3 Restrictions in Decision Making

- Does not apply because there are no limiting factors in paragraphs 2.1 and 2.2 above.
- Sole decision making shall be ordered to the petitioner respondent for the following reasons:
 - A limitation on the other parent's decision making authority is mandated by RCW 26.09.191 (See paragraph 2.1).
 - Both parents are opposed to mutual decision making.
 - One parent is opposed to mutual decision making, and such opposition is reasonably based on the following criteria:
 - (a) The existence of a limitation under RCW 26.09.191;
 - (b) The history of participation of each parent in decision making in each of the areas in RCW 26.09.184(4)(a);
 - (c) Whether the parents have demonstrated ability and desire to cooperate with one another in decision making in each of the areas in RCW 26.09.184(4)(a); and
 - (d) The parents' geographic proximity to one another, to the extent that it affects their ability to make timely mutual decisions.
- There are limiting factors in paragraph 2.2, but there are no restrictions on mutual decision making for the following reasons:

V. Dispute Resolution

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

- Disputes between the parties, other than child support disputes, shall be submitted to (list person or agency):
 - counseling by _____, or
 - mediation by _____, if this box is checked and issues of domestic violence or child abuse are present, then the court finds that the victim requested mediation, that mediation is appropriate and that the victim is permitted to have a supporting person present during the mediation proceedings, or

arbitration by _____.

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

- _____% petitioner _____% respondent.
- based on each party's proportional share of income from line 6 of the child support worksheets.
- as determined in the dispute resolution process.

The dispute resolution process shall be commenced by notifying the other party by written request certified mail other:

In the dispute resolution process:

- (a) Preference shall be given to carrying out this Parenting Plan.
- (b) Unless an emergency exists, the parents shall use the designated process to resolve disputes relating to implementation of the plan, except those related to financial support.
- (c) A written record shall be prepared of any agreement reached in counseling or mediation and of each arbitration award and shall be provided to each party.
- (d) If the court finds that a parent has used or frustrated the dispute resolution process without good reason, the court shall award attorneys' fees and financial sanctions to the other parent.
- (e) The parties have the right of review from the dispute resolution process to the superior court.

No dispute resolution process, except court action is ordered.

VI. Other Provisions

- There are no other provisions.
- There are the following other provisions:

VII. Declaration for Proposed Parenting Plan

- Does not apply.
 (Only sign if this is a proposed parenting plan.) I declare under penalty of perjury under the laws of the state of Washington that this plan has been proposed in good faith and that the statements in Part II of this Plan are true and correct.

Petitioner

Date and Place of Signature

Respondent

Date and Place of Signature

VIII. Order by the Court

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

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

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

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

Dated: _____

Judge/Commissioner

Presented by:

Approved for entry:

Signature of Party or Lawyer/WSBA No.

Signature of Party or Lawyer/WSBA No.

Print Name

Print Name

**Superior Court of Washington
County of**

In re the Marriage of:
 In re the Domestic Partnership of:

and
Petitioner,

Respondent.

No.
Order of Child Support
 Temporary (TMORS)
 Final Order (ORS)
Clerk's Action Required

I. Judgment Summary

- Does not apply because no attorney's fees or back child support has been ordered.
- The judgment summary:

- A. Judgment creditor _____
- B. Judgment debtor _____
- C. Principal judgment amount (back child support) \$ _____
from (date) _____ to (date) _____
- D. Interest to date of judgment \$ _____
- E. Attorney fees \$ _____
- F. Costs \$ _____
- G. Other recovery amount \$ _____
- H. Principal judgment shall bear interest at _____ % per annum
- I. Attorney fees, costs and other recovery amounts shall bear interest at _____ % per annum
- J. Attorney for judgment creditor _____
- K. Attorney for judgment debtor _____
- L. Other: _____

II. Basis

2.1 Type of Proceeding

This order is entered under a petition for dissolution of marriage or domestic partnership, legal separation, or declaration concerning validity:

- decree of dissolution, legal separation or a declaration concerning validity.
- order for modification of child support.
- hearing for temporary child support.
- order of adjustment.
- order for modification of a custody decree or parenting plan.
- other:

2.2 Child Support Worksheet

The child support worksheet which has been approved by the court is attached to this order and is incorporated by reference or has been initialed and filed separately and is incorporated by reference.

2.3 Other

III. Findings and Order

It Is Ordered:

3.1 Children for Whom Support is Required

Name (first/last)

Age

3.2 Person Paying Support (Obligor)

Name (first/last):

Birth date:

Service Address: (You may list an address that is not your residential address where you agree to accept legal documents.)

The Obligor Parent Must Immediately File With the Court and the Washington State Child Support Registry, and Update as Necessary, the Confidential Information Form Required by RCW 26.23.050.

The Obligor Parent Shall Update the Information Required by Paragraph 3.2 Promptly After any Change in the Information. The Duty to Update the Information Continues as long as any Support Debt Remains due Under This Order.

- Monthly Net Income: \$ _____
- The income of the obligor is imputed at \$ _____ because:
 - the obligor's income is unknown.
 - the obligor is voluntarily unemployed.
 - the obligor is voluntarily underemployed.
 - other:

3.3 Person Receiving Support [Obligee]

Name (first/last):

Birth date:

Service Address: (You may list an address that is not your residential address where you agree to accept legal documents.)

The Obligee Must Immediately File With the Court and the Washington State Child Support Registry and Update as Necessary the Confidential Information Form Required by RCW 26.23.050.

The Obligee Shall Update the Information Required by Paragraph 3.3 Promptly After any Change in the Information. The Duty to Update the Information Continues as Long as any Monthly Support Remains Due or any Unpaid Support Debt Remains Due Under This Order.

- Monthly Net Income: \$ _____
- The income of the obligee is imputed at \$ _____ because:
 - the obligee's income is unknown.
 - the obligee is voluntarily unemployed.
 - the obligee is voluntarily underemployed.
 - other:

The obligor may be able to seek reimbursement for day care or special child rearing expenses not actually incurred. RCW 26.19.080.

3.4 Service of Process

Service of Process on the Obligor at the Address Required by Paragraph 3.2 or any Updated Address, or on the Oblige at the Address Required by Paragraph 3.3 or any Updated Address, may Be Allowed or Accepted as Adequate in any Proceeding to Establish, Enforce or Modify a Child Support Order Between the Parties by Delivery of Written Notice to the Obligor or Oblige at the Last Address Provided.

3.5 Transfer Payment

The obligor parent shall pay the following amounts per month for the following children:

<u>Name</u>	<u>Amount</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
Total Monthly Transfer Amount	\$ _____

- The parents' combined monthly net income exceeds \$7,000 and the court sets child support in excess of the advisory amount because:

- If one of the children changes age brackets, the child support shall be as follows:

- This is a downward modification that has caused an overpayment of \$ _____.
This amount shall be repaid or credited as follows:

- This is an upward modification that has caused an underpayment of \$ _____.
This amount shall be paid as follows:

- Other:

The Obligor Parent's Privileges to Obtain or Maintain a License, Certificate, Registration, Permit, Approval, or Other Similar Document Issued by a Licensing Entity Evidencing Admission to or Granting Authority to Engage in a Profession, Occupation, Business, Industry, Recreational Pursuit, or the Operation of a Motor Vehicle may Be Denied or may Be Suspended if

the Obligor Parent is not in Compliance With This Support Order as Provided in Chapter 74.20A Revised Code of Washington.

3.6 Standard Calculation

\$ _____ per month. (See Worksheet line 15.)

3.7 Reasons for Deviation From Standard Calculation

- The child support amount ordered in paragraph 3.5 does not deviate from the standard calculation.
- The child support amount ordered in paragraph 3.5 deviates from the standard calculation for the following reasons:
 - Income of a new spouse or new domestic partner of the parent requesting a deviation for other reasons;
 - Income of other adults in the household of the parent requesting a deviation for other reasons;
 - Child support actually paid or received for other children from other relationships;
 - Gifts;
 - Prizes;
 - Possession of wealth;
 - Extraordinary income of a child;
 - Tax planning which results in greater benefit to the children;
 - A nonrecurring source of income;
 - Extraordinary debt not voluntarily incurred;
 - A significant disparity in the living costs of the parents due to conditions beyond their control;
 - Special needs of disabled children;
 - Special medical, educational, or psychological needs of the children;
 - The child spends a significant amount of time with the parent who is obligated to make a support transfer payment. The deviation does not result in insufficient funds in the receiving parent's household to meet the basic needs of the child. The child does not receive public assistance;
 - Children from other relationships;
 - Costs incurred or anticipated to be incurred by the parents in compliance with court-ordered reunification efforts or under a voluntary placement agreement with an agency supervising the child;
 - The obligor has established that it is unjust or inappropriate to apply the presumptive minimum payment of \$25.00 per child.
 - Other:

The factual basis for these reasons is as follows:

- Other:

3.8 Reasons why Request for Deviation Was Denied

- Does not apply. A deviation was ordered.
- A deviation was not requested.
- The deviation sought by the obligor obligee was denied because:
 - no good reason exists to justify deviation.
 - other: _____

3.9 Starting Date and Day to Be Paid

Starting Date: _____
Day(s) of the month support is due: _____

3.10 Incremental Payments

- Does not apply.
- This is a modification of child support. Pursuant to RCW 26.09.170 (9)(a) and (c), the obligation has been modified by more than 30 percent and the change would cause significant hardship. The increase in the child support obligation set forth in Paragraph 3.5 shall be implemented in two equal increments, one at the time of this order and the second on (date) _____ six months from the entry of this order.

3.11 How Support Payments Shall Be Made

Select Enforcement and Collection, Payment Services Only, or Direct Payment:

- Enforcement and collection: The Division of Child Support (DCS) provides support enforcement services for this case because: this is a public assistance case, this is a case in which a parent has requested services from DCS, a parent has **signed** the application for services from DCS **on the last page of this support order**. (Check all that apply.) Support payments shall be made to:

Washington State Support Registry
P. O. Box 45868
Olympia, WA 98504
Phone: 1-800-922-4306 or
1-800-442-5437

- Payment services only: The Division of Child Support will process and keep a record of all payments but will not take any collection action. Support payments shall be made to:

Washington State Support Registry
P. O. Box 45868
Olympia, WA 98504
Phone: 1-800-922-4306 or
1-800-442-5437

Direct Payment: Support payments shall be made directly to:

Name _____

Mailing Address _____

A party required to make payments to the Washington State Support Registry will not receive credit for a payment made to any other party or entity. The obligor parent shall keep the registry informed whether he or she has access to health insurance coverage at reasonable cost and, if so, to provide the health insurance policy information.

3.12 Wage Withholding Action

Withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the obligor parent at any time after entry of this order unless an alternative provision is made below:

[If the court orders immediate wage withholding in a case where Division of Child Support does not provide support enforcement services, a mandatory wage assignment under Chapter 26.18 RCW must be entered and support payments must be made to the Support Registry.]

Wage withholding, by notice of payroll deduction or other income withholding action under Chapter 26.18 RCW or Chapter 74.20A RCW, without further notice to the obligor, is delayed until a payment is past due, because:

the parties have reached a written agreement that the court approves that provides for an alternate arrangement.

the Division of Child Support provides support enforcement services for this case [see 3.11] and there is good cause [as stated below under "Good Cause"] not to require immediate income withholding which is in the best interests of the child and, in modification cases, previously ordered child support has been timely paid.

the Division of Child Support does not provide support enforcement services for this case [see 3.11] and there is good cause [as stated below under "Good Cause"] not to require immediate income withholding.

Good Cause:

3.13 Termination of Support

Support shall be paid:

- provided that this is a temporary order, until a subsequent child support order is entered by this court.
- until the child(ren) reach(es) the age of 18 or as long as the child(ren) remain(s) enrolled in high school, whichever occurs last, except as otherwise provided below in Paragraph 3.14.
- until the child(ren) reach(es) the age of 18, except as otherwise provided below in Paragraph 3.14.
- after the age of 18 for (name) _____ who is a dependent adult child, until the child is capable of self-support and the necessity for support ceases.
- until the obligation for post secondary support set forth in Paragraph 3.14 begins for the child(ren).
- Other:

3.14 Post Secondary Educational Support

- The right to petition for post secondary support is reserved, provided that the right is exercised before support terminates as set forth in paragraph 3.13.
- The parents shall pay for the post secondary educational support of the child(ren). Post secondary support provisions will be decided by agreement or by the court.
- No post secondary educational support shall be required.
- Other:

3.15 Payment for Expenses not Included in the Transfer Payment

- Does not apply because all payments, except medical, are included in the transfer payment.
- The petitioner shall pay _____% and the respondent _____% (each parent's proportional share of income from the Child Support Schedule Worksheet, line 6) of the following expenses incurred on behalf of the children listed in Paragraph 3.1:
 - day care.
 - educational expenses.
 - long distance transportation expenses.
 - other:

Payments shall be made to the provider of the service the parent receiving the transfer payment.

- The obligor shall pay the following amounts each month the expense is incurred on behalf of the children listed in Paragraph 3.1:

day care: \$ _____ payable to the day care provider other

- parent;
- educational expenses: \$ _____ payable to the educational provider other parent;
- long distance transportation: \$ _____ payable to the transportation provider other parent.
- other:

3.16 Periodic Adjustment

- Does not apply.
- Child support shall be adjusted periodically as follows:

Other:

3.17 Income Tax Exemptions

- Does not apply.
- Tax exemptions for the children shall be allocated as follows:

- The parents shall sign the federal income tax dependency exemption waiver.
- Other:

3.18 Medical Insurance for the Children Listed in Paragraph 3.1

Unless one or more of the **alternatives** below are checked, **each parent** shall maintain or provide health insurance coverage if:

- (a) Coverage that can be extended to cover the child(ren) is or becomes available to each parent through employment or is union-related; and
- (b) The cost of such coverage for the petitioner does not exceed \$ _____ (25 percent of petitioner's basic child support obligation on Worksheet line 7), and the cost of such coverage for the respondent does not exceed \$ _____ (25 percent of respondent's basic child support obligation on Worksheet Line 7).

Alternative 1: The parent below shall maintain or provide health insurance coverage if coverage that can be extended to cover the child(ren) is or becomes available to that parent through employment or is union-related and the cost of such coverage **does not exceed** \$ _____ (25 percent of that parent's basic child support obligation on Worksheet line 7).

- petitioner
- respondent

Alternative 2: The parent below shall maintain or provide health insurance coverage if coverage that can be extended to cover the child(ren) is or becomes available to that parent through employment or is union-related even if such coverage **exceeds** \$ _____ (25 percent of that parent's basic child support obligation on Worksheet line 7).

- petitioner
- respondent

Alternative 3: The parent below is not obligated to provide health insurance coverage because the other parent provides insurance coverage:

- petitioner
- respondent

The parent(s) shall maintain health insurance coverage, if available for the children listed in paragraph 3.1, until further order of the court or until health insurance is no longer available through the parents' employer or union and no conversion privileges exist to continue coverage following termination of employment.

A parent who is required under this order to provide health insurance coverage is liable for any covered health care costs for which that parent receives direct payment from an insurer.

A parent who is required under this order to provide health insurance coverage shall provide proof that such coverage is available or not available within 20 days of the entry of this order to the physical custodian or the Washington State Support Registry if the parent has been notified or ordered to make payments to the Washington State Support Registry.

If proof that health insurance coverage is available or not available is not provided within 20 days, the parent seeking enforcement or the Department of Social and Health Services may seek direct enforcement of the coverage through the other parent's employer or union without further notice to the other parent as provided under Chapter 26.18 RCW.

3.19 Extraordinary Health Care Expenses

Unless specifically ordered otherwise, the person receiving support is responsible for ordinary health care expenses of the children. However, both parents have an obligation to pay their share of extraordinary health care expenses. Extraordinary health care expenses mean those monthly medical expenses that exceed 5% of the basic support obligation from the Child Support Schedule Worksheet, Line 5.

The petitioner shall pay _____% of extraordinary health care expenses (unless stated otherwise, the petitioner's proportional share of income from the Worksheet, line 6) and the respondent shall pay _____% of extraordinary health care expenses (unless stated otherwise, the respondent's proportional share of income from the Worksheet, line 6).

3.20 Back Child Support

- No back child support is owed at this time.
- Back child support that may be owed is not affected by this order.
- The obligee parent is awarded a judgment against the obligor parent in the amount of \$ _____ for back child support for the period from (date) _____ to (date) _____.
- Other:

3.21 Back Interest

- No back interest is owed at this time.
- Back interest that may be owed is not affected by this order.
- The obligee parent is awarded a judgment against the obligor parent in the amount of \$ _____ for back interest for the period from (date) _____ to (date) _____.
- Other:

3.22 Other

Dated: _____

Judge/Commissioner

Presented by:

Approved for entry:
Notice of presentation waived:

Signature of Party or Lawyer/WSBA No.

Signature of Party or Lawyer/WSBA No.

Print Name

Print Name

- I apply for full support enforcement services from the DSHS' Division of Child Support (DCS). (Note: If you never received TANF, tribal TANF, or AFDC, an annual \$25 fee applies if over \$500 is disbursed on a case, unless the fee is waived by DCS.)

Signature of Party

- Approval required in Public Assistance cases. The DSHS' Division of Child Support received notice required by RCW 26.23.130. This order has been reviewed and approved as to:

- Current Child Support
- Back Child Support
- Medical Support
- Other:

Deputy Prosecuting Attorney/WSBA No.

OFFICE RECEPTIONIST, CLERK

From: OFFICE RECEPTIONIST, CLERK
Sent: Friday, November 18, 2016 2:55 PM
To: 'G Vetrici'
Cc: 'Drew Mazzeo'; Michael DeWitt
Subject: RE: 92991-2 - Raluca Iulia Vetrici and Grigore Cezar Vetrici

Received 11-18-16.

Supreme Court Clerk's Office

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

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Looking for the Rules of Appellate Procedure? Here's a link to them:
http://www.courts.wa.gov/court_rules/?fa=court_rules.list&group=app&set=RAP

Searching for information about a case? Case search options can be found here:
<http://dw.courts.wa.gov/>

From: G Vetrici [mailto:vetrici@hotmail.com]
Sent: Friday, November 18, 2016 2:14 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: 'Drew Mazzeo' <drew.taylorlawgroup@outlook.com>; Michael DeWitt <mike.taylorlawgroup@gmail.com>
Subject: Re: 92991-2 - Raluca Iulia Vetrici and Grigore Cezar Vetrici

Motion for leave to amend brief.
Amended brief of appellant.

In re: the Marriage of Raluca Vetrici, Respondent, and Grigore Vetrici, Appellant.
No. 92991-2

Grigore Vetrici, pro se
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