

FILED
Court of Appeals
Division II
State of Washington
11/2/2018 3:10 PM

No. 51579-2

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

ELIZABETH HOPE EVARTS, Appellant

v.

JEREMY EVARTS, Respondent

BRIEF OF RESPONDENT

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I. STATEMENT OF THE CASE

A. IDENTIFICATION OF THE PARTIES

This appeal involves the Final Divorce Order (CP 592-599) and the Final Parenting Plan (CP 605-612) entered in the parties' dissolution of marriage case. The Appellant is Elizabeth Hope Evarts; the Respondent is Jeremy Lucius Evarts. ¹

B. PROCEDURAL HISTORY/BACKGROUND

Hope and Jeremy were married on March 4, 2000. CP 64. They separated on August 15, 2016. CP 64. Hope filed a Petition for Legal Separation on August 29, 2016. CP 64-69. On February 14, 2017, Hope filed an Amended Petition for Divorce. CP 209-213.

The parties have four minor children: Odelia ("Ellie"), age 15; Gideon, age 12; Josephine, age 10; and Ezekiel, age 9. CP 65.

At all times relevant herein, Jeremy was employed by Armstrong Flooring. RP 25-26. During the pendency of this action, Hope was unemployed. RP 64.

Prior to filing her Petition for Legal Separation, Hope filed a Petition for Protection Order in Pierce County Superior Court on August 15, 2016 under Cause Number 16-2-02629-5. EX 5. Two weeks later, on the day of the hearing for her Protection Order, Hope dropped her

¹ For clarity, the parties will be referred to herein as Hope and Jeremy. No disrespect to the parties is intended by the use of these designations.

case. RP 193-194. Hope used the protection order system to have Jeremy removed from the house. RP 193.

When Hope filed her Petition for Legal Separation she also filed a Proposed Parenting Plan alleging no RCW 26.09.191 restrictions against Jeremy.

When Hope filed her Petition for Legal Separation, she also filed a request for a restraining order. CP 80-90. Jeremy agreed to a standard, mutual restraining order to preserve the peace and dignity of both parties. CP 92-101. The order set a hearing date for September 27, 2016. As part of that order, the parties agreed that Jeremy would have residential time with the children every week from Friday afternoon after school to Sunday at 6:00 p.m. CP 95.

With a pending hearing date of September 27, Jeremy had time to file a motion of his own. Accordingly, on September 13, 2016, Jeremy filed his own Motion and Affidavit for Temporary Family Law Order. CP 102-110. He also filed his own Proposed Parenting Plan requesting primary care of the children. CP 111-121. In the declaration supporting his motion (CP 105-110), Jeremy explained that during the previous six months, Hope's personality and demeanor had changed drastically. CP 105. She had walked away from the most important relationships in her life, including friends, family members and, of course, her husband. CP 105. She walked away from parenting duties and she was spending her

time sleeping, praying, and hanging around with a new person in her life, a woman named Beth Brokenborough. CP 105.

Jeremy explained that Hope filed her petition for a protection order based on false allegations. CP 105-106. He denied assaulting Hope or committing any domestic violence against her. CP 106. He alleged that instead, Hope wanted him to finance her moving out of the family home with the children so she could live with Beth. CP 106. Jeremy alleged that if Hope agreed to finance the move, he would still be able to see the children and she would be nice to him. CP 106. She told him that if he didn't agree with her demand, she would say that he assaulted her, she would get a protection order, she would have the police remove him from the home, and she would not let him see the children. CP 106. As mentioned above, Jeremy alleged that Hope used the protection order system to remove him from the home. CP 106.

Jeremy explained that Hope started spending most of her time with Beth. CP 105-107. He explained that Beth was allegedly demon possessed and she credits Hope with performing an exorcism on her and freeing her from the demons. CP 106. He explained that Hope believes that she can interpret Beth's dreams, and that Beth's dreams are communications from God. CP 106. He alleged that as Hope has gotten closer with Beth, she has moved away from her long-standing friends, including her friends in her church. CP 106. He alleged that Hope had gotten herself to a place mentally where she believed that God was telling

her to do things, except God's voice in this situation tended to be Beth's voice. CP 106.

Jeremy alleged that over the previous six months Hope had begun to take pain killers multiple times a day (Robaxin, Ibuprofen, and Excedrin), to help her sleep and alleviate pain she has in her hip and back. CP 106-107. He explained that Hope was sleeping 12-16 hours per day. CP 107. He said that she would go to bed at 7:00 p.m. and sleep for 12 hours. CP 107. He alleged that she would then get up, read her Bible and hang out with Beth until about 1:00 p.m. when she would take a nap until dinnertime. CP 107. She would then have dinner and go back to bed at 7:00 p.m. CP 107. Jeremy was concerned for Hope's health. CP 107.

Jeremy alleged that Hope's physical and emotional issues caused her to be less effective in caring for the parties' home, their children, and herself. CP 107. He alleged that the past year she showed a steep decline in all of these areas. CP 107. He alleged that if Hope was not sleeping, she was sitting on the couch reading her Bible or hanging out with Beth. CP 107. He alleged that Beth claims to see angels and demons and Hope claims that God has given her a specific job of interpreting Beth's prophetic visions. CP 107.

Jeremy alleged that just prior to filing his declaration, he learned that his then 13-year-old daughter Ellie had been "babysitting" the other children about 20 hours a week. CP 107. Hope would either be gone

from the home, resting in her room, or “praying” with Beth. CP 107. He alleged that when the children would get home from school, Ellie would have to feed them, put them to bed, and enforce discipline. CP 107. He alleged that during the previous two weekends with the children, he had seen some serious resentment from the three younger children toward Ellie as she was being forced to act as their parent in Hope’s home. CP 107. He realized that he had also seen tension, frustration and sadness in Ellie as she was pressed into a role that she didn’t want and should not have had to perform. CP 107.

Finally, Jeremy alleged that Hope moved the parties’ two youngest children from their previous school to a new school without his knowledge and against his wishes. CP 107-108. Once he found out that Hope had moved the children, he told her that he believed the less change and turmoil in their lives the better; Hope insisted on moving the children anyway. CP 108. He alleged that the children were upset and frustrated, and missed their old school. CP 108.

Jeremy filed declarations from friends and family, which verified his competency and involvement as a parent and expressed concerns about Hope’s activities and her health. CP 122-142.

Prior to the hearing, Hope took \$18,000.00 from the parties’ joint bank account. CP 146.

On September 27, 2016, Court Commissioner Mary Dicke entered a Temporary Family Law Order (CP 187-192) and a Temporary Parenting

Plan. (CP 193-203). In the Temporary Parenting Plan, Commissioner Dicke designated Hope as the children's primary parent, since she was living in the home with the children, and gave Jeremy three weekends per month with the children as well as a mid-week visit each week. CP 195-196. Commissioner Dicke appointed a Guardian ad Litem to investigate the parties' allegations. The Temporary Family Law Order entered on September 27, 2016 provided that Jeremy pay "unsegregated family support" to Hope in the amount of \$4,000.00 per month. CP 189. It also directed that each party pay 50% of the monthly mortgage payment on the family home, just under \$1,500 each. CP 190.

Hope's request for attorney's fees was "reserved." CP 192.

On January 4, 2017, attorney Dolores Sarandos was appointed as Guardian ad Litem.

On May 24, 2017 Court Commissioner Sabrina Ahrens entered a Temporary Family Law Order granting Jeremy's motion to have residential time with the children for half of their summer break. CP 236-239. Commissioner Ahrens ordered that "The parents shall share the summer break with the children equally, as follows: Week on/week off, unless otherwise agreed in writing, with the children spending the last week before school starts with Mother." CP 237.

On October 2, 2017, Ms. Sarandos filed her Guardian ad Litem report. CP 37-56.

Trial commenced on October 19, 2017 before the Honorable Kitty-Ann van Doorninck.

At trial, Hope testified that Ellie was struggling in school while in her primary care. RP 26. She testified that Ellie was in counseling. RP 32. She testified that Ellie was starting fires, and hoarding and stealing food. RP 33.

Hope testified that she contacted CPS, but CPS did nothing in response to her complaint. RP 39-40.

Hope testified that she had not worked since separation. RP 63-64. She testified that she had not looked for work until recently. RP 64. She testified that she just recently applied for four different jobs. RP 64.

Hope testified that she will not call Jeremy by his first name. RP 69-70.

Hope testified that despite all of her allegations of domestic violence, she never called the police and there are no independent witnesses to her claims. RP 71.

Hope testified that she made a loving Facebook post about Jeremy two weeks after the alleged domestic violence incident in June. EX 76; RP 79.

Hope testified that she would not pack clothes for the children to take when they visited their father. RP 81-82.

Hope testified that she would not cooperate in trading a residential day with Jeremy; she would only trade the day if she received a weekend in return. RP 84-85.

Hope testified that she accused Jeremy of hacking into her Google account, even though she found out later that he had not. EX 58; RP 89.

Hope testified that she left it up to the children as to whether she would trade a residential day with Jeremy. EX 61; RP 92. Hope testified that "in hindsight" she still thought it was a good idea to let the children choose. RP 94.

In her testimony, Hope accused Jeremy of "vast infidelity." EX 63; RP 94. She disclosed, for the first time, that she witnessed Jeremy receiving oral sex. RP 95. She testified that she believed that Jeremy was drugging her and taking her to sex parties. RP 95. She claimed that the sex parties were in Seattle. RP 100. She said that at least two prominent businessmen and "Commissioner Clint Johnson" were in attendance at the sex parties. RP 100. She testified that she believed Jeremy used a drug that would compel her to participate in the sex parties and forget everything afterward. RP 101. She testified that she assumed this although she never saw him put anything in her drink. RP 101. She testified that she never mentioned to Jeremy that she believed she had been drugged. RP 99.

Hope testified that she had repressed memories. RP 102. She testified that the memories were coming back to her. RP 102. She testified that she never worked with a psychologist or psychiatrist on her repressed memories; they just came back to her on their own. RP 103. She testified that during the times of the events (the sex parties) she never mentioned them to anyone else. RP 104. She admitted that she did not disclose this new information at her deposition on August 23, 2017, which was less than two months before trial. RP 104.

Hope testified that God told her not to go into the church that the family used to attend together. RP 105.

Hope testified that she did not tell the GAL, Dolores Sarandos, about the alleged drugging or the sex parties. RP 112.

Hope testified that she believed that Jeremy was sexually grooming Ellie. RP 113.

Hope testified that her friend Beth was staying with her. RP 114.

Hope testified that her friend Beth carried a gun. EX 72; 4P 115.

Hope testified that she instructed her children to call 911 and gave them instructions about what to tell the police. EX 73; RP 116-119.

Hope testified that she gave Ellie instructions about what to say to her father. EX 74; RP 121.

Hope admitted that she gift wrapped a copy of the Parenting Plan and gave it to Jeremy for Christmas. EX 75; RP 122.

Hope testified that she stuffed Jeremy's business suits into a cardboard box, wrote "VA-J-HOLE" on the outside of the box and gave it to Jeremy while the children were present. EX 83; RP 125. Hope testified that she felt that was appropriate. RP 126.

Jeremy testified that he never hit Gideon; he took silly string away from Gideon while Jeremy and the children were all praying together. RP 150-151.

Jeremy testified about Hope and Beth's interactions and the prophetic messages. RP 153.

Jeremy testified about Hope's claims that she had been told by God that she needed to spend more time with Beth. RP 164.

Jeremy testified that Hope tried to "cast demons" out of him. RP 172.

Jeremy testified that Hope had been sleeping more and drinking more alcohol during the last few months prior to separation. RP 173-174.

Jeremy testified about the June 27 alleged DV incident. RP 180.

Jeremy testified that Hope told him that if he would co-sign a lease for her she would move out and that if he didn't she would file for a protection order and he would never see the children. RP 191.

Jeremy testified that after the alleged June 27th DV incident, he and Hope still slept in the same bed and still engaged in marital relations. RP 193.

Jeremy testified about Gideon's ankle, which Jeremy had been accused of not seeking proper treatment for. RP 198.

Jeremy testified about Hope's claim that he did not provide feminine products for Ellie. RP 199.

Jeremy testified that the incident where he was accused of leaving the children alone and there was a "intruder" in the house (which there was not). RP 201.

Jeremy testified about the "VA-J-HOLE" box. RP 204-205.

Jeremy testified that he had never drugged Hope and had never taken her to a sex party. RP 206. He testified that he had never been to a sex party. RP 207. He testified that he had never been to the place in Seattle that Hope identified as the place where the sex parties occurred. RP 207-210.

Jeremy testified how he would take care of the children if they were in his primary care. RP 212-213.

Jodi Durr testified that she used to be a close friend of Hope's. RP 230. She testified that Hope ended the friendship after Hope started spending her time with Beth. RP 230-231. She testified that Hope told her about her visions and prophecies. RP 232. Jodi testified that Hope told her about visions of terrorists on US soil. RP 233. Jodi testified that she told Hope that she was concerned about Beth. RP 234. Jodi testified that Hope had never confided in her about any abuse by Jeremy. RP

236. Jodi testified that Exhibit 86 was an e-mail she sent to Hope. EX 86; RP 238.

Based primarily on the incredible testimony of Hope, the Court entered an immediate order at the close of trial on October 23, 2017. CP 300-301. The Order provided the children reside immediately with Jeremy and that Hope have supervised contact with the children. The Order also directed the parties to undergo psychological evaluations with Dr. James Manley.

In its ruling, the Court stated as follows:

THE COURT: I have a lot of things to say. I don't typically rule from the bench, and I'm not doing that, but I am going to enter some temporary orders.

Ms. Evarts, you're testimony was really, really frightening to me. Disturbing, frightening. I don't know whether it's true or not, doesn't sound like it to me, but I don't know. If it's not true, you've really slandered some people. And one of them is one of my judicial colleagues, which is a problem for him. So it's either true or it's not true. If it's true, he's a monster. If it's not true, you're a monster. There's no other way to say that.

I need help to sort this out. So I am going to order psychological evaluations of both of them. I need to have more information. I respect Laurie Harrison, as well. She didn't find any diagnosis with Mr. Evarts. She did find that Ms. Evarts had an adjustment disorder with anxiety and dependent personality. So she found a little something, at least. But I need to have a PhD level evaluation.

Since Thursday and your testimony, I have worried about your children. I've worried about this case. I have been doing this for almost 20 years, and I've never heard anything like this before. And it's

deeply, deeply disturbing. Except for in a criminal context, I must say, things happen in that context. But not with a dissolution, not when we're talking about children and we're talking about people's lives. So it's really scary to me.

So, I'm going to order that. The only person with money here is Mr. Evarts, so he's going to pay for that.

I would recommend - - I don't know if you have an idea of who can do that, but I need both of them to have evaluations by the same person. I want collateral information provided, including the testimony that she provided in open court.

I think there's a lot of fine people at Pacific Psychological Services, Dr. Manley and his crew. They do a lot of work in Juvenile Court and I there's six or eight PhD level people there. But I'm open to somebody else with a PhD level that you would recommend.

I noted in Laurie Harrison's that apparently in 2010 Ms. Evarts had some contact with Dr. Konzelmann. I do not want it to be him. I don't think that's appropriate.

It's what to do with the kids that I just struggle with. I really do. I don't disagree with having them go immediately to their father and having supervised visitation for you, because I don't know what else to do to protect them. I don't know what else to do.

As I said, I've lost a lot of sleep about this. I read a lot of the exhibits. I read a lot of the exhibits that are the texts and the communications, just as Mr. Loran said. There is no respect there. There's hatred, there's bitterness. Your credibility is questionable for me. But as I said, I need help with that.

So I think that's what I'm going to do. I am going to order that today they be transferred to their father

and she have supervised visitation until I get these psychological evaluations.

I hope, I hope that through this process - - this is temporary, this is only temporary - - that we can move closer. You guys couldn't decide yourselves, so then you bring it to me. Then there's this incredible testimony that happens on Thursday, and I'm struggling with what to do with it the whole time.

These children have two parents who love them, who love them to death, and want to support them. And I want them to have both of their parents healthy and happy and supportive to them. And I can't - - I can't let you be with them unsupervised right now. I just can't. I don't know what else to do.

So other pieces is we need to have an immediate appraisal of the home.

There's certainly - - if it's supervised visitation, both ways, there's absolutely no negative comments about the other parent.

I think the children needs to be in aggressive counseling. RP 279-282.

A review hearing was conducted on December 21, 2017. The Court had reviewed Dr. Manley's psychological evaluation reports. (CP 1053-1087). The Court ordered that supervised visitation for Hope would continue. RP 384. The Court ordered that Hope would engage in counseling per Dr. Manley's instructions. RP 384. The Court directed Hope to vacate the family home by December 31, 2017. RP 384. A presentation hearing was scheduled for January 19, 2018.

On January 19, 2018, the Court ordered that Kate Lee no longer be the visitation supervisor for the Evarts children. The Court further

ordered that it would give its oral ruling on the asset, liability and financial issues on January 26, 2018, and that it would also hear certain motions filed by Hope. (All RP 589)

On January 26, 2018, the Court entered final pleadings, including Findings of Fact and Conclusions of Law (CP 600-604), a Final Divorce Order (CP 592-599), a Final Parenting Plan (CP 605-612) and Order of Child Support (CP 613-625). The Court also entered an Order denying Hope's motion for disqualification of the judge. CP 591. Hope's Motion for Reconsideration/New Trial was denied since it was premature. CP 591. Hope filed a Motion for Reconsideration on February 5, 2018. CP 632. On March 2, 2018 an order was entered denying that motion. CP 638.

On March 12, 2018 Hope filed a Notice of Appeal.

In June, 2018, Ellie ran away from Jeremy's home. CP 948. Jeremy described in his June 27, 2018 declaration how Hope had encouraged Ellie to run away and instructed her on how to do it. CP 948-968. Jeremy further described in his supplemental declaration of June 28, 2018 how Hope, Beth, and their friends from "Adorned in Grace" orchestrated Ellie's run away. CP 973-996. On June 29, 2018, Judge van Doorninck conducted another review hearing and examined Ellie in camera. Judge van Doorninck issued an order directing that Ellie reside with Hope, to keep her from running the streets and to hopefully keep her in school the following school year. CP 996. Judge van Doorninck

directed that Ellie engage in counseling with a Master's level counselor who is state certified, and that the counseling not be used for litigation purposes. CP 716. Judge van Doorninck further ordered that the other three children remain with Jeremy and that those children not have any direct contact with Ellie, Hope, or through a third party, in person, in writing, or electronically. CP 716. She directed that there be no contact without further Court order. CP 716. She directed that Hope could arrange supervised visitation between the siblings at her expense. CP 716. Finally, Judge van Doorninck directed that Hope have supervised visitation with the children for two hours, once a week, with a professional supervisor, not Kate Lee. This visitation was to be with the three younger children. CP 716.

Finally, on August 17, 2018, Judge van Doorninck conducted another review hearing. She ordered that the previous temporary orders remain in effect. CP 849-850. She directed Hope to work with her counselor, Kashanda Harvey, to address Ellie's involvement with the case, pleadings and communications; Hope's feelings toward Jeremy; and how to support Ellie's relationship with Jeremy. CP 849-850. Judge van Doorninck ordered that Beth not have contact with the children, other than Ellie. CP 849-850.

II. ARGUMENT AND LEGAL AUTHORITY

1. Summary of Position

It is Jeremy's position that Judge van Doorninck did not abuse her discretion when fashioning the various awards and orders set forth in the final pleadings in this case. A trial judge is given great discretion in divorce proceedings and is in the best position to evaluate the evidence presented, particularly the live testimony of the parties and witnesses. Substantial evidence was submitted at trial, including Hope's own testimony, to support the conclusion that Hope was actively engaged in alienating the children from their father and otherwise damaging the children's emotional stability. Further, given that Hope received a substantial award of maintenance, and refused to work, during the sixteen months from the date of separation until the entry of final pleadings, and given the fact that Jeremy was going to be the sole financial support for four children moving forward, Judge van Doorninck did not abuse her discretion when awarding spousal maintenance to Hope. Finally, given the fact that Hope had \$18,000.00 in cash when the parties separated, given the fact that she failed to testify that she owed any attorney's fees prior to trial, given the fact that she was awarded virtually all of the parties liquid assets, and given the fact that Jeremy would continue to pay spousal maintenance as well as be the sole financial support for the children moving forward, Judge van Doorninck did not abuse her discretion in denying Hope's request for an award of attorney's fees.

Conversely, it is Jeremy's position that Hope's position in this appeal is not well founded and is frivolous; he is seeking an award of attorney's fees for having to respond to it.

2. The Standard For Review Of A Parenting Plan Is Abuse of Discretion.

As the Court of Appeals, Division II, stated in its opinion in *In Re Parentage of Schroeder*, 106 Wash.App. 343, 22 P.3d 1280 (2001):

The appellate court reviews the trial court's rulings on residential provisions in a parenting plan for an abuse of discretion. *Littlefield*, 133 Wash.2d at 46, 940 P.2d 1362. A trial court abuses its discretion only if its decision is manifestly unreasonable or based on untenable grounds or untenable reasons. *Littlefield*, 133 Wash.2d at 46–47, 940 P.2d 1362. A decision is manifestly unreasonable if, based on the facts and the applicable legal standard, the decision is outside the range of acceptable choices. *Littlefield*, 133 Wash.2d at 47, 940 P.2d 1362. A decision is based on untenable grounds if the findings are not supported by the record. *Littlefield*, 133 Wash.2d at 47, 940 P.2d 1362. Finally, a decision is based on untenable reasons if the court applies the wrong legal standard or the facts do not establish the legal requirements of the correct standard. *Littlefield*, 133 Wash.2d at 47, 940 P.2d 1362. **Because of the trial court's unique opportunity to observe the parties, the appellate court should be "extremely reluctant to disturb child placement dispositions."** *In re Marriage of Schneider*, 82 Wash.App. 471, 476, 918 P.2d 543 (1996), *overruled on other grounds*, *Littlefield*, 133 Wash.2d at 57, 940 P.2d 1362. *id* at 349 (*emphasis added*).

The various factors set forth by the *Schroeder* court in the excerpt above will be examined in greater detail in this brief. It bears repeating at this point, however, that the trial court's "unique opportunity to observe the parties" be focused upon because so much of the basis for Judge van Doorninck's parenting plan rulings was Hope's bizarre and disturbing testimony, the impact of which could only be experienced in the courtroom where the testimony was given.

3. The Trial Court's Mandate Is To Act In The Best Interest of the Children.

The policy behind the establishment of parenting plans is set forth in RCW 26.09.002. That statute states that:

In any proceeding between parents under this chapter, the best interests of the child shall be the standard by which the court determines and allocates the parties' parental responsibilities.

The statute goes on to state that:

The best interests of the child are served by a parenting arrangement that best maintains a child's emotional growth, health and stability, and physical care.

Judge van Doorninck made it clear that she was making rulings which she felt were in the best interest of the Evarts children, and rulings that would best maintain their emotional growth, health and stability. "Physical care" was never a question in this case, at least as far as normal care giving functions such as nutrition and hygiene. The danger to the Evarts

children in this case has always stemmed from Hope's inability to refrain from alienation.

4. The Objectives Of A Permanent Parenting Plan Are Set Forth in RCW 26.09.184(1).

The "objectives" of a permanent parenting plan are set forth in RCW 26.09.184(1), which states as follows:

- (1) OBJECTIVES. The objectives of the permanent parenting plan are to:
 - (a) Provide for the child's physical care;
 - (b) Maintain the child's emotional stability;**
 - (c) Provide for the child's changing needs as the child grows and matures, in a way that minimizes the need for future modifications to the permanent parenting plan;
 - (d) Set forth the authority and responsibilities of each parent with respect to the child, consistent with the criteria in RCW 26.09.187 and 26.09.191;
 - (e) Minimize the child's exposure to harmful parental conflict;**
 - (f) Encourage the parents, where appropriate under RCW 26.09.187 and 26.09.191, to meet their responsibilities to their minor children through agreements in the permanent parenting plan, rather than by relying on judicial intervention; and**
 - (g) To otherwise protect the best interests of the child consistent with RCW 26.09.002.**

Emphasis added.

The Court met these objectives in fashioning its ruling. The Court is maintaining the children's emotional stability by protecting them from their mother's active animosity toward their father, until she can demonstrate that she has obtained the help she needs. With its rulings, the Court has also minimized the children's exposure to harmful parental conflict. The Court's rulings are working to encourage the parents to get to a point where they can meet their responsibilities to their children through agreements, rather than judicial intervention, and the Court's rulings otherwise protect the best interests of the children in accordance with RCW 26.09.002 as discussed above.

5. The Trial Court Correctly Adopted Restrictions Under RCW 26.09.191

Based on the evidence before her, Judge van Doorninck placed restrictions on Hope's time with the children, requiring that Hope's residential time with the children be supervised. As will be further discussed below, this was based upon the substantial evidence Judge van Doorninck was presented with.

RCW 26.09.191(3) provides as follows:

(3) A parent's involvement or conduct may have an adverse effect on the child's best interests, and the court may preclude or limit any provisions of the parenting plan, if any of the following factors exist:

(a) A parent's neglect or substantial nonperformance of parenting functions;

(b) A long-term emotional or physical impairment which interferes with the parent's performance of parenting functions as defined in RCW 26.09.004;

(c) A long-term impairment resulting from drug, alcohol, or other substance abuse that interferes with the performance of parenting functions;

(d) The absence or substantial impairment of emotional ties between the parent and the child;

(e) The abusive use of conflict by the parent which creates the danger of serious damage to the child's psychological development;

(f) A parent has withheld from the other parent access to the child for a protracted period without good cause; or

(g) Such other factors or conduct as the court expressly finds adverse to the best interests of the child. (emphasis added)

A trial court has discretion to determine whether the evidence presented at trial meets the requirements of the statute providing for restrictions in parenting plans. *Matter of L.H.*, 198 Wash.App. 190, 391 P.3d 490 (2016). As part of the "abuse of discretion" analysis set forth in *Schroeder* above, the Appellate Court must determine if the trial court's findings are "supported by the record." *Schroeder*, at 349. In our case, there was substantial evidence that Hope was harming and/or potentially harming the children emotionally and psychologically by deliberately involving the children in the litigation, by disparaging Jeremy to the children, by coaching the children, and by contriving incredible stories of

physical and sexual abuse that are not only totally farfetched but are totally uncorroborated.

Here is a brief review of the evidence:

1. Prior to the first hearing for temporary orders in this case, Jeremy warned the Court of Hope's recent change of attitude, her isolation from friends and family, her involvement with her new friend Beth and end-time prophecies and dream interpretations, and her increasing hostility. CP 105-110. RP 164-167; 177-178.

2. Hope threatened Jeremy that if he would not sign a lease for a residence for her, Beth and the children to live in, she would file a petition for a protection order and keep the children away from him. He did not sign the lease and she filed the petition. CP 106. RP 191.

3. Hope began spending all of her time with Beth. Not coincidentally, Hope began her ever increasing campaign against Jeremy. RP 153-155; 164-168.

4. When she filed her Petition for Legal Separation, Hope also filed a Proposed Parenting Plan with no basis for restrictions against Jeremy alleged (despite her later claims of domestic violence, drugging and sexual abuse) and even proposed week on/week off schedule in the summer. CP 80-90.

5. At the beginning of the case, Hope's written communication with Jeremy as somewhat civil and she would refer to him as "Jeremy." As the case progressed, she refused to use his given name,

despite his request that she do so, and would only refer to him as “Evarts” or “Lucius.” RP 69-70.

6. Hope refused to pack and send clothes with the children for their residential time with their father. RP 81-82.

7. Hope refused to be flexible in trading residential time, responding to Jeremy's request to trade a day with an offer to trade an entire weekend. RP 84-85.

8. Hope accused Jeremy of hacking into her Google account, even though it was not true. RP 89; EX 58.

9. When Jeremy later requested to exchange a day, Hope left it up to the children. RP 92. In hindsight, she thought it was a good idea to let the children choose. RP 94. Another time, she let the children “vote” on whether she should trade residential days with Jeremy. RP 106.

10. Even though Hope never witnessed any abuse with the children (RP 113), she accused him of “sexually grooming” Ellie. RP 113.

11. Hope let her friend Beth move into the house (RP 114) and thought it was appropriate that Beth carry a handgun. RP 115; EX 72.

12. Hope sent text messages to the children, instructing them to call 911 when they were at their father's house and instructing them what to tell the police. RP 116-119; EX 73.

13. On another occasion, she gave Ellie instructions via text messages on how to confront her father. RP 121; EX 74.

14. Despite claiming that Jeremy was abusive, Hope thought it appropriate to send him a sarcastic Christmas gift, a gift-wrapped copy of the Temporary Parenting Plan. RP 122; EX 75.

15. Despite later claiming that Jeremy was highly abusive, Hope gave him effusive Father's Day and Valentine's Day cards. RP 123; EX 77.

16. Despite claiming that Jeremy was highly abusive, Hope thought it was appropriate to stuff his business suits into a cardboard box, label the box "VA-J-HOLE" and present him with the box during an exchange of the children. RP 125-126; EX 83

In addition to the evidence identified above, Hope presented the Court with incredible testimony at the time of trial.

1. Hope testified that she "witnessed" Jeremy receiving oral sex. RP 95. At her deposition, she did not disclose that she had witnessed anything. RP 96.

2. Hope testified that from the time of her deposition until the time of trial, repressed memories were "filling in" in her mind. RP 102. This was in spite of the fact that Hope had never worked with a psychologist or psychiatrist on repressed memories. RP 103.

3. Hope testified that she believed Jeremy was drugging her with a drug that would compel her to participate in sex parties and forget everything afterwards. RP 101. She testified that she believed this despite the fact that she never saw Jeremy put anything in the drinks she

consumed. RP 101. She testified that she was assuming that was what he did. RP 102.

4. Hope testified that she never mentioned to Jeremy the fact that she suspected him of drugging her. RP 99.

5. Hope testified that she was being taken to sex parties at a law office in the Fremont neighborhood of Seattle. RP 100. She identified at least two prominent businessmen and Court Commissioner Clint Johnson as people who were present at the sex parties. RP 100.

6. Hope testified that during the times of the events, she never mentioned them to anyone else. RP 104.

Arguably, it was this testimony, in large part, that led Judge van Doorninck to order immediate placement of the children with Jeremy post-trial and which compelled her to direct the parties to receive full psychological evaluations. Again, Hope's testimony was completely incredible and completely uncorroborated.

The Court also had the testimony of Jodi Durr to rely upon. RP 230-240. Ms. Durr testified that she had a close relationship with Hope. RP 231. Ms. Durr testified that Hope ended the relationship abruptly in December, 2016. RP 231. Ms. Durr testified that Hope told her about prophetic visions and prophecies. RP 232. Ms. Durr indicated that Hope's friend, Beth, was seeing angels and demons. RP 232. Beth was also having prophetic-like visions about terrorists on the U.S. soil taking over the country and marshal law being enacted. RP 233. Beth

prophesied that one of the Evarts children, Ezekiel, would be dead and no longer living with them when these things occurred. RP 233.

Ms. Durr testified that she sent Hope a few letters saying that she had concerns for Hope and was concerned about Beth and the influence that she was having on Hope's life. RP 234. The letters also indicated that Ms. Durr was concerned that Hope was pulling away and isolating herself from the people that loved her. RP 234. Ms. Durr confronted Hope about Hope and Beth later lying about the angels, demons and prophecies. RP 235. Hope cut off her relationship with Ms. Durr at that point. RP 235.

Over the years, Hope never complained to Ms. Durr about Jeremy being abusive. RP 236. Hope never complained to Ms. Durr about Jeremy being manipulative or controlling. RP 236. Hope never confided in Ms. Durr any sexual abuse by Jeremy. RP 236. Hope never confided in Ms. Durr any sexual infidelity by Jeremy. RP 236.

Ms. Durr never observed anything in Hope's attitude or demeanor or countenance that caused her to believe that Hope was being abused. RP 236. Ms. Durr never saw anything in Hope's attitude, countenance or demeanor that caused her to believe that Hope was being manipulated by Jeremy. RP 236.

Ms. Durr observed that Hope was able to stand up to Jeremy. RP 236. Ms. Durr observed that Hope was not, in any way, frightened or intimidated by Jeremy. RP 237.

In Ms. Durr's last face to face conversation with Hope, Hope admitted that Jeremy had never abused her in the past, and she admitted that Jeremy had never abused the children in the past. RP 237.

Hope sent Ms. Durr an e-mail wherein she referred to Jeremy as a "tool" and then said "I speak out just as much to him, but I am calculated and every word is placed just so. I'm way meaner." EX 86; RP 238.

The other substantial piece of evidence the Court had to rely on was the psychological evaluation report of Hope Evarts prepared by Dr. James Manley, Ph.D. CP 1053-1087. In his report, Dr. Manley relied extensively on Hope's deposition transcript as well as her trial testimony. CP 1056-1063. Dr. Manley quotes from both transcripts extensively. Dr. Manley also relied on the testimony of Jodi Durr. CP 1063-1066.

Dr. Manley performed a variety of psychological tests on Ms. Evarts. As a result of the Personality Assessment Inventory he performed on Hope, Dr. Manley concluded as follows:

Ms. Evarts attended appropriate and responded consistently to similar test items. She approached the test defensively. Her pattern of responses suggests that she tends to portray herself as being relatively free of common shortcomings to which most individuals will admit.

She appears reluctant to recognize minor faults in herself. Given the apparent tendency to repress undesirable characteristics, the interpretive hypotheses in this report should be reviewed with caution.

These problem areas may be related to current stressors or complicated life circumstances. She is

quick to feel that she is being treated inequitably and easily believes that there is a concerted effort among others to undermine her interests.

Ms. Evarts does not appear to be motivated to seek mental health treatment. Her interest in and motivation for treatment is comparable to that of adults who are not being seen in a therapeutic setting. Her responses suggest she is satisfied with herself as she is, she is not experiencing marked distress, and as a result, she sees little need for changes in her behavior. CP 1078-1079.

As a result of the Minnesota Multiphasic Personality Inventory-II (MMPI-II) that Dr. Manley performed on Hope, Dr. Manley concluded as follows:

Ms. Evarts responded to the items in a defensive manner. She attempted to project a highly favorable self-image, denying psychological problems and claiming excessive virtue. The marked evasiveness reflected in this response pattern suggests the possibility of conscious distortion of item responses. CP 1079.

As a result of the Million Multiaxial Clinical Inventory-III (MCMI-III) that Dr. Manley performed on Hope, Dr. Manley concluded as follows:

The resulting MCMI-III profile of Ms. Evarts is best characterized by an active solicitation of attention and praise and a need for affection and security. Her fear of abandonment often leads her to seek nurturance by acting in an overly obliging or even seductive way. At times, she may act in a gregarious and superficially charming manner, seeking attention through various forms of self-dramatizing behavior.

There is a reasonable likelihood that she feels helpless when faced with responsibilities that demand decisiveness or initiative on her part. The loss of a significant source of support or

identification may prompt acute distress, and she is likely to solicit reassurance and approval in direct and dramatic form.

Guilt, illness, anxiety, and depression may be exhibitionistically and instrumentally displayed to deflect criticism and to transform threats to security into gestures of support and sympathy. More extreme reactions may emerge when her attention and dependency needs are severely threatened. CP 1080-1081.

Dr. Manley diagnosed Hope with dependent personality disorder, with histrionic traits; and adjustment disorder, with anxiety and depression. CP 1082.

At the top of page 30 of Dr. Manley's report (CP 1082) Dr. Manley notes that "It seems her [Hope] emotion and opinion toward Mr. Evarts has had some impact on the children." Further, on page 33 of his report (CP1086), Dr. Manley noted that:

In conclusion and based on the available information, Ms. Evarts suffers from a Dependent Personality, with histrionic personality traits. This condition leaves her indecisive and vulnerable to influence by others. While Ms. Evarts' report of verbal domestic abuse seems plausible, **I do not find her claims of being drugged, moved, and led to engage in sexual acts in front of strangers credible. In addition, her report of hundreds of instances of physical domestic violence is also unlikely.** Still, there is ample report of Mr. Evarts' dysregulated anger and implied violence through aggressive behaviors.

I also conclude Ms. Evarts has solid parenting competencies. She is not viewed as at risk for physical child maltreatment. **However, her elevated level of defensiveness, repressed anger, along with her negative and polarized**

perspective of Mr. Evarts may emotionally impact the children.

She is also vulnerable to the influence of others due to her dependent personality. Concerning is Ms. Evarts has decided to terminate several local long-term friendships. She seems isolated her from the people who know her and have supported her in the past. This appears to be particularly salient during this stressful time for Ms. Evarts and her children. (emphasis added)

Dr. Manley's conclusions cannot be ignored.

It should also be considered that once school was out in June, 2018, Ellie ran away from Jeremy's home. CP 948. This was discussed previously in this brief. What also needs to be considered, however, is that after Judge van Doorninck placed Ellie temporarily with Hope on Friday, June 29, 2018, Hope filed a petition for a domestic violence protection order in Thurston County Superior Court the very next business day seeking a no-contact order for Ellie against Jeremy. This was described in Jeremy's August 14, 2018 declaration (CP 1018-1038) as follows:

At the review hearing held on June 29, 2018, Hope was granted temporary custody of our oldest daughter Ellie. Since that time, Hope has continued her destructive and alienating behavior towards me. At that hearing, Judge van Doorninck agreed that Hope was involved in inappropriate communication with Ellie prior to her running away and made it very clear in her ruling that Hope was to keep Ellie out of any and all court issues. As the Court is aware, the very next business day Hope filed a petition for a DVPO in Thurston County, under Cause Number 18-2-30530-34, in an attempt to obtain a protection order against me that would

bar me from having contact with Ellie. At the DVPO hearing on July 26, 2018, it was apparent the extent to which Hope would go to put Ellie right in the middle of the litigation.

At the hearing, Hope presented a "declaration" that she and her friend Beth Brokenborough had Ellie write - see *Exhibit "A"*. It is in the form of an email. I have attached it for two reasons. First, you can see that writing reads very differently than any of the previous three letters Ellie wrote to Judge van Doorninck. It reads exactly like the declarations Hope has submitted, making many of the same types of accusations that Hope has falsely made in Court, and it uses phrases that have been absent from any of Ellie's previous letters. Second, the declaration is not submitted to Hope by Ellie, but it is sent to Beth. The Court is aware of Beth, whose name has come up many times in this Court case as being a disruptive and harmful person in the lives of Hope and our children. Clearly, Beth is assisting Hope in encouraging alienating and harmful actions in Ellie's life. Why would she be the person requesting and receiving this information and not Hope herself? Beth is and has been allowed too much negative influence in the life of Ellie and Beth having contact with Ellie is not in Ellie's best interest.

Thurston County Court Commissioner Nathan Kortokrax conducted an oral testimony hearing in the DVPO matter and denied Hope's petition – see *Exhibit "B"*. I believe it is fair to say that he was disturbed and dismayed.

The bottom line is there was substantial evidence to support Judge van Doorninck's rulings, and it is frivolous for Hope to argue otherwise.

6. Case Law Supports Jeremy's Position

Numerous cases, including cases cited by Hope in her brief, support Jeremy's legal positions in this matter.

In *In Re Marriage of Farr*, 87 Wn.App. 177, 940 P.2d 679 (2013), the Court of Appeals, Division I, held that there was substantial evidence to support a finding that the father of the children in the case circumvented the parenting plan by exposing the children to parental conflict; that doing so was harmful to the children and warranted a finding of contempt against the father as well as a suspension of his residential time with the children. The father's alienating behavior was similar to Hope's behavior.

In *In Re Marriage of Burrill*, 113 Wash.App. 863, 56 P.3d 993 (2002), the Court of Appeals, Division I, held that wife's allegations that husband was an unfit parent were unfounded, and that the unfounded allegations created the danger of serious psychological damage to the children, warranting not only restrictions on the wife's residential time with the children, but a substantial award of attorney's fees in favor of husband. The wife's false allegations about the father were similar to Hope's false allegations about Jeremy.

Hope discusses the case of *In Re Marriage of Chandola*, 180 Wn.2d 632, 327 P.3d 644 (2014), in her brief. She argues that *Chandola* stands for the proposition that the "catchall" provision of RCW 26.09.191(3)(g) requires an elevated finding of harm to the children in

order to be utilized. Hope's argument is misplaced, however, because Judge van Doorninck did not rely on the catchall provision. Instead, the Judge made specific findings that Hope suffered from a long-term emotional problem that affected her parenting; that Hope uses conflict in a way that endangers or damages the psychological development of a child; and the Judge specifically adopted the forensic conclusions of Dr. James Manley.

Hope relies on the unpublished opinion of *In Re Marriage of Gohar*, 69920-2-I, 70420-6-I (2014) for the proposition that in order to sustain a RCW 26.09.191(3) finding there must be substantial evidence supporting the finding. Hope provides no analysis, however, of the evidence in our case and provides no analysis, other than mere suggestion, that the evidence in the case was not "substantial." Hope makes the same argument with the unpublished opinion of *In Re Marriage of Bodge*, 76954-5-I (2018). Again, Hope provides no analysis or explanation, beyond mere assertion, as to how the evidence in this case could not or should not be deemed "substantial."

7. The Trial Court Did Not Err In Awarding Spousal Maintenance To Hope.

RCW 26.09.090 sets forth the law governing a trial court's award of spousal maintenance in a divorce case. The statute directs the trial court to consider "all relevant factors including but not limited to" the six specific factors set forth thereafter.

It is agreed that the trial court can consider the property division in awarding spousal maintenance. It can likewise consider spousal maintenance in its determination of its property division. *In Re Marriage of Crosetto*, 82 Wash.App. 545, 559, 918 P.2d 954 (1996). Similarly, it is agreed that the award of spousal maintenance is within the discretion of the trial court. *In Re Marriage of Bulicek*, 59 Wash.App. 630, 633, 800 P.2d 394 (1990). Finally, it is agreed that the standard of review of a spousal maintenance order is abuse of discretion. *In Re Marriage of Washburn*, 101 Wash.2d 168, 179, 677 P.2d 152 (1984).

In our case, the Court considered the evidence before it as well as the statutory factors. The evidence revealed that Jeremy had monthly gross earnings of \$12,094.00 and average monthly net earnings of \$8,056.00. EX 88. The evidence revealed that his average monthly expenses were \$6,597.00. EX 88. The evidence revealed that Jeremy had been living as cheaply as he could while the case was pending, paying about 55% of his income to Hope each month. CP 187-192. The evidence also revealed that Hope, on the other hand, did nothing to secure employment during the 14 months between the date of separation and the commencement of trial. RP 63-64.

The evidence revealed that Hope is college educated; she has a Bachelor's Degree in Horticulture. RP 25. The evidence also revealed that Hope had no viable plan for reeducation. RP 53-55. Between the time of her deposition in August and the trial in October, Hope decided

that she would pursue an MBA, but again, provided no viable plan for reeducation. RP 53-55.

Most importantly, Jeremy ended up with virtually the entire responsibility of financially supporting the parties' children. The Child Support Worksheets adopted by the trial court as part of its Final Order of Child Support, reveal that the total support obligation for children is \$3,287.00 per month. CP 621. Hope was ordered to pay the statutory minimum of \$50.00 per child, or \$200.00 per month, to be offset against the maintenance that Jeremy was ordered to pay her. CP 615-616. Thus, Jeremy was not only ordered to pay spousal maintenance each month for a year, he was ordered to be financially responsible for the remaining \$3,087.00 per month in support for the children, as well as 100% of the children's health insurance (CP 617) and uninsured medical expenses (CP 618). When the support of the children and the monthly mortgage payment of nearly \$3,000.00 are considered, it is obvious that Jeremy was left to spend more than his average monthly net income each month.

It should also be noted that Hope made a completely unrealistic request for spousal maintenance at trial - she requested \$7,000 per month for four (4) years along with child support of \$1,696, for a total monthly transfer payment of \$8,696 per month. RP 58.

"The only limitation on the amount and duration of maintenance under 26.09.090 is that the award must be just." *In Re Marriage of*

Wright, 179 Wash.App. 257, 269, 319 P.3d 45 (2013). Considering all of the factors in this case, including Jeremy being responsible for the support of the children, as well as the mortgage on the home the children would live in, the amount and duration of maintenance awarded to Hope was fair, equitable, and “just.”

8. The Trial Court Did Not Err By Refusing To Award Hope Attorney’s Fees.

RCW 26.09.140 allows the trial court to require a party to pay a reasonable amount toward the other party’s attorney’s fees, after considering the financial resources of the parties including the requesting party’s need for the fees and the other party’s ability to pay the fees. *In Re Marriage of Spreen*, 107 Wn.App. 341, 351, 28 P.3d 769 (2001). The standard of review is abuse of discretion. *Id.*, at 351.

While Jeremy undoubtedly had more income at the time of trial than Hope did, he was also saddled with the virtually all of the financial support for the parties’ four children, the mortgage on the children’s home, and little in the way of cash reserve. Please note that Jeremy was ordered to pay for the psychological evaluations of the parties’ post-trial, which was thousands of dollars, as well as the appraisal of the family home, while continuing to pay Hope \$4,000 per month in maintenance and half of the mortgage payment from October, 2017 through January, 2018. (CP 301). Hope, on the other hand, was refusing to work and generate income of her own and was ordered to pay the statutory

minimum for the support of the children, \$50.00 per child. It cannot be effectively argued that under the circumstances of the case, Jeremy should be ordered to contribute to Hope's attorney's fees.

It should also be noted that Hope took \$18,000.00 from the parties' joint bank account at the time of separation and had that amount of savings to finance this litigation. CP 146. Further, she was receiving \$4,000.00 per month in spousal maintenance and child support from Jeremy for the 14 months the case was pending, in addition to Jeremy paying half of the mortgage payment for the home she was living in. CP 187-192. As mentioned above, Jeremy was giving Hope over 55% of his monthly net income each month. Jeremy was making it financially each month by house sitting for a friend.

Finally, it should be noted that Hope was awarded virtually all of the cash assets of the parties; the lion's share of Jeremy's 401(k) account and the Edward Jones account. CP 593. Hope was awarded over \$260,000.00 from those accounts, which could be liquidated upon dissolution. CP 593. Hope had ample cash to pay her attorney's fees. Jeremy, on the other hand, was awarded the bulk of his value in the form of home equity. CP 593.

9. The Trial Court Did Not Err By Denying Hope's Motion For Recusal.

In the case of *In Re Marriage of Farr*, discussed above, the appellant husband, among other things, appealed the trial court's denial

of his motion for recusal. In that case, the Court of Appeals, Division I, stated as follows:

Martin finally argues that the trial judge abused her discretion by denying his motion for recusal. Recusal lies within the sound discretion of the trial court. *State v. Bilal*, 77 Wash.App. 720, 722, 893 P.2d 674, review denied, 127 Wash.2d 1013, 902 P.2d 163 (1995). A party should move for recusal before the judge has made any rulings. RCW 4.12.040. Martin failed to do so and thus needed to demonstrate prejudice on the judge's part. RCW 4.12.040; *State v. Cameron*, 47 Wash.App. 878, 884, 737 P.2d 688 (1987). Although Martin may disagree with the court's rulings, the record fails to reflect any evidence of bias.

Further, the Court's attention is directed to the memorandum filed by Jeremy on January 24, 2018, in response to Hope's motion for disqualification of Judge van Doorninck. CP 861-864. Additional law in opposition to disqualification/recusal is set forth therein. CP 862-863. At the end of the day, it was Hope's burden to provide evidence that the trial judge was biased against her and she has failed to provide any evidence whatsoever.

10. The Court Did Not Err By Failing To Distribute The 2016 Federal Income Tax Refund; Rather, The Court Addressed The Issue.

Hope offers one sentence of argument to support her contention that Judge van Doorninck failed to distribute the 2016 Federal Income Tax refund. She seems to suggest that the refund was an "undistributed asset." To the contrary, Section 9 of the parties' Final Divorce Order,

page 3, line 20-21, awards to Jeremy “any other financial accounts in his name solely.” CP 594. The Court had both parties’ Pre-Trial Information Forms and proposed spreadsheets to consider. The Court understood how much money each party had in their various bank accounts at the time of trial and the Court awarded each of them the “financial accounts” in their separate names. CP 593-594. At the time of trial, the tax refund was not its own separate asset; rather, it was money already in the bank accounts of the parties. The Court saw no reason to redistribute those funds.

11. Attorney’s Fees on Appeal.

For all the reasons discussed above regarding the financial issues raised by Hope, Hope’s request for attorney’s fees on appeal should be denied.

Conversely, Jeremy’s request for an award of attorney’s fees on the appeal should be granted. Hope’s appeal is frivolous.

In determining whether an appeal is frivolous, the Court should consider the following:

- (1) A civil appellant has a right to appeal under RAP 2.2;
- (2) all doubts as to whether the appeal is frivolous should be resolved in favor of the appellant;
- (3) the record should be considered as a whole;
- (4) an appeal that is affirmed simply because the argument are rejected is not frivolous;
- (5) an appeal is frivolous if there are no debatable issues upon which reasonable minds might differ, and it is so total devoid of merit that there was no reasonable possibility of reversal.

Streater v. White, 26 Wn.App. 430, 435, 613 P.2d 187 (1980); see also *Delany v. Canning*, 84 Wn.App. 498, 510, 929 P.2d 475 (1997).

Hope's argument on appeal is that there was insufficient evidence for the Court to reach the conclusions it reached and to order the Parenting Plan, spousal maintenance and attorney's fees that it ordered. Hope, however, has failed to explain how the trial court record was insufficient to support a finding of "substantial evidence" or how Judge vanDoorninck otherwise abused her discretion. Accordingly, Hope's positions are totally devoid of merit and her appeal is frivolous. Upon the filing of an attorney fee affidavit, Jeremy should be awarded attorney's fees on appeal.

III. CONCLUSION

For the reasons set forth above, Jeremy Evarts requests that the trial court's rulings be upheld, that Hope Evarts' requests for relief be denied, and that Jeremy be awarded attorney's fees and costs.

Dated this 2nd day of November, 2018.

RESPECTFULLY SUBMITTED,



Joseph J. Loran, WSBA #14746
Attorney for Respondent Jeremy Evarts

DECLARATION OF TRANSMITTAL

Under penalty of perjury under the laws of the State of Washington I affirm the following to be true:

On this date I transmitted the original document to the Washington State Court of Appeals, Division II, by email, and delivered a copy of this document via e-mail to:

Robert Helland
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Signed at Tacoma, Washington on this 2nd day of November, 2018.



Joseph J. Loran WSBA #14746
Attorney for Respondent, Jeremy Evarts

LORAN & RITCHIE, P.S.

November 02, 2018 - 3:10 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 51579-2
Appellate Court Case Title: In Re The Marriage of Elizabeth H. Evarts, Appellant v Jeremy L. Evarts,
Respondent
Superior Court Case Number: 16-3-03312-1

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