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No. 52160-1-II

COURT OF APPEALS, DIVISION II  
OF THE STATE OF WASHINGTON

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In re the Marriage of:  
BRENDA A. WILSON,  
Appellant/Cross-Respondent,  
and  
GARY W. WILSON,  
Respondent/Cross-Appellant.

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APPEAL FROM THE SUPERIOR COURT  
FOR CLARK COUNTY  
THE HONORABLE SUZAN L. CLARK

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BRIEF OF RESPONDENT/CROSS-APPELLANT

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## I. INTRODUCTION

Both spouses appeal the final orders dissolving their marriage. This Court should affirm on the wife's appeal, which challenges fact-based discretionary decisions – including one decision that, even if error, was invited. For instance, the wife challenges the trial court's decision to adopt the accounting of the court-appointed expert over the accounting by the wife's chosen expert, but in doing so utterly fails to meet the heavy burden of showing the trial court abused its discretion, given its "wide latitude in the weight to give expert opinion." *Marriage of Sedlock*, 69 Wn. App. 484, 491, 849 P.2d 1243, *rev. denied*, 122 Wn.2d 1014 (1993). The wife also challenges the finding that her monthly net income was \$12,000 even though she specifically requested the trial court find her income to be that amount. (RP 229; CP 110)

The husband's cross-appeal identifies the only errors made below. The trial court erred in deviating the standard calculation for child support to zero when the children reside equally with both parents and the wife's income is nearly double that of the husband. The trial court also erred in awarding the wife more of the community estate and a portion of the husband's separate property

contrary to the terms of the parties' prenuptial agreement, which the trial court found "valid and enforceable."

This Court should affirm on the wife's appeal, and reverse on the husband's cross-appeal.

## **II. CROSS-APPEAL ASSIGNMENTS OF ERROR**

1. The trial court erred in deviating the child support transfer payment from \$1,912.48 to zero based on its finding that "the children in this case spend significant time with the parent who owes support. The non-standard amount still gives the other parent's household enough money for the children's basic needs." (CP 44)

2. The trial court erred in awarding the wife more of the community estate than the husband. (CP 35-41)

3. The trial court erred in awarding the wife \$39,000 from the husband's separate property as an "offset" against the judgment the wife was ordered to pay the husband, based on its finding that the husband "failed to prove community debt." (CP 20)

## **III. CROSS-APPEAL STATEMENT OF ISSUES**

1. The standard calculation for child support applies to shared residential schedules, where children reside equally with both parents. When the wife has nearly double the net income of the husband, did the trial court err in deviating from the standard

calculation to order a zero transfer payment when the court made no consideration of any increased expenses in the wife's home or any decreased expenses in the husband's home as a result of the residential schedule?

2. The trial court found the parties' prenuptial agreement valid and enforceable. The agreement states that "the parties' community assets and debts shall be divided as equally as possible." Did the trial court err in awarding a disproportionate share of the community estate to the wife?

3. The prenuptial agreement provides that "in dividing assets and liabilities of their marital community, the separate property of each party shall not be taken into account directly or indirectly." Did the trial court err in awarding the wife \$39,000 as "reimbursement" for a payment of \$70,000 made by the husband to his father out of the husband's premarital separate property account?

#### **IV. RESTATEMENT OF FACTS**

**A. The parties were married for 13 years, and have two children.**

Respondent/Cross-Appellant Gary Wilson and Appellant/Cross-Respondent Brenda Wilson were married on May 1, 1999, and separated on December 28, 2012. (CP 16) They have two sons, ages 11 and 14 at the conclusion of trial. (CP 52) Brenda is a real estate

broker; Gary works for U.S. Fish & Wildlife Service. (See RP 309, 328)  
Although they had been separated since the end of 2012, the parties' marriage was not dissolved until June 12, 2018, after a 16-day trial, which began in March 2017, but did not conclude until March 2018. (CP 13-16, 30)

**B. The parties had and abided by a prenuptial agreement.**

The parties executed a prenuptial agreement before marrying, with the intent of establishing each party's rights in their separate property. (Ex. 1 at 2) The parties agreed to "be completely independent of the other and shall be entitled to solely manage, enjoy, encumber, hold, sell, convey, gift, lease and dispose of all their separate properties, whether owned by either of them at the commencement of or acquired by them subsequent to the marriage, without the signature or joining in by the other party" (Ex. 1 at 3), and that certain properties already owned by each "are and shall continue to be the separate property of" the owning spouse. (Ex. 1 at 2-3) Assets Gary owned before marriage included a house, his Thrift Savings Plan through his employment with the U.S. Fish and Wildlife Service, and bank accounts, including a Yakima Valley Credit Union savings account no. 9159. (Ex. 1, Schedule A) Assets Brenda owned

before marriage included bank accounts, a life insurance policy, and a one-third interest in a business. (Ex. 1, Schedule B)

The parties agreed that all property acquired in their own name “shall remain separate and free from any claim of the other party that the property so acquired is community or common property, regardless of whether such funds are placed in a community or common name or fund.” (Ex. 1 at 3) The parties also agreed that all income, “including but not limited to salaries, draws, interest, pension payments and investment income earned or received by either party from employment or any other source shall be deemed the separate property of each party.” (Ex. 1 at 12)

Under the prenuptial agreement, if there was dispute as to whether an asset was separate or community property, the burden of proof was upon the party contending that an asset was community property. The parties acknowledged “from time to time that third parties may require that both parties’ names be placed on the title” to a party’s separate property, but provided that such titling will “not cause that effected party’s separate property to become common or community property and the separate value of the property shall continue unless both parties acknowledge, in a separate writing, that it is the intent of the parties that the separate property so affected

shall become common or community property of the parties.” (Ex. 1 at 3-4)

While defining the parties’ rights to their separate property, the agreement also provided for the creation of community property. “To do so, they shall either (a) acquire the property in both parties’ names; (b) purchase it from a common bank account; or (c) execute a written agreement so classifying the property.” (Ex. 1 at 8)

In the event of divorce, each party agreed to not pursue a claim against the other’s separate property, or to seek spousal maintenance or an award of attorney fees or costs. (Ex. 1 at 14) The parties agreed that any “community assets and debts shall be divided as equally as possible” (Ex. 1 at 15), and that “in dividing assets and liabilities of their marital community, the separate property of each party shall not be taken into account directly or indirectly.” (Ex. 1 at 14)

**C. The parties purchased several investment real properties as community property.**

The parties maintained their separate property, and created community property, pursuant to the terms of their prenuptial agreement. They maintained separate bank accounts, with the exception of three accounts, established as community bank accounts, that were used to pay general household expenses or fund community real estate business activities. (RP 515-17) Each party

funded the community accounts from their separate property accounts, with the intent that those funds would be used for a community purpose. (*See* RP 256, 516)

During the marriage, the parties purchased six real properties, still owned at the time of trial, that they agreed were community property. With the exception of the family residence, these were rental or investment properties that the parties managed during the marriage:

1) **806 NW 209<sup>th</sup> Street, Ridgefield, Washington.** The parties acquired the family residence in 2010. (*See* RP 137) Gary valued this property at \$430,000 (RP 95, 524); Brenda at \$625,000, based on a later appraisal. (RP 800-01) The mortgage, as of July 2016, was \$211,506. (RP 525) The trial court found a net value of \$308,000. (CP 23)

2) **6890 Robin Court, Redmond, Oregon** (the “Eagle Crest condominium”). The parties acquired this vacation rental property, owned free and clear, in 2002 (RP 514-15, 519), and stipulated that its value was \$291,000. (RP 7, 69, 518)

3) **5903 NE 37<sup>th</sup> Street, Vancouver, Washington.** The parties acquired this rental property, owned free and clear, in 2005. (RP 519, 521) The parties presented competing appraisals for

this property. Gary valued the property at \$157,500 (RP 521); Brenda at \$222,000. (RP 804) The trial court found the value was \$185,000. (CP 26)

4) **1798 SE Columbia River Drive, Vancouver, Washington.** The parties acquired this commercial property during the marriage. (RP 261) It was titled in the name of a limited liability company to guard against liability. (RP 67, 261-62) The parties stipulated to a value of \$385,000 (RP 7); the mortgage was \$212,700. (RP 68, 523) The trial court found a net value of \$172,300. (CP 26)

5) **1800 SE Columbia River Drive, Vancouver, Washington.** The parties also acquired this commercial property, located across the street from 1798 SE Columbia River Drive, during the marriage (RP 265-66), and it was also titled in the name of a limited liability company to guard against liability. (RP 270) Brenda uses this property for her real estate office. (RP 69) The parties stipulated to a value of \$390,000 (RP 7, 69); at the time of trial, the mortgage was \$175,300. (RP 69, 522) The trial court found a net value of \$214,700. (CP 26)

6) **738 SE Fairwinds Loop, Vancouver, Washington.** The parties acquired this rental property in 2009,

which is located above the 1800 SE Columbia River Drive property. (RP 278) This property was appraised at \$245,000, but Brenda claimed its “real value” was \$340,000. (RP 71, 119, 523) At the time of trial, the mortgage was \$121,923. (RP 71, 523) The trial court found a net value of \$123,077 based on the property’s appraised value. (CP 27)

**D. The wife maintained exclusive control over the parties’ investment properties after separation, and resisted efforts to account for her management.**

The parties separated on December 28, 2012. (CP 16, 73) Brenda petitioned for dissolution of the parties’ marriage in Clark County Superior Court on February 7, 2013. (CP 68) After the parties separated, Brenda maintained management and control over the parties’ five investment/rental properties. (See CP 80; RP 272, 276-79, 285-87, 473) Nevertheless, Gary continued to fund those joint accounts related to the real properties owned by the parties, and paid those expenditures related to those properties that were submitted to him. (See CP 80-81; Ex. 169 at 6, 13-14, Exhibits C, D)

On February 10, 2016, Gary filed a motion asking the trial court to require Brenda to provide a monthly accounting for each investment property since May 1, 2013, including verification of all income received and expenses paid by her. (CP 78-79) Gary also

asked that the court order an equal division of any proceeds (rent less expenses) received on the properties since May 2013. (CP 78)

- 1. In March 2016, the trial court appointed Tiffany Couch to perform an accounting of rents received and expenses paid for the investment properties.**

On March 25, 2016, Clark County Superior Court Judge Bernard Veljacic appointed Tiffany Couch of Acuity Forensics to provide an accounting of the five investment properties managed by Brenda, for the period May 1, 2013 to February 29, 2016. (CP 105-07; Ex. 46), an accounting period later expanded through February 28, 2017. (Ex. 172) Couch was directed to “determine the net amount actually received by each party and the amount actually paid by each party for any ‘expenses’ for each separate real estate investment.” (CP 106; Ex. 46) Both parties were ordered to provide “whatever records of rents received and expenses paid since May 1, 2013” to Couch, and to “act with due diligence and good faith in responding to any request that the professional deems reasonably necessary and proper to accounting as ordered.” (CP 106; Ex. 46)

Judge Veljacic ordered that either party could request Couch to “perform additional services/analysis (e.g. ‘equitable’ offsets, claim for ‘managerial fees,’ different rental scenarios, etc.).” (CP 106; Ex. 46) The requesting party would be responsible for any additional

cost. (CP 106; Ex. 46) Judge Veljacic reserved on Gary's request for an equal division of any proceeds since May 1, 2013, "pending completion of the professional accounting ordered herein." (CP 107; Ex. 46)

2. **A year later, Couch told the trial court she could not complete the accounting because the wife refused to provide necessary documentation.**

Trial in this matter was scheduled to commence on March 20, 2017 before Clark County Superior Court Judge Suzan Clark ("the trial court"). On March 17, 2017, Couch filed a declaration, stating she had been unable to fulfill the court's order "due to the lack of sufficient, relevant information necessary to complete our work according to professional standards" (CP 135), and submitted a report that largely laid out her failed attempts to obtain documentation from Brenda to complete the accounting. (See CP 135, 145-87; Ex. 173) Couch expressed significant concern with Brenda's failure to provide relevant and complete documentation to prove the rental revenues for each of the properties. (Ex. 173 at 2-5)

3. **In May 2017, the wife was ordered "to strictly comply" with the order requiring her to cooperate with the accounting.**

After briefly testifying at trial on March 22, 2017 (RP 147-69), Couch was released to continue the accounting required under the

March 2016 order. On May 17, 2017, Gary asked the court to hold Brenda in contempt for her continued failure to provide Couch with the necessary information and supporting documentation to complete the accounting, as required by the March 2016 order. (CP 200-04) Couch also filed a declaration that Brenda had not paid the balance owed to her to complete the accounting. (CP 189) On May 25, 2017, the trial court ordered Brenda “to strictly comply with the Order of the Court (Hon. Bernard Veljacic) previously filed March 25, 2016; both parties to pay Ms. Couch’s fees so that she can complete her Forensic Accounting Report; Court will decide apportionment at the time of Trial.” (CP 216) However, the trial court reserved on whether to find Brenda in contempt. (CP 368, 371)

**4. In June 2017, Couch presented an accounting based in part on “fair market rental value” because the wife had failed to provide complete documentation for actual rents received.**

On June 14, 2017, Couch filed another declaration stating her intent to complete her accounting based solely on the documentation and information in her possession because Brenda still had not provided any documents “responsive to my repeated requests for relevant evidential documents” since August 2016. (CP 218) On June 15, 2017, Couch issued her report, explaining that due to the “lack of substantive documents from Brenda Wilson . . . we have been

unable to comply in substance with the Temporary Order calling for an accounting of the ‘rents received’ and ‘actual expenses’ of the properties. Instead, we have had to estimate income from these units based on lease agreements, statements from the parties, and/or tax related documents.” (Ex. 169 at 2; *see also* RP 341, 345-50) Couch also reported concern that “rents are insufficient to meet basic expenditures, primarily as a result of rents being charged at less than market rates. What’s more, we noted that the Marital Estate is not being reimbursed for rents in a unit being used by Brenda Wilson; and another unit is being offered for free to Brenda Wilson’s clients without any consideration to the Marital Estate.” (Ex. 169 at 2; *see also* RP 347-48)

Couch expressed specific concern with the commercial property at 1800 SE Columbia River Drive that Brenda used for her real estate company; it did not appear that Brenda was paying rent for use of the building. (Ex. 169 at 9; *see also* RP 347-48) To complete her accounting, Couch relied on the fair market rent established in an appraisal that the parties had used to reach a stipulated value for the property. (Ex. 169 at 9; RP 347)

Based on her analysis, Couch reported that Gary’s expenditures exceeded the amount of the income to which he was

entitled. Assuming the parties were entitled to receive one-half of the rents, and were obligated to pay one-half of the expenses, Couch concluded that Brenda owed \$64,756.31 to Gary through March 2017. (Ex. 169 at 2; RP 354)

**5. In August 2017, the trial court reserved on whether to reconcile the accounting based on fair market rents.**

On July 21, 2017, Gary filed a motion asking the trial court to order Brenda to pay her half of the balance due accountant Couch for her services, and to direct Couch to extend her accounting to November 2017. (CP 242-48) Gary also asked the trial court to set fair market rent for both the 1798 and 1800 SE Columbia Drive properties managed by Brenda, and order those rates “be relied upon in the forensic accounting both relating back and going forward.” (CP 245) Gary also expressed concern with Brenda’s management of the Eagle Crest condominium, which depending on the season should be rented between \$1,500 and \$3,000 per month. (CP 245)

On August 11, 2017, the trial court ordered both parties to pay the balance owed to Couch. (CP 374-75) The trial court reserved deciding whether to set the fair market rent for the properties until trial. (CP 367, 375)

By October 17, 2017, Brenda still had not paid the balance of over \$10,000 owed by her to Couch. Couch independently filed her own motion asking the trial court for direction on whether to update her June 15, 2017 report. (CP 376-80) Specifically, Couch asked the trial court whether she should: 1) update the June 15 report through trial; 2) supplement the June 15 report to include an analysis of actual rents, “so that it may consider both ‘actual’ rents and expenditures along with ‘estimated/fair market value’ rents and expenditures”; or 3) amend the June 15 report to “remove any analysis for estimated/fair market value rents and expenditures and provide an account solely based on actual rents and expenditures.” (CP 386, *emphasis in original*)

On October 27, 2017, the trial court denied Couch’s motion for further direction on expanding the scope of the June 2017 report. (CP 399-400) The court stated that because of Brenda’s “history of non-compliance with the production of necessary documents to the court-appointed expert,” it was “concerned that expanding the scope of Ms. Couch’s work will cause additional hearing time and/or delay.” (CP 399-400) The trial court ordered Brenda to pay all fees owed Couch by November 30, 2017. (CP 400)

**6. In November 2017, Couch provided an updated accounting at the husband's request.**

On November 18, 2017, Couch updated her June 15 report to make corrections based on information brought to her attention regarding certain expenses for the properties, which had not been accounted for in the original report. (Ex. 174 at 1-3; RP 358-60) Based on these corrections, Couch concluded that Brenda owed \$71,243.78 to Gary through March 2017, again assuming that the parties were entitled to receive one-half of the rents, and were obligated to pay one-half of the expenses. (Ex. 174 at 2; RP 360)

Because the trial court had declined to require Couch to update her accounting through trial, Gary provided his own accounting for the period between March and November 2017. (Ex. 198; RP 543-45) He concluded that Brenda owed him an additional \$12,854.62 for his half share of the rental proceeds after March 2017. (Ex. 198; RP 550) Because either party at their own expense could ask Couch to perform additional services or analysis (*See* Ex. 46), Gary also requested that Couch supplement her accounting to provide a "fair market value accounting" on the 1798 SE Columbia River property and the Eagle Crest condominium. (*See* Ex. 174 at 5; RP 363)

Based on information about fair market rents on these properties, including from the agreed appraisal valuing the 1798 and 1800 SE Columbia River properties, Couch concluded that had fair market rent been charged between May 2013 and March 2017, the parties would have received an additional \$116,375.67 (Ex. 174 at 5; RP 363, 368-69, 371): \$42,585.70 in lost fair market rental value for the 1798 SE Columbia River property and \$73,789.97 in lost fair market rental value for the Eagle Crest condominium. (Ex. 174 at 5; RP 367-68, 370-71)

**7. The wife retained a separate accounting expert.**

While all of these issues regarding Couch's accounting were transpiring, Brenda had retained a separate accountant, Heidi Bowen, to both critique Couch's report and perform the accounting that Couch had been ordered to perform. (See RP 567-68) Bowen testified that she too had difficulty obtaining from Brenda all of the necessary documentation. (RP 570-71, 574-75) Nevertheless, Bowen completed her accounting based on "input" from Brenda, concluding that Gary owed \$29,653 to Brenda. (RP 602, 613-14, 637, 668)

The "most significant difference" between Bowen's accounting and Couch's accounting was determination of the rental income for the 1800 Columbia River property. (RP 584) Bowen

calculated rental income based on bank deposits or the amount reported by Brenda, whereas Couch used fair market rent, resulting in an overall difference of \$52,000. (RP 584)

Bowen claimed that another discrepancy between her accounting and Couch's accounting was treatment of mortgage payments, paid from a joint account, on the family residence, where Gary resided. (RP 598-600) Bowen treated the mortgage as solely Gary's responsibility between October 2013 and October 2016 (RP 599-600), and claimed that Couch treated payment of the mortgage as a community expense shared equally by the parties through April 2016. (RP 603) In fact, by court order both parties had been equally responsible for the mortgage on the family residence until August 2016, when Gary was ordered to be fully responsible. (CP 465)<sup>1</sup>

**E. After a 16-day trial, the trial court entered final orders dissolving the parties' marriage.**

Trial commenced March 20, 2017, and after 16 days of testimony, concluded March 9, 2018. (CP 15) The trial court issued its oral ruling on April 18 and final orders were entered June 12, 2018. (CP 13, 16, 30, 42)

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<sup>1</sup> In valuing the family residence, the trial court credited the community mortgage through July 2016. (See RP 525; CP 23) Thus, for purposes of valuing the family residence, the community received the benefit of both parties sharing the mortgage obligation post-separation.

The most significant issues addressed at trial, relevant to this appeal<sup>2</sup> were: 1) whether the prenuptial agreement was valid; 2) distribution of assets and liabilities; 3) reconciliation of the net profit and proceeds from the investment properties Brenda managed exclusively during separation; 4) treatment of \$70,000 Gary paid for services performed by his father on the parties' investment properties; and 5) determination of child support for the parties' sons, who were scheduled to reside with both parents equally.

**1. The trial court found the prenuptial agreement valid and awarded the wife a disproportionate share of the community property.**

The trial court found the parties' prenuptial agreement was both substantively and procedurally fair. (CP 17) The trial court found that the agreement "afforded the parties the opportunity to accumulate community property during the marriage, which they did to a great extent, while at the same time allowing them to retain earnings as their separate property to manage as they saw fit." (CP 17) Accordingly, the trial court ruled that "the prenuptial agreement is valid and enforceable in these proceedings." (CP 17)

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<sup>2</sup> Parenting was also disputed at trial, but neither party challenges the parenting plan on appeal.

Pursuant to the terms of the prenuptial agreement, the trial court only had authority to distribute the parties' community property, which it was required to divide as "equally as possible." (Ex. 1 at 14-15) By the time of trial, the parties' community estate consisted largely of real property – the five investment properties and the family residence. The trial court awarded the family residence and the Eagle Crest condominium to Gary, and the other four income-producing properties to Brenda:

<b>Property</b>	<b>Gary</b>	<b>Brenda</b>
6890 Robin Court (Eagle Crest)	\$291,000	
5903 NE 37 <sup>th</sup> Street		\$185,000
1800 SE Columbia River Drive		\$214,700
1798 SE Columbia River Drive		\$172,300
738 SE Fairwinds Loop		\$123,077
806 NW 209 <sup>th</sup> Street	\$308,000	
<b>Total:</b>	<b>\$599,000</b>	<b>\$695,077</b>
Percentage	46%	54%

(CP 17-18, 23, 26-27) The trial court divided the community portion of the husband's retirement equally. This division gave Brenda 54% of the community estate – \$96,000 more than Gary.

- 2. The trial court awarded the husband a judgment for his share of the investment property profits, based in part on the lost fair market rent, but "offset" the judgment for a payment made to his father from a separate account.**

After considering the accountings performed by Couch and Bowen, the trial court ordered Brenda to pay a judgment to Gary "for

his community share of net profits and proceeds from the parties' investment properties," to be secured by a promissory note and deed of trust on one of the properties awarded to Brenda. (CP 20) In determining the amount of the judgment, the trial court relied on Couch's accounting through February 2017 and Gary's accounting from March through November 15, 2017. (CP 20; RP 832, 837-38)

In adopting Couch's accounting, which analyzed "lost fair market rental value," the trial court found that Brenda had not been charging market rent, that her business was not paying rent for the unit it was using, and that it appeared Brenda was providing "comp stays" for her clients at the Eagle Crest condominium, which had resulted in a "windfall to her." (RP 832) The trial court found that Brenda "is liable for and [Gary] is due the following sums arising from [Brenda]'s exclusive management of the parties' investment properties," including "lost fair market rental value":

- \$84,099 for his share of the net profits and proceeds from the investment properties for the period of May 2013 through November 15, 2017;<sup>3</sup>
- \$21,293 for half of the lost fair market rental value for the 1798 Columbia River Drive;

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<sup>3</sup> The Decree describes the end date as February 28, 2017. (CP 20) However, the end date for the accounting was November 15, 2017. (See Ex. 198)

- \$36,895 for half of the lost fair market rental value for the Eagle Crest condominium

(CP 20)

In total, the trial court found that Brenda owed Gary \$142,287. However, the trial court offset from that amount \$39,000 of the \$70,000 Gary had paid his father, from an account Brenda alleged was community property, to compensate the father for work maintaining and improving the parties' real properties. (CP 20; *see* RP 79-80, 227, 533-40, 650-51) Brenda did not dispute that Gary's father had worked on these properties. (*See* RP 262-63, 270-71, 279-80, 310-11) Instead, she argued that the father was not entitled to be paid for his work. (RP 279-80) Gary testified that the amount paid to the father was a community debt to which Brenda had previously agreed, and that in any event he had paid his father from a premarital separate property account. (RP 533-34, 650-51)

The trial court found that this account was indeed Gary's separate property. (CP 24) Nevertheless, after also finding that Gary failed to prove that the community owed monies to his father, the trial court ruled that Brenda was entitled to an offset to "reimburse" "\$39,000 for her share" of the \$70,000 paid to the father. (CP 20)

**3. The trial court ordered no child support transfer payment.**

The trial court entered a parenting plan in which the parties' sons reside equally with both parents. (*See* CP 63) The trial court found Gary's net monthly income was \$6,136.43, and Brenda's net monthly income was \$12,000 (CP 43), basing Brenda's income on "the Mother's agreed figure of \$12,000." (RP 829; *see* RP 229: "Q. (By Ms. Baran) What are you asking the Court to set your net income at? A. [Brenda] 12,000 per month"; *see also* CP 110 (Wife's Trial Aid): "The Court should determine wife's net income from employment to be \$12,000 per month.")

Because Brenda's monthly net income was nearly double his own, Gary proposed that the trial court order a transfer payment from Brenda of \$609.98. (*See* CP 57) This was a deviation from the standard calculation of \$1,912.48, based on a residential credit to Brenda since the children reside with her half time. (*See* CP 57)

The trial court denied Gary's request and ordered no transfer payment. (*See* CP 44) In doing so, it made no express findings save the boiler plate language in the order: "The monthly child support amount ordered in section 10 is different from the standard calculation listed in section 8 because the children in this case spend significant time with the parent who owes support. The non-

standard amount still gives the other parent's household enough money for the children's basic needs. The children do not get public assistance (TANF)." (CP 44)

Brenda filed a notice of appeal of the final orders on July 11, 2018 (CP 402), Gary filed a notice of cross-appeal on July 23, 2018. (CP 455)

## **V. ARGUMENT**

In the matter before this Court, both parties challenge elements of the trial court's child support order, as well as the amount of the judgment awarded to the husband in the decree of dissolution. However, as addressed below, where the wife's appeal raises fact-based discretionary decisions by the trial court, the husband's appeal challenges decisions by the trial court, in which the trial court's discretion is decidedly less limited – either by statute or by the terms of the prenuptial agreement that it found "valid and enforceable." (CP 17) This Court should therefore affirm those decisions challenged by the wife in her appeal, and reverse those decisions challenged by the husband in his cross-appeal:

**A. The trial court properly adopted the wife’s “agreed figure” as her monthly net income for child support.**  
(Response to App. Br. 9-10)

In an unchallenged finding, the trial court in this case found that \$12,000 net monthly income is the wife’s “actual income as stipulated to by the [wife] at the time of trial.” (CP 43) Because she did not assign error to the finding that her net monthly income is \$12,000, this Court should reject the wife’s challenge to its decision on appeal. RAP 10.3(a)(3)(brief of appellant must include “a separate concise statement of each error a party contends was made by the trial court”). “[A] party’s failure to assign error to or provide argument and citation to authority in support of an assignment of error, as required under RAP 10.3, precludes appellate consideration of an alleged error.” *Escude ex rel. Escude v. King Cty. Pub. Hosp. Dist. No. 2*, 117 Wn. App. 183, 190, fn. 4, 69 P.3d 895 (2003). Further, “unchallenged findings of fact are verities on appeal.” *Magnuson v. Magnuson*, 141 Wn. App. 347, 351, ¶ 7, 170 P.3d 65 (2007), *rev. denied*, 163 Wn.2d 1050 (2008).

Even had the wife assigned error to this finding, this Court must reject her challenge because she in fact asked the court to set her monthly net income at \$12,000. (See RP 229; CP 110) A party “should not be allowed to cry error” after the trial court does what

that party asked of it. *Dependency of K.R.*, 128 Wn.2d 129, 147, 904 P.2d 1132 (1995). “Under the doctrine of invited error, counsel cannot set up an error at trial and then complain of it on appeal.” *Dependency of K.R.*, 128 Wn.2d at 147. An error is also deemed waived on appeal if “the party asserting such error materially contributed thereto.” *Dependency of K.R.*, 128 Wn.2d at 147; see also *Marriage of Morris*, 176 Wn. App. 893, 900, ¶ 15, 309 P.3d 767 (2013) (“The invited error doctrine prohibits a party from setting up an error below and then complaining of it on appeal”).

By asking the trial court to establish her monthly net income at \$12,000, the wife waived any error in the trial court’s adoption of her request. The wife also waived error by never asking that the trial court base her income on her “tax returns for the preceding two years,” after it stated its intention to base her income on her “agreed figure.” (App. Br. 9, quoting RCW 26.19.071(2)) If the wife believed that the trial court should have based her income on her “current tax and income information” (App. Br. 10), rather than on her “agreed figure of \$12,000” (RP 829), she should have raised this issue below.

Absent any indication in the record that wife advanced this particular claim in any substantive fashion at trial, it cannot be considered on appeal. RAP 2.5(a); *Lindblad v. Boeing Co.*, 108 Wn.

App. 198, 207, 31 P.3d 1 (2001) (declining to review issue, theory, argument, or claim of error not presented at the trial court level). The purpose of this rule is to give the trial court an opportunity to correct alleged errors, thereby avoiding unnecessary appeals and retrials. *Demelash v. Ross Stores, Inc.*, 105 Wn. App. 508, 527, 20 P.3d 447, *rev. denied*, 145 Wn.2d 1004 (2001).

In any event, substantial evidence supports the trial court's finding that the mother's monthly net income is *at least* \$12,000. The wife testified that her gross income in 2016 was "\$203,220 or \$16,935 per month of gross income. And so if you minus deductions, it would be around \$12,000 per month for net." (RP 229) Further, on March 22, 2017, the wife testified her "year-to-date net" in sales commissions from RE/MAX for 2017 was \$37,601.44, (RP 196) not including her monthly base salary of between \$1,900 and \$2,500, or rental income received in 2017. (*See* RP 196-97, 307)

In fact, it is likely that the wife's income was even greater in light of the property award to her of four of the parties' five investment properties, entitling her to 100% of the income once the decree was entered. (*See* CP 110: "The Court should determine wife's net income from employment to be \$12,000 per month. In addition to her earnings, under wife's proposed distribution, she would

receive rental income from two properties: Fairwinds Loop and 1798 SE Columbia River Drive.”) A trial court’s findings of fact will not be disturbed if supported by substantial evidence. *Paternity of Hewitt*, 98 Wn. App. 85, 88, 988 P.2d 496 (1999), *rev. denied*, 141 Wn.2d 1007 (2000). “Substantial evidence is that which is sufficient to persuade a fair-minded person of the declared premise.” *In re Goude*, 152 Wn. App. 784, 790, ¶ 11, 219 P.3d 717 (2009), *rev. denied*, 168 Wn.2d 1024 (2010).

This Court should affirm the trial court’s finding that the mother’s monthly net income is \$12,000. The wife waived any challenge to the trial court’s determination of income by inviting the error and in failing to raising her claim below. In any event, substantial evidence supports the trial court’s finding that the wife’s monthly net income is \$12,000.

**B. If the trial court made any error in entering its child support order, it was in failing to order a transfer payment to the father. (Cross-Appeal Issue no. 1)**

If the trial court made any error in entering its child support order, it was in not requiring the wife to make a transfer payment to the father. Given their respective incomes, the standard calculation required a transfer payment of \$1,912.48 from the mother to the father. (CP 54) It is irrelevant that the parties have a 50/50 shared

residential schedule. *Marriage of Schnurman*, 178 Wn. App. 634, 638, ¶ 10, 316 P.3d 514 (2013) (“The statutory child support schedules applies in shared residential schedules,” citing *State ex rel. M.M.G. v. Graham*, 159 Wn.2d 623, 626, 632, 152 P.3d 1005 (2007)), *rev. denied*, 180 Wn.2d 1010 (2014).

The father does not dispute that the trial court has discretion to deviate downward from the standard calculation based on the residential schedule. RCW 26.19.075 (1) (d) (“The court may deviate from the standard calculation if the child spends a significant amount of time with the parent who is obligated to make a support transfer payment.”); see *State ex rel. M.M.G. v. Graham*, 159 Wn.2d at 636, ¶ 22. In fact, he proposed a limited deviation that recognized the amount of time the children reside with the wife. (*See* CP 55) But in light of the parties’ income disparity there were no grounds to eliminate the transfer payment entirely. This is particularly true when the trial court based the parties’ incomes on their past earnings, prior to its distribution of assets. Because the wife was awarded nearly all of the income-producing investment properties, her income will likely be substantially more than her claimed monthly net income of \$12,000, while the father’s monthly net

income will be less than \$6,136.43, since he will no longer be sharing the income from the investment properties awarded to the wife.

While a trial court has discretion to deviate from the standard calculation, deviation “remains the exception to the rule and should be used only where it would be inequitable not to do so.” *Burch v. Burch*, 81 Wn. App. 756, 760, 916 P.2d 443 (1996). “Written findings of fact supported by substantial evidence are required when a trial court deviates from the standard support calculation.” *Choate v. Choate*, 143 Wn. App. 235, 244, ¶ 16, 177 P.3d 175, 179 (2008), as amended (Feb. 26, 2008). “Cursory findings of fact” are insufficient to support a deviation from the standard calculation. *Choate*, 143 Wn. App. at 242, ¶ 10 (citing *McCausland v. McCausland*, 159 Wn.2d 607, 620, 152 P.3d 1013 (2007), as amended (Mar. 2, 2007)).

Here, the trial court failed to make findings adequate to support its exceptional decision to order no transfer payment. While the trial court found that the children “spend a significant time with the parent who owes support. The non-standard amount still gives the other parent’s household enough money for the children’s basic needs” (CP 44), these findings were cursory at best, and do not support a deviation from the standard calculation of \$1,912.48 to zero. In particular, absent from the findings is any indication that

the trial court considered “evidence concerning the increased expenses to a parent making support transfer payments resulting from the significant amount of time spent with that parent and shall consider the decreased expenses, if any, to the party receiving the support resulting from the significant amount of time the child spends with the parent making the support transfer payment.” RCW 26.19.075(1)(d).

In this case, there was in fact no evidence of any decreased expenses for the father because the children reside half of the time with the wife. To the contrary, there was evidence that the father has out of pocket expenses for the children’s medical and dental insurance that the wife does not share,<sup>4</sup> and which he is obligated to pay regardless of the amount of the time the children reside with either parent. (RP 493-97) The husband also testified to other expenses that he incurs for the children regardless of the amount of time they spend in his home, including clothing, education, activities, field trips, and school lunches. (RP 719-21)

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<sup>4</sup> The child support order had contemplated that the parties would proportionately share the children’s health care premiums, with the mother’s share being paid as part of the transfer payment. (See CP 47) However, because the court ordered no transfer payment, the father as a consequence is 100% responsible for the premiums.

This Court should remand for the trial court to reconsider its decision to eliminate the transfer payment to the father, who has nearly half the monthly net income of the wife, and with whom the children reside half of the time.

**C. The trial court did not abuse its discretion in adopting the Couch accounting in determining the judgment for the husband's share of profits and proceeds from investment properties the wife managed.** (Response to App. Br. 6-9)

In challenging the amount of the judgment to the husband, the wife does not challenge the trial court's authority to order one spouse to compensate the other for "gross fiscal improvidence," the "squandering of marital assets," and otherwise "negatively productive conduct," nor could she. *See Marriage of Steadman*, 63 Wn. App. 523, 528, 821 P.2d 59 (1991); *see also Marriage of Wallace*, 111 Wn. App. 697, 708, 45 P.3d 1131 (2002), *rev. denied*, 148 Wn.2d 1011 (2003) ("In making its property distribution, the trial court may properly consider a spouse's waste or concealment of assets"). The trial court in this case properly considered the "squandering of marital assets" by the wife, and the "lost fair market rental value" "arising from the [wife]'s exclusive management of the parties' investment properties." (CP 20) Because the wife has not assigned error to this finding that her management of the parties' investment

properties caused “lost fair market rental value” it is a verity on appeal. (*See* § V. Argument A, *supra*)

Because the wife has waived any challenge to the trial court’s ruling requiring her to compensate the husband for “lost fair market rental value” as part of “his community share of the net profits and proceeds from the parties’ investment properties,” her only challenge to the amount of the judgment is her claim that the trial court abused its discretion in relying on the accounting by court-appointed expert Couch in determining the amount owed. But “the factfinder is given wide latitude in the weight to give expert opinion.” *Marriage of Sedlock*, 69 Wn. App. 484, 491, 849 P.2d 1243, *rev. denied*, 122 Wn.2d 1014 (1993). Even if this Court were to disagree with the trial court’s reasoning in adopting Couch’s accounting over the one the wife presented, it “does not change the result. To rule otherwise would be to place the appellate courts in the position of *weighing* expert testimony, a position we decline to take.” *Sedlock*, 69 Wn. App. at 491 (emphasis in original).

The wife claims that Couch “exceeded the scope of her appointment” by considering fair market rent rather than “rents received.” (App. Br. 6, 7) But the wife presents no legal authority to support her claim that a trial court abuses its discretion in

considering testimony from an expert that allegedly goes beyond the original scope of the expert's appointment. Neither respondent nor this Court should be "required to search out authorities" to support appellant's arguments. *DeHeer v. Seattle Post-Intelligencer*, 60 Wn.2d 122, 126, 372 P.2d 193 (1962). Instead, this Court should presume that "after diligent search," the wife found no authority to support her argument. *DeHeer*, 60 Wn.2d at 126; *see also Disciplinary Proceeding Against Jensen*, 192 Wn.2d 427, 440, ¶ 32, 430 P.3d 262 (2018), *as amended* (Jan. 7, 2019).

In any event, the scope of Couch's appointment was not as limited as appellant claims. While Couch had initially been appointed to account for the "net amount actually received by each party and the amount actually paid by each party for any 'expenses'" (CP 106; Ex. 46), the scope of her work evolved over the course of the litigation, due almost entirely to the wife and her failure to provide necessary, complete, and accurate information regarding rents that the wife exclusively controlled.

The order appointing Couch specifically contemplated that the scope of her work could expand, at the request of either party. (CP 106; Ex. 46) The trial court acknowledged the expanded scope of Couch's accounting by reserving until trial its decision whether it

would rely on fair market rent as a basis for determining the amounts owed to the husband for his share of profit/proceeds from investment properties over which the wife had exclusive control. (See CP 367, 375) In fact, the trial court specifically declined to order Couch to “remove any analysis for estimated/fair market value rents and expenditures” from her June 2017 report, and “provide an accounting solely based on actual rents and expenditures.” (See CP 338, *emphasis in original*; CP 399-400)

It was well within the trial court’s discretion to allow the scope of Couch’s accounting to include fair market rent when the wife consistently, despite repeated court orders, refused to provide Couch with reliable, necessary, and accurate information to determine actual rental income on investment properties owned by the community that the wife controlled. *See e.g. Delany v. Canning*, 84 Wn. App. 498, 506-07, 929 P.2d 475 (within trial court’s discretion to instruct accountant appointed to reconstruct partnership financial affairs to “construe the facts in the light most favorable to plaintiffs” when defendants failed to maintain adequate records and failed to respond to interrogatories), *rev. denied*, 131 Wn.2d 1026 (1997).

The wife also complains “there is no evidence in the record of this appraisal, its author, or substance upon which Couch relied to

speculate about rental values” (App. Br. 7), but Couch’s report specifically stated what she relied on to assess fair market rent, including the parties’ agreed appraisal valuing the 1798 and 1800 Columbia River properties. (Ex. 169 at 9; Ex. 174 at 5; RP 363-65, 369-70) The trial court properly overruled the wife’s objection, as it “goes to the weight, not the admissibility.”<sup>5</sup> (RP 364, 370, 387)

“A trial judge's decision to admit expert testimony is discretionary,” which will not be disturbed absent some abuse of that discretion. *Deep Water Brewing, LLC v. Fairway Res. Ltd.*, 152 Wn. App. 229, 271, ¶ 103, 215 P.3d 990 (2009), *rev. denied*, 168 Wn.2d 1024 (2010). “Expert testimony is admissible if the witness's expertise is supported by the evidence, his opinion is based on material reasonably relied on in his professional community, and his testimony is helpful to the trier of fact.” *Deep Water Brewing*, 152 Wn. App. at 271, ¶ 103; *see also* ER 703 (“The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the

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<sup>5</sup> The trial court also acknowledged that the husband could testify to the fair market rental values of properties owned by him. (*See* Ex. 198; RP 637-38, 726-28); *Marriage of Worthington*, 73 Wn.2d 759, 763, 440 P.2d 478 (1968) (“An owner may testify as to the value of his property and the weight to be given it is left to the trier of fact.”).

particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence.”).

In this case, it was well within the trial court’s discretion to adopt Couch’s accounting for the net profits or proceeds from the parties’ investment properties based in part on “lost fair market rental value.” (CP 20) Couch was not “speculating” on fair market rents. (App. Br. 7) As Couch testified, as a “professional accountant and forensic auditor,” she regularly relies on appraisals or other “relatively reliable” sources to determine fair market rent. (RP 472-73, 668-69) Because the trial court properly considered the testimony of Couch regarding the “lost fair market rental value” due to the wife’s “exclusive management of the parties’ investment properties,” substantial evidence supports the amount that the wife was ordered to pay the husband. This Court should affirm.

**D. The trial court’s only error in establishing the amount of the judgment owed to the husband was in failing to follow the terms of the prenuptial agreement that it found “valid and enforceable.”**  
(Cross-Appeal Issues nos. 2 and 3)

To the extent the trial court made any error in determining the amount of the judgment owed to the husband, it was in failing to follow the terms of the prenuptial agreement it found was “valid and enforceable in these proceedings.” (CP 17) “If fair and fairly made,

we have held prenuptial agreements between competent parties to be valid and binding.” *DewBerry v. George*, 115 Wn. App. 351, 364, 62 P.3d 525, *rev. denied*, 150 Wn.2d 1006 (2003). Because the trial court found the prenuptial agreement to “be both substantively and procedurally fair” (CP 17), it was bound to enforce the agreement and its terms. *See Marriage of Marzetta*, 129 Wn. App. 607, 619, ¶ 32, 120 P.3d 75 (2005) (trial court erred by characterizing certain property “contrary to the prenuptial agreement”), *overruled on other grounds by McCausland v. McCausland*, 159 Wn.2d 607, 152 P.3d 1013 (2007).

1. **The trial court should have ordered an equalizing judgment to the community estate “as equally as possible.”** (Cross-Appeal Issue no. 2)

Here, the prenuptial agreement provides “that the parties’ community assets and debts shall be divided as equally as possible.” (Ex. 1 at 15) But in dividing the parties’ community assets and debts, the trial court awarded the wife 54% of the community estate, and 46% of the estate to Gary – a difference of over \$96,000.

The trial court appeared to recognize the disparity in the division of community property, but rationalized that “the Court is to make a fair and equitable division of the assets, and I do not do that with precision.” (RP 833) But under the terms of the prenuptial

agreement, some “precision” was required in dividing the community estate. Rather than a “fair and equitable division,” the trial court was required to divide the community property “as equally as possible.” (Ex. 1 at 15)

In awarding the wife a disproportionate share of the community estate, the trial court stated it could consider “the overall division” in distributing the community estate. (RP 834) But in fact, the prenuptial agreement states, “in dividing assets and liabilities of their marital community, the separate property of each party shall not be taken into account directly or *indirectly*.” (Ex. 1 at 14, emphasis added) Thus, the trial court erred in considering the separate property assets awarded to the parties in dividing the community estate.

By awarding the wife a disproportionate share of the community estate, and rationalizing the distribution based on the “overall division,” including each party’s award of separate property, the trial court erred. Its decision is contrary to the express terms of the prenuptial agreement, which it was bound to enforce once it found it valid and enforceable – a decision that neither party challenges on appeal. Because the prenuptial agreement was binding, the trial court should have ordered an additional judgment

of \$48,038.50 to the husband, which would have resulted in an equal division of the community estate. Alternatively, the trial court could have awarded the husband the Fairwinds Loop investment property, which he had requested be awarded to him, and award the wife an offset to the judgment owed to the husband.

**2. The trial court erred in offsetting the judgment owed to the husband for what it found was the wife's "share" of the husband's separate property funds used to pay his father. (Cross-Appeal Issue no. 3)**

The trial court properly found that the wife owed the husband \$142,287 for his share of the net profits and proceeds from the parties' investment properties. (*supra*) However, it erred in offsetting the amount owed to the husband by \$39,000 for what the trial court found was the wife's "share" of funds that the husband paid to his father from his separate account. (CP 20) Even if, as found by the trial court, the husband failed to prove that the \$70,000 that he paid to his father was a "community debt," the trial court erred in essentially awarding the wife \$39,000 for funds paid out of the husband's separate property account.

Under the plain terms of the prenuptial agreement, which was binding on the trial court, "in dividing assets and liabilities of their marital community, the separate property of each party shall not be

taken into account directly or indirectly.” (Ex. 1 at 14) Further, the parties agreed to be “completely independent of the other” and entitled to “convey, gift, lease, and dispose of all their separate properties,” without the consent of the other party. (Ex. 1 at 3)

To pay his father, the husband withdrew funds from an account that was his separate property under the prenuptial agreement. Prior to marriage, the husband owned as his sole and separate property, Yakima Valley Credit Union Savings Account no. 9159.<sup>6</sup> (Ex. 1 at Schedule A) Under the terms of the agreement, this account, among other listed assets, “are and shall continue to be the separate property” of the husband. (Ex. 1 at 2) The trial court recognized as much by finding that this account was the husband’s “separate property account.” (CP 24)

The premise of the wife’s claimed interest in the funds in this account was that her name was listed on the account, and she had not “approved” of the husband transferring funds from that account to his father. (*See* RP 79, 227) However, the husband testified that the wife’s name was included on the account solely because she was the named beneficiary for the account, and to provide her with a

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<sup>6</sup> During the course of the marriage, the bank changed its name to Solarity, but the account number remained the same. (RP 714)

“simple process” to obtain the funds if the husband were to pass away. (RP 768) By designating the wife as the beneficiary of the account upon his death, the husband did not intend to change the character of the account and its funds. Consistent with the character of the account, the husband maintained sole control over this account throughout the marriage. (RP 534-35, 768) The only monies deposited in the account were the husband’s employment income, which was his separate property under the prenuptial agreement (Ex. 1 at 12) and tax refunds from the parties’ joint returns. (RP 534-35, 768, 770) The husband testified that his separate account was “a holding place for the federal – the tax people to send it to one spot.” (RP 769) After the refund was received, the husband transferred the funds into a joint account. (RP 769)

Placing the wife’s name on the account to create a “simple process” for her to obtain access to the funds as the beneficiary did not change the character of this account. The prenuptial agreement anticipated that there might be instances where a party’s name would be included on the other’s party’s separate property. (See Ex. 1 at 3-4) The agreement provided that “such event will not cause the effected party’s property to become community property.... unless both parties acknowledge, in a separate writing, that it is the intent

of the parties that the separate property so affected become common or community property of the parties.” (Ex. 1 at 4)

There was no “separate writing” acknowledged by both parties that they intended by placing the wife’s name on the account as a beneficiary to change the character of the account from the husband’s separate to community. Therefore, even if, as the trial court found, no community debt was owed to the father, the husband was free to pay the father the amount he paid from his separate property account “without the signature or joining in by the other party.” (Ex. 1 at 3) More importantly, he was free to do so without being subjected to an “offset” for amounts he paid from the separate account from funds otherwise owed to him as profits and proceeds from community investments.

It is irrelevant that joint refunds were deposited into the husband’s separate property account. The prenuptial agreement provided neither party “shall claim a right of reimbursement” for any money contributed to the separate property of the other party, “and any such contribution shall be considered either a de minimis contribution, a gift to the other party, or that the community has received a compensating benefit from the use of the property to for which the contribution was made.” (Ex. 1 at 5) Therefore, even if

community funds were deposited into the husband's separate property account, the wife was not entitled to reimbursement under the terms of their prenuptial agreement.

Had the trial court properly enforced the prenuptial agreement, as it was required to do having found it valid and enforceable, the trial court should have awarded Gary a total judgment of \$142,287, for his share of the profits/proceeds of the parties' investment properties, plus either an equalizing judgment or some other division to equalize the community property distribution.

## VI. CONCLUSION

This Court should affirm on the wife's appeal. This Court should reverse on the husband's cross-appeal, and remand for the trial court to order the wife to pay a transfer payment to the husband for child support, to equalize the community property distribution, and to remove the offset to the husband's judgment for the amounts he paid to his father.

Dated this 15<sup>th</sup> day of March, 2019.

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By: 

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**DECLARATION OF SERVICE**

The undersigned declares under penalty of perjury, under the laws of the State of Washington, that the following is true and correct:

That on March 15, 2019, I arranged for service of the foregoing Brief of Respondent/Cross-Appellant, to the court and to the parties to this action as follows:

Office of Clerk Court of Appeals - Division II 950 Broadway, Suite 300 Tacoma, WA 98402	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> E-File
Clayton Spencer Spencer & Sundstrom, PLLC 1612 Columbia Street Vancouver, WA 98660 <a href="mailto:clayton@spencersundstrom.com">clayton@spencersundstrom.com</a>	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> E-Mail
Grant C. Broer Broer & Passannante PS 8904 NE Hazel Dell Ave Vancouver, WA 98665-8020 <a href="mailto:grant@bplaw.org">grant@bplaw.org</a>	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> E-Mail

**DATED** at Seattle, Washington this 15<sup>th</sup> day of March, 2019.

  
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Sarah N. Eaton

**SMITH GOODFRIEND, PS**

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**Transmittal Information**

**Filed with Court:** Court of Appeals Division II  
**Appellate Court Case Number:** 52160-1  
**Appellate Court Case Title:** Marriage of: Brenda A. Wilson, App./Cross-Res. v. Gary W. Wilson, Res./Cross-App.  
**Superior Court Case Number:** 13-3-00315-2

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