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Division III  
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IN THE COURT OF APPEALS  
FOR THE STATE OF WASHINGTON  
DIVISION III

Appeal No. 33131-8

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SASCHA MICHAEL ALEXANDER  
Appellant,

v.

RHONDA SHAY ALEXANDER,  
Respondent.

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Brief of Appellant

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## **INTRODUCTION**

This case is yet another family law case in the state of Washington marred with inequity, bias, and manifest injustice. Appellant asserts a collateral attack on each and every decision of the trial court, including all interlocular decisions, on this basis. This court should vacate these decisions, and remand to a different venue for reconsideration.

## **ASSIGNMENTS OF ERROR**

The trial court erred in its reliance upon a record which was developed without regard for the inherent bias of the system in place in Grant County. All of the decisions of the trial court are tainted with this bias, as the Court's failure to recuse the Commissioner who made the pre-trial decisions when the Commissioner was incapable of acting without bias.

The trial court erred when it failed to restrain the mother who had a criminal history of domestic violence, and instead restrained the father, who had never been arrested, had never been tried or convicted of any acts of violence.

The trial court erred in relying upon pretrial orders issued by Commissioner Melissa Chlarson, according to the Closing Argument Summary of the father, Chlarson was a personal friend of Respondent's counsel and is now an associate in her office. Chlarson refused to review

the father's Motion for Spousal Support, and then filed an order denying the motion. When the father sought a recording of the proceeding, the record was deleted. CP 415, paragraph 6.

The trial court erred in awarding custody to the mother and limiting visitation of the father to supervised visits only, when the record before the court demonstrated that the mother had been arrested, tried, and convicted of domestic violence, and that there were multiple declarations filed demonstrating the mother's propensity for violence not only against Appellant, but also against the children. (CP 726-871).

The trial court erred in its final decision on dissolution in its determination of ultimate custody, because the trial court relied in part on the biased rulings of the Commissioner, which created an insurmountable barrier to Appellant. Consequently, the trial court erred in entering its Parenting Plan (CP 1169-1177), its Findings of Facts and Conclusions of Law (CP 1108-1127), its Order of Child Support (CP 1181-1208), its Decree of Dissolution (CP 1128-1146), and its Order on Fees for Intransigence (CP 1216-1217).

#### **STATEMENT OF THE CASE**

Sascha M. Alexander appeals the decision of the trial court in Grant County Superior Court, Cause No. 12-3-00436-6, pursuant to RAP

4.1

This case presents a jurisprudential issue of significance for this Court in the State of Washington, as impartiality guaranteed to its citizens by the state's constitution and applicable statutory authority has been violated.

## **ARGUMENT**

### **a. Facts Applicable to Appellant's Argument**

The record before the court indicates that the evidence provided to the court detailing repeated acts of domestic violence perpetrated against the husband by the wife, threats of suicide by her, and her arrest and conviction for Fourth Degree Assault, were all before the court, and were systematically ignored by Commissioner Melissa Chlarson. Her pretrial rulings ultimately biased this case before the trial judge. The entry of temporary orders, CP 272.1 failure to address the Father's motion for spousal support CP 601-608, the Order Granting Motion to Compel, CP 637-638, the Order on Contempt, CP 702-707, the Order on Contempt, CP 873-874, and the Order Requiring Respondent to Submit to CR 35 Examination (CP 1178-1180).

### **b. Points and Authorities**

Article IV Section 28 of Washington's Constitution provides under the heading OATH OF JUDGES as follows:

Every judge of the supreme court, and every judge of a superior court shall, before entering upon the duties of his office, take and subscribe an oath that he will support the Constitution of the United States and the Constitution of the State of Washington, and will faithfully **and impartially** discharge the duties of judge to the best of his ability, which oath shall be filed in the office of the secretary of state.

RCW 2.24.020 provides as to the Oath of Court Commissioners as follows:

Court commissioners appointed hereunder shall, before entering upon the duties of such office, take and subscribe an oath to support the Constitution of the United States, the Constitution of the state of Washington, and to perform the duties of such office **fairly and impartially** and to the best of his or her ability.

Canons 1, 2(A) and 7(B)(1)(a) of the CJC are binding on the judiciary in Washington.

Canon 1 provides:

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing, and should himself observe high standards of conduct so that the integrity and independence of the

judiciary may be preserved. The provisions of this code should be construed and applied to further that objective.

Canon 2(A) provides:

A judge should respect and comply with the law and should conduct himself at all times in a manner that promotes public confidence in the integrity **and impartiality of the judiciary.**

As the State Supreme Court recently stated *In the Matter of Sanders*, 135 Wash.2d 175, 955 P.2d 369, 374-75 (1998):

The interest embodied in Canon 1 of the Code of Judicial Conduct calls upon judges to preserve the integrity and impartiality of the judiciary by establishing, maintaining, and enforcing high standards of judicial conduct. Without question, this interest is compelling. *In re Kaiser*, 111 Wash.2d at 288, 759 P.2d 392 (quoting *Morial v. Judiciary Comm'n of the State of La.*, 565 F.2d 295, 302 (5th Cir.1977) (“The state's interest in ensuring that judges be and appear to be neither antagonistic nor beholden to any interest, party, or person is entitled to the greatest respect.”)); see also *Landmark Communications, Inc. v. Virginia*, 435 U.S. 829, 848, 98 S.Ct. 1535, 1546, 56 L.Ed.2d 1 (1978) (Stewart, J., concurring) (“There could hardly be a higher governmental interest than a State's interest in the quality of its judiciary.”)(quoted in

*Stretton v. Disciplinary Board of the Supreme Court of Pennsylvania*, 944 F.2d 137, 142 (3d Cir.1991)); *J.C.J.D. v. R.J.C.R.*, 803 S.W.2d 953, 956 (Ky.1991) (“There can be no question that the state has a compelling interest to protect and preserve the integrity and objectivity of the judicial system.”)

The Code of Judicial Conduct (CJC), RCW 34.05.425, and the appearance of fairness doctrine, Canon 3(C) of the CJC provides that judges should disqualify themselves in a proceeding in which their impartiality might reasonably be questioned. RCW 34.05.425(3) provides that a “presiding officer is subject to disqualification for bias, prejudice, interest, or any other cause provided in this chapter or for which a judge is disqualified.” The appearance of fairness doctrine requires that an administrative body must be fair, free from prejudice, and have the appearance of impartiality. *Sherman v. State*, 128 Wash.2d 164, 905 P.2d 355, 370 (1995); also see, e.g., *Narrowsview Preservation Ass'n v. City of Tacoma*, 84 Wash.2d 416, 420, 526 P.2d 897 (1974).

## CONCLUSION

Commissioner Chlarson demonstrated a complete disregard for the arguments and the evidence of the father. Any reasonable review of the police records alone, which were before the court without objection, would render a conclusion that it was the mother who presented the danger

to the children, especially given her conviction for Fourth Degree Assault. Yet the court not only disregarded that evidence, but forced the father into supervised visitation, and required him to submit to a mental examination.

At some point, the appellate courts will recognize that the evidentiary technicalities of the family court and the repeated pattern of its bias in decision making toward fathers will be understood as a systemic corruption.

In the meantime, the record is replete with repeated acts of gender bias on the part of the Court Commissioner, who, despite her predisposition, refused to recuse herself, and instead, proceeded with acts of partiality. The record before this court sustains this position, and Petitioner seeks a remand to the Superior Court, a change of venue, and a retrial of all issues.

Respectfully submitted this 4<sup>th</sup> day of January 2018.



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**CERTIFICATE OF SERVICE**

The undersigned now certifies that the foregoing Brief of Appellant was served on the following:

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By first class US mail, postage prepaid, this 5<sup>th</sup> day of January 2018.



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