

FILED

NOV 17, 2016

Court of Appeals
Division III
State of Washington

No. 342271

COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION III

PRISCILLA HERR,

Respondent,

vs.

SHIZUO YAMADA,

Appellant.

APPELLANT'S OPENING BRIEF

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I. INTRODUCTION

Robert Yamada met Priscilla Diane Herr in 1982. RP 11:24-12:3; 133:17-18. They started seeing each other and later married in October 27, 1986. RP 13:14-17; 133:22-24. Herr moved to Washington on January 1, 1995 and Yamada followed in 2001. RP 15:7-25. They lived together in a house that Herr owned. *Id.* When they lived apart they visited regularly during the month, sometimes multiple times each month. RP 16:10-13. Yamada regularly sent Herr support money and he provided her with advice in purchasing houses she lived in while they were apart. RP 16:15-20.

Herr filed an action for dissolution of the marriage on March 27, 2013. CP 3. The superior court bifurcated trial. Initially, the court found that a "Written Consent of Support" document executed in California before the marriage between Yamada and Herr was a valid and enforceable prenuptial agreement.¹ Based on this document, the court then distributed the assets and liabilities of the parties. See CP 9-12; 22:13-23:19. Mr. Yamada now appeals the trial court's decision.

¹ A copy of the Written Consent of Support document was admitted at trial as Exhibit 1, and a copy of the document is reproduced in the Appendix. The parties agreed that the validity and enforceability of the document should be decided under Washington law. RP 7:14-19.

II. ASSIGNMENTS OF ERROR

1. The superior court erred in failing to identify either (a) the correct placement the burden of proof and (b) the quantum of proof necessary to establish the validity and enforceability of the alleged prenuptial agreement between the parties in its letter decision, CP 9-12, or its finding of facts and conclusions of law, CP 22:13-23:19
2. The superior court erred in finding the alleged prenuptial agreement valid and enforceable, as well as substantively fair, in its findings of fact and conclusions of law. CP 22:16-17, 23:19-20 & 27:8-9.
3. The superior court erred in distributing the property of the marital community based on its determination that the alleged prenuptial agreement was valid and enforceable. CP 21-27 (findings & conclusions); CP 70-75 (decree of dissolution).

III. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. Does a trial court commit reversible error when it fails to properly identify and apply the correct placement of the burden proof and/or the quantum of proof necessary to establish the validity and enforceability of an alleged prenuptial agreement in its written findings of fact and conclusions of law under CR 52?
2. Does a trial court commit reversible error when it fails to address whether the prenuptial agreement reflects overreaching in the prospective allocation of community and separate property of the parties in favor of the drafter of the agreement?

IV. STATEMENT OF THE CASE

A. Prior to the marriage in 1986 Herr drafted a "Written Consent of Support" that was upheld by the trial court as a valid and enforceable prenuptial agreement.

The trial court found that the parties entered a prenuptial agreement on September 17, 1986 through a document titled Written Consent of Support. See Ex. 1; CP 22:13-17 & 23. This document was drafted by Ms. Herr with the assistance and advice of a friend of hers who was an attorney at the law firm where Herr worked. RP 83:13-14, 91:5-11 & 118:14-22; CP 9. Although Yamada denied recalling or remembering signing or reviewing the Written Consent of Support, *see, e.g.*, RP 138:4-11, 154:7-13, 154:21-25 & 156:9-11, the trial court found that the document was signed by both parties on September 17, 1986, and “apparently notarized.” CP 9.

The parties entered additional agreements following their marriage on October 27, 1986 in Las Vegas, Nevada. CP 22:7-8 & 18-20. These agreements were found by the trial court not to constitute either prenuptial agreements or separation contracts. CP 22:18-20.

B. The Written Consent of Support created a one-sided support obligation and prospective conversion of community property to separate property in favor of Herr.

The Written Consent of Support affects the automatic, prospective conversion of Herr's community property to separate property, while mandating that Yamada's earnings remain community property. Ex. 1; CP 9. The document states that Robert Yamada agreed to support Ms. Herr, including her housing and applicable expenses, along with food, clothing and living expenses as agreed to by the parties. Ex. 1; RP 91:15-92:22. The document also states that property acquired by Herr that would constitute community property would be classified as her sole and separate property. Yamada relinquished claims to any part, portion or whole of any earnings, inheritance or proceeds due to Herr, including her support unless he became incapable of providing for his own support obligations, debts, contracts, arrangements or understandings. *Id.* The trial court found that this provision provides that "Yamada's earnings shall remain community property. It is a prenuptial agreement." CP 9.

Despite his background and education, evidence was submitted at trial that Yamada was not sophisticated regarding family law at the time of the drafting of the Written Consent of

Support document. Yamada testified during the trial that during his divorce from his previous wife, he believed that his estranged spouse's attorney was representing him as well as her. RP 135:24-136:4. Although the trial court rejected this recollection as "the product of a faulty memory," CP 10, the trial court also found that Yamada did not have advice of counsel prior to signing the Written Consent of Support. *Id.*, CP 22:24-25.

In comparison, while Herr has less formal education than Yamada, her background includes work as a legal secretary in law firms and she was working at a law firm when she drafted the Written Consent of Support. RP 10:17-11:14, 83:13-14, 91:5-11 & 118:14-22; CP 9. The document Herr drafted is, as the trial court characterized it, so "amateurish" that "[n]o competent attorney would counsel a client to sign such an agreement." CP 9-10. The document's one sided nature is plain from its text, where Yamada has numerous specific obligations to Herr and Herr agrees to support him only if he cannot support himself due to incapacity. Ex. 1. The one-sided nature of the Written Consent of Support is also apparent from the trial court's discussion of the behavior of the parties subsequent to the drafting of the document. After acknowledging that Yamada "faithfully sent money to Ms. Herr,"

the court recounted how, in 1994, Yamada “signed a quit-claim deeds [sic] giving up his interest in two parcels of real estate that had been acquired by Ms. Herr in both of their names.” CP 10; *see also* RP 81:19-82:9. The trial transcript recounts numerous other episodes where Yamada was disproportionately disadvantaged through the transfer of his own separate and community assets to Herr’s separate property:

- Herr testified that, after they were married, Yamada paid rent and bought food. RP 13:19-25.
- From January 1995 to January of 2001 (when he moved to the Tri-Cities), Yamada sent Herr money every month. RP 177:12-21. From January 1995 to June 1996, he sent her \$1,200 a month, and from then until 2001, he was sending \$1,500 a month. *Id.* Per Yamada, the amount increased because Herr told him it was an additional \$60 a week to cut the lawn, which was \$240 a month, so the amount was raised to \$1,500 a month to cover the lawn care. RP 185:12-19. Yamada testified that he is unaware if those were her actual expenses. RP 185:20-21.

- Yamada not only sent Herr support money, but it was, as Herr testified, his responsibility to take care of things. RP 15:21-17:16.
- Yamada testified that he took \$16,000 in proceeds from a house he sold and gave it to Herr when he got up to the Tri-Cities to cover debt that Herr said he owed on credit cards and other items. RP 175:9-18 & 177:22-178:2.
- Yamada testified that he provided Herr with monthly payments from money that he was repaid from a house loan he provided for his daughter; the payments were to cover mortgage payments, interest, property taxes, insurance, car insurance, cable, telephone and utilities. RP 179:12-23.
- Yamada testified that he provided Herr with \$20,000 that he had received from the United States government as reparations for being confined in a government internment camp as a Japanese-American during World War II. RP 147:24-150:8; see also Ex. 49.

C. The superior court’s letter memorandum and findings of fact and conclusions of law do not identify or apply proper placement of the burden of proof or the quantum of proof required to establish the validity and enforceability of a prenuptial agreement.

In its findings of fact and conclusions of law, the trial court ruled the Written Consent to Support document an enforceable prenuptial agreement. CP 22:13-23, 23:19-20 & 27:8-9. In its decision, the court found that since Yamada had signed the document without legal counsel, CP 22:23-24, it was required to examine whether the agreement provides “a fair and reasonable provision for the party not seeking enforcement of the agreement based upon the circumstances of the parties at the time the agreement was signed.” CP 23:7-10 (referencing *Marriage of Foran*, 67 Wn. App. 242, 249 (1992); *In re Marriage of Matson*, 107 Wn. 2d 479, 482-83 (1986); *see also* CP 11. The court determined that the facts supported a finding that the agreement was fair and reasonable at the time it was executed. CP 11-12 & 23:19.

Oddly, in the court’s findings of fact and conclusions of law and its letter memorandum, the court fails to identify and discuss both the quantum of proof necessary to establish the enforceability of the Written Consent to Support document and which party

carries the burden of proof. *See* CP 9-12 & 22:13-23:19. In the written documentation of the decision, the court failed to identify which party carried the burden of proof. *See* RP 219:9-15; CP 9-12 & 22:13-27:10. In its formal analysis of the facts and the law as they apply to the prenuptial agreement evidenced in the Written Consent of Support, the court never identified which party bore the burden of proof and how the burden of proof was satisfied by the facts when viewed through the prism of the law.²

V. ARGUMENT

A. The trial court committed reversible error by failing to properly identify and apply the proper placement of the burden of proof and quantum of proof required to establish the validity and enforceability of an alleged prenuptial agreement.

Placement of the burden of proof is an issue of law that is reviewed de novo. *See Kofmehl v. Baseline Lake, LLC*, 177 Wn.2d 584, 596-98, 305 P.3d 230 (2013) (treatment placement of the burden of proof as an issue of law on review of summary judgment);

² In a statement at the close of trial, the superior court correctly identified that the burden of proof “is by clear, cogent and convincing evidence,” RP 219:9-10, but a similar statement was not included in the court’s written decision. CP 9-12 & CP 22:13-27:10. There is no evidence that the trial court applied this quantum of proof in its decision memorialized in the memorandum letter and the findings of fact and conclusions of law. The verbal statement of the quantum of proof by the court is too remote in time from the memorandum letter to reliably assume that the court had the quantum of evidence before it when it composed the memorandum letter. The trial ended on December 5, 2014 and the memorandum letter was issued on March 6, 2015. CP 9.

State v. P.E.T., 185 Wn. App. 891, 896, 344 P.3d 689 (2015) (reviewing placement of burden of proof de novo). In the instant case, while the superior court properly stated the quantum of proof verbally at the close of trial, the court did not identify which party held the burden of proof. RP 219:9-15. The trial court also failed to properly identify the burden and quantum of proof in both its letter memorandum and the formal findings of fact and conclusions of law for this case. See CP 9-12 & 22:13-23:19. Reversal is required because of this failure to properly assign the burden and quantum of proof.

1. By failing to assign the burden and quantum of proof in its memorandum letter and findings of fact and conclusions of law, the trial court failed to comply with the requirements of CR 52.

Washington Civil Rule 52 requires a judge trying a case without a jury to “find the facts specially and state separately its conclusions of law.” CR 52(a)(1). The purpose of this rule is to facilitate appellate review. *Schoonover v. Carpet World, Inc.*, 91 Wn.2d 173, 177, 588 P.2d 729 (1978). “Only when it clearly appears what questions were decided by the trial court, and the manner in which they were decided, are the requirements met.” *Id.* (citing *Heikkinen v. Hansen*, 57 Wn.2d 840, 360 P.2d 147 (1961)).

The rule does not require that the findings take any specific form, but for the rule to be satisfied, findings and conclusions must clearly state what questions were decided by the trial court and how they were decided. *Ford v. Bellingham-Whatcom County Dist. Bd. of Health*, 16 Wn. App. 709, 717, 558 P.2d 821 (1977) (superseded by statute on other grounds as recognized in *Potala Village Kirkland, LLC v. City of Kirkland*, 183 Wn. App. 191, 202, 334 P.3d 1143 (2014)). While oral rulings may supplement other materials in discerning a court’s findings, see *In re Detention of Stout*, 138 Wn. App. 21, 33 n. 35, 114 P.3d 658 (2005); *Shelden v. Dept. of Licensing*, 68 Wn. App. 681, 685, 845 P.2d 341 (1993), oral rulings on their own are insufficient to meet the requirements of CR 52. *State v. Kingman*, 77 Wn.2d 551, 552, 463 P.2d 638 (1970) (citations omitted). A trial court’s oral opinion “may be used as a reference in the interpretation of findings of fact,” but it is not itself “a finding of fact.” *Id.* (citing *Rutter v. Rutter*, 59 Wn.2d 781, 784, 370 P.2d 862 (1962); *Quigley v. Barash*, 135 Wash. 338, 237 P. 732 (1925); *Ferree v. Doric Co.*, 62 Wn. 2d 561, 566, 383 P.2d 900 (1963)).

In Yamada’s case, the trial court failed to include any discussion of the burden and quantum of proof in either the letter

memorandum explaining its decision to the parties or the formal findings of fact and conclusions of law. CP 9-12 & 22:13-23:19. In so doing, the trial court omitted information necessary to explain the way it decided the issues of fact and law before it. There needs to be some formal record from the trial court applying the correct standard of proof in its decision of the case. *See In re Detention of Stout*, 138 Wn. App. at 33 n. 35, 114 P.3d 658. Here, the trial court provided no written statement of the burden or quantum of proof, and provided only a verbal statement of the quantum of proof. CP 9-12 & 22:13-23:19. That is insufficient to meet the requirements of CR 52 that the trial court's written findings and conclusions "clearly state what questions were decided by the trial court and how they were decided." *Ford*, 16 Wn. App. at 717, 558 P.2d 821.

This error on the part of the trial court merits reversal because of the fundamental nature of the burden of proof in evaluating the enforceability of prenuptial agreements under Washington law. As the Washington Court of Appeals has emphasized, "[b]oth by statute and Supreme Court decision, the courts are required to carefully scrutinize transactions between spouses because of the confidential relationship between them." *Peste v. Peste*, 1 Wn. App. 18, 22-23, 459 P.2d 70 (1969). The

mutual relationship of confidence and trust that exist within a relationship is linked to the “basic purpose” of the “burden-of-proof rule” grounded on “common sense” to prevent “any overreaching by the one in whom the trust was reposed.” *Whitney v. Seattle-First National Bank*, 16 Wn. App. 905, 908, 560 P.2d 360 (1977), *aff’d* 90 Wn.2d 105, 579 P.2d 937 (1978). To fail to make plain that the correct burden and quantum of proof standards were applied in its decision calls the entirety of the court’s decision into question, thus meriting reversal.

2. Because Herr is the party seeking enforcement of the purported prenuptial agreement, the superior court should have assigned the burden of proof to Herr.

When enforcing a purported prenuptial agreement, the burden of proof falls on the party seeking enforcement. *Matter of Estate of Crawford*, 107 Wn.2d 493, 496, 730 P.2d 675 (1986); *see also Kolmorgan v. Schaller*, 51 Wn.2d 94, 98-99, 316 P.2d 111 (1957); *In re Marriage of Sanchez*, 33 Wn. App. 215, 218, 654 P.2d 702 (1982). Under Washington law, all property acquired during a marriage is presumptively community property. RCW 26.16.030; *In re Marriage of Short*, 125 Wn.2d 865, 870-71, 890 P.2d 12 (1995). Spouses can contractually change community property into separate property, *In re Marriage of DewBerry*, 115 Wn. App. 351,

359, 62 P.3d 525, *review denied*, 150 Wn.2d 1006, 77 P.3d 651 (2003), but such agreements must be proved by clear, cogent and convincing evidence. *Kolmorgan*, 51 Wn.2d 94, 98, 316 P.2d 111 (1957); *In re Marriage of Janovich*, 30 Wn. App. 169, 171, 632 P.2d 889, *review denied*, 95 Wn. 2d 1028 (1981).

As the moving party, Priscilla Diane Herr has the burden to establish by clear, cogent and convincing evidence that the Written Consent of Support meets the requirements for an enforceable prenuptial agreement under Washington law. The trial court should have assigned the burden and proper quantum of proof to her in its memorandum letter and the formal findings of fact and conclusions of law. The trial court's failure to do so constitutes reversible error.

B. The terms of the Written Consent of Support are substantively unfair and the product of overreaching on the part of Herr, the party who drafted the document.

Washington courts use a two-pronged analysis to determine the enforceability of prenuptial agreements. *In re Marriage of Matson*, 107 Wn.2d 479, 482-83, 730 P.2d 668 (1986). The court first determines whether the agreement is substantially fair by making fair and reasonable provision for the party not seeking to enforce the agreement. *Id.* at 482, 730 P.2d 668. Substantive fairness is evaluated from the time of execution, rather than at the

time of enforcement. *Id.* at 484, 730 P.2d 688; *In re Marriage of Zier*, 136 Wn. App. 40, 47, 147 P.3d 624 (2006), *review denied*, 162 Wn.2d 1008, 175 P.3d 1095 (2007). If the agreement is found to be substantively unfair to the spouse not seeking enforcement, then the court uses a two-part test to see if the agreement is procedurally fair. *Matson*, 107 Wn.2d at 482-83, 730 P.2d 668. The court looks to see if the spouses made a full disclosure of the amount, character and value of the property involved in the agreement, and then determines whether the agreement was entered freely on independent advice from counsel with full knowledge by both spouses of their rights. *Id.* If the agreement is procedurally fair, then an otherwise unfair distribution of property is valid and binding. *Id.* at 482, 730 P.2d 668. The standard of review under the second prong is de novo, but an appellate court undertakes review considering the trial court's resolution of the facts. *In re Marriage of Foran*, 67 Wn. App. 242, 251, 834 P.2d 1081 (1992).

The trial court in the instant case found that analysis was required under the second prong of the Washington test to determine if the agreement was procedurally fair. CP 11. Since the second prong is only examined when an agreement is substantively unfair, it appears that the trial court found the Written Consent to

Support to be substantively unfair. CP 11. In its analysis of the second prong of the test, the superior court found that Yamada signed the document without advice of counsel, and thus enforceability depends “on whether or not ‘the agreement provides a fair and reasonable provision for the party not seeking enforcement of the agreement.’” CP 11. The court then looked at the circumstances of the parties at the time the agreement was executed, and concluded that the agreement was fair and reasonable. CP 11-12.

In its analysis under the second prong of the test for a prenuptial agreement’s enforceability, the trial court did not examine whether the agreement evidences overreaching by the initiating party. Under Washington law, the beneficial aspects of prenuptial agreement must be obtained without abuse, and without any overreaching on the part of the initiating spouse. *Crawford*, 107 Wn.2d at 496-97, 730 P.2d 675; *Whitney v. Seattle-First Nat'l Bank*, 90 Wn. 2d 105, 110, 579 P.2d 937 (1978); *In re the Marriage of Matson*, 41 Wn. App. 660, 663, 705 P.2d 817 (1985), *aff'd*, 107 Wn. 2d at 488, 730 P.2d 668. The record from trial contains substantial evidence that the prenuptial agreement drafted by Herr

contained significant overreaching to her benefit and to Yamada's detriment.

The Written Consent to Support itself evidences overreaching in its terms. The Written Consent to Support does not simply characterize existing property to protect the assets of the parties contemplating marriage, it goes beyond that to create a one-sided prospective conversion of community property to separate property in favor of Herr and to the detriment of Yamada. See Ex. 1. As the trial court acknowledged, the agreement "provides that all 'property earned by [Herr] that constitutes community property [...] shall be [Herr's] sole and separate property.'" CP 9. Yamada, by the terms of the agreement, gives up any claim for such property, including inheritance rights. *Id.* At the same time, the agreement provides that Yamada's earnings remain community property. *Id.* Under the terms of the agreement, what's hers is hers, and what's his is theirs, not just for the property the parties had already acquired, but prospectively, for the property that the parties would acquire going forward. Ex. 1; CP 9. Additionally, while Yamada has numerous duties to provide support to Herr, Herr has no duty to

provide support for Yamada, unless he cannot support himself due to incapacity.³ Ex. 1.

If one looks at the testimony at trial about how the parties arranged their financial affairs during the marriage, the overreaching in the Written Consent to Support becomes even more apparent. Yamada not only sent money to Herr when they lived apart, he transferred significant assets from his own separate and community property to her. *See* CP 10; RP 13:19-25, 15:21-17:16, 81:19-82:9, 175:9-18, 177:22-178:2, 179:12-23 & 185:20-21. Yamada testified that this included money he had received from the United States government for being confined in a government internment camp as a Japanese-American during World War II. RP 147:24-150:8; see also Ex. 49. By its terms and its application, the Written Consent of Support is the product of overreaching on the part of its drafter, Priscilla Diane Herr. As such, the trial court's decision enforcing the Written Consent of Support merits reversal.

³ While the Written Consent of Support states that Herr has no duty to support Yamada unless he cannot support himself due to incapacity, the spousal support statute in Washington contains no such limitation. See RCW 26.20.035(b), which makes it a gross misdemeanor if a spouse or domestic partner “[w]illfully omits to provide necessary food, clothing, shelter, or medical attendance to his or her spouse or his or her domestic partner[.]”

VI. CONCLUSION

For these reasons, Robert Shizuo Yamada asks this Court to reverse the superior court's order and find that the Written Consent of Support drafted by Priscilla Diane Herr to be unenforceable. In the alternative, he asks this Court to reverse the superior court's order finding the Written Consent of Support drafted by Priscilla Diane Herr to be enforceable and remand this case to the trial court for further proceedings to determine its enforceability.

Respectfully submitted this 16th day of November, 2016.

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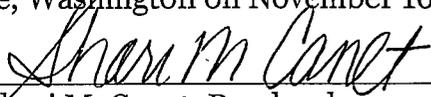
CERTIFICATE OF SERVICE

The undersigned does hereby declare the same under oath and penalty of perjury of the laws of the State of Washington:

On the date set forth below, I served the document to which this is annexed by email and First Class Mail, postage prepaid, as follows:

Steve Defoe
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Kennewick, WA 99336
Email: steve@defoepickett.com

Signed at Moses Lake, Washington on November 16, 2016



Shari M. Canet, Paralegal

APPENDIX

CASE NO. 13-3-50096-1

HERR

VS. YAMADA

PLAINTIFF'S IDENT. 1

DEFENDANT'S EXHIBIT 1

ADMITTED 12-2-14

REJECTED.....

SUPERIOR COURT
FRANKLIN COUNTY, WASHINGTON

Priscilla Moore
ET 1801 Century Park East #1600
Calf 90067

WRITTEN CONSENT OF SUPPORT

FEE \$7	N
	2

For good and valuable consideration received, Bob S. Yamada ("Bob"), does hereby give his written consent to provide support to Priscilla Diane McCracken Moore ("Priscilla") after Bob and Priscilla are legally married, such support to include housing as Priscilla is willing to live with Bob and all applicable expenses pertaining to such housing, and whatsoever food, clothing and living expenses are deemed agreeable to Priscilla and Bob.

RESOLVED FURTHER, such support to continue as long as Bob and Priscilla are legally husband and wife.

RESOLVED FURTHER, that Bob consents to such support whether Priscilla engages in income-producing endeavors or not.

REVOLVED FURTHER, Bob hereby agrees that property earned by Priscilla that constitutes community property under the laws of the State of California shall be Priscilla's sole and separate property.

Bob understands that upon execution of this document, he is relinquishing any and all claim to any part, portion or whole of any earnings, inheritance, or proceeds of Priscilla for any reason, including his support (unless he becomes incapable of providing for his own support), obligations, debts, contracts, arrangements, or understandings.

IN WITNESS WHEREOF, the undersigned have executed this written consent as of the date below.

GENERAL ACKNOWLEDGMENT

NO. 201 2

State of California }
County of Los Angeles } SS.

On this the 17th day of September 1986, before me,

Anneke Bloomfield

the undersigned Notary Public, personally appeared

Bob S. Yamada + Priscilla Diane McCracken Moore

personally known to me

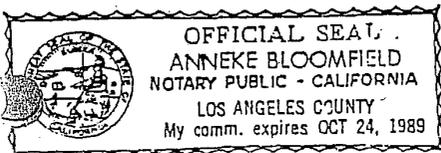
proved to me on the basis of satisfactory evidence

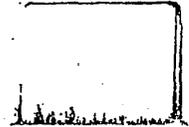
to be the person(s) whose name(s) are subscribed to the within instrument, and acknowledged that they executed it.

WITNESS my hand and official seal.

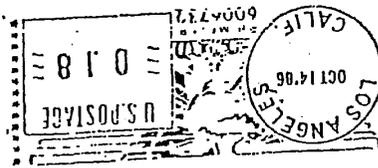
Anneke Bloomfield
Notary's Signature

86-1256576





IMPORTANT NOTICE ON BACK



**PRESENTED
FIRST CLASS**



**COUNTY RECORDER
ROOM 5, HALL OF RECORDS
227 NORTH BROADWAY
LOS ANGELES, CALIFORNIA 90012-3293**

**IMPORTANT NOTICE
TO NEW PROPERTY OWNERS
REGARDING PAYMENT OF PROPERTY TAXES**



E Priscilla Moore
EET 1801 Century Park East #1600
A Calif 90067

WRITTEN CONSENT OF SUPPORT

FEE \$7	N
	2

For good and valuable consideration received, Bob S. Yamada ("Bob"), does hereby give his written consent to provide support to Priscilla Diane McCracken Moore ("Priscilla") after Bob and Priscilla are legally married, such support to include housing as Priscilla is willing to live with Bob and all applicable expenses pertaining to such housing, and whatsoever food, clothing and living expenses are deemed agreeable to Priscilla and Bob.

RESOLVED FURTHER, such support to continue as long as Bob and Priscilla are legally husband and wife.

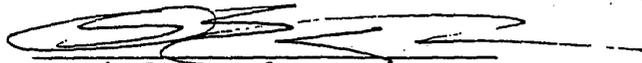
RESOLVED FURTHER, that Bob consents to such support whether Priscilla engages in income-producing endeavors or not.

REVOLVED FURTHER, Bob hereby agrees that property earned by Priscilla that constitutes community property under the laws of the State of California shall be Priscilla's sole and separate property.

Bob understands that upon execution of this document, he is relinquishing any and all claim to any part, portion or whole of any earnings, inheritance, or proceeds of Priscilla for any reason, including his support (unless he becomes incapable of providing for his own support), obligations, debts, contracts, arrangements, or understandings.

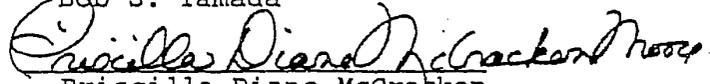
IN WITNESS WHEREOF, the undersigned have executed this written consent as of the date below.

Date 9/17/86



Bob S. Yamada

Date September 17, 1986



Priscilla Diane McCracken Moore

RECORDED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA
31 MIN. 10 A.M. SEP 22 1986
PAST

LOS ANGELES COUNTY RECORDER'S OFFICE
227 N. Broadway, Los Angeles, CA 90012
974-6611

RECORDING RECEIPT

SEP 22 1986

DOCUMENTS RECEIVED FOR RECORD ON _____
86 1256576

ASSIGNED NO. (S) _____ TO _____ INCL.
FEES PAID:
RECORDING: \$ _____ REGISTRAR-RECORDER
TRANSFER TAX: _____ BY _____
SURVEY MONUMENT: _____ DEPUTY
TOTAL \$ _____

76R198 12/82

GENERAL ACKNOWLEDGMENT

NO. 201

State of California }
County of Los Angeles } ss.

On this the 17th day of September 1986, before me,

Anneke Bloomfield

the undersigned Notary Public, personally appeared

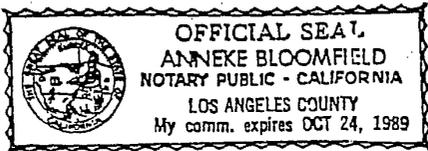
Bob S. Yamada + Riscilla Diane McCracken Moore

personally known to me

proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) are subscribed to the
within instrument, and acknowledged that they executed it.

WITNESS my hand and official seal.



Anneke Bloomfield
Notary's Signature

COPY of Document Recorded

86 1256576

WRITTEN CONSENT OF SUPPORT

with original.

Original when processing has been completed. N

LOS ANGELES COUNTY REGISTER RECORDER

For good and valuable consideration received, Bob S. Yamada ("Bob"), does hereby give his written consent to provide support to Priscilla Diane McCracken Moore ("Priscilla") after Bob and Priscilla are legally married, such support to include housing as Priscilla is willing to live with Bob and all applicable expenses pertaining to such housing, and whatsoever food, clothing and living expenses are deemed agreeable to Priscilla and Bob.

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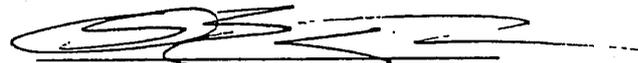
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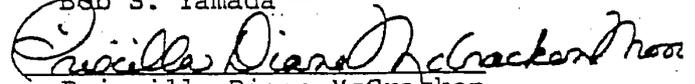
IN WITNESS WHEREOF, the undersigned have executed this written consent as of the date below.

Date 9/17/86



Bob S. Yamada

Date September 17, 1986



Priscilla Diane McCracken Moore