FILED

AUG 2 1 2018

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By_____

COURT OF APPEALS
DIVISION III
OF THE STATE OF WASHINGTON

IN RE THE MARRIAGE OF:

MICHELLE MINDERMAN
Petitioner/Appellant

V.

SEAN MINDERMAN
Respondent

NO. 348296-III

RESPONDENT'S APPELLATE BRIEF

DAVID J. CROUSE
Attorney for Respondents
W. 422 Riverside, Suite 920
Spokane, WA. 99201
(509) 624-1380
WSBA #22978
dcrouselaw@comcast.net

TABLE OF CONTENTS

Table of Authorities ..... Page 3

Issues presented ..... Page 5

Statement of Case ..... Page 6

Argument .....Page 13

Conclusion ..... Page 27

TABLE OF AUTHORITIES

STATUTES AND COURT RULES

RCW 26.09.140.....25

RCW 26.09.285.....21

RCW 26.18.220.....23

RCW 26.19.075.....23

STATE CASES

Carroll v. Junker, 79 Wn.2d 12 (1971).....22

Daubert v. Johnson, 124 Wn. App. 483 (2004).....19

In re Marriage of Griffin, 114 Wn.2d 772 (1990).....22

In re Marriage of Kovacs, 121 Wn.2 795 (1993).....20

In re Marriage of Littlefiled, 113 Wn.2d 39 (1997).....22

In re Marriage of McDole, 122 Wn.2d 604 (1993).....20

Kimpel v. Kimpel, 122 Wn.2d 729 (2004).....21

Lutz Tile, Inc. v. Krech, 136 Wn. App. 899 (2007).....17

Marriage of Allen, 78 Wn. App. 672 (1995).....22

Marriage of Morris, 176 Wn. App. 893 (2013).....24

Matter of Parentage of C.M.F., 179 Wn.2d 411 (2013).....23

Miller v. Kenny, 180 Wn. App. 772 (2014).....17

Pippins v. Jankelson, 110 Wn.2d 475 (1988).....24

Saleemi v. Doctor's Assocs., 176 Wn.2d 368 (2013).....24

Schuster v. Schuster, 90 Wn.2d 626 (1978).....20

State v Swanson, 73 Wn.2d 698 (1968) 13

State v. Torres, 16 Wn. App. 254 (1976).....17, 18

Trotzer v. Vig, 149 Wn. App. 594 (2009).....19

Willener v. Sweeting, 107 Wn.2d 388 (1986).....19

ISSUES PRESENTED

I. Was there error by the trial judge relative to leading questions that was substantially prejudicial to the outcome of the case given the wide latitude afforded to the court in non-jury trials?

II. Did the trial court's findings demonstrate substantial evidence supporting its determinations?

III. Was the parenting plan ordered by the court based on substantial evidence and did the trial court impermissibly rely on the parties' temporary order in determining its final parenting plan?

IV. Is the trial court afforded discretion in allocating the father as the custodial parent under the applicable section of the parenting plan?

V. Did the trial court properly calculate child support to include the denial of a requested transfer payment deviation by the mother?

VI. Should Michelle Minderman be ordered to pay the Father's attorney fees on appeal?

STATEMENT OF THE CASE

The mother filed for divorce on April 3, 2012. The mother filed a proposed parenting plan where she requested primary parenting with alternating weekends and a mid-week visit to the father. R101. The parties have two children, Kailey and Kade. They were 13 and 8 respectively at the time of trial. In her initial filings, the mother raised no issue of concern over the father's conduct.

The father filed a motion for a temporary parenting plan on June 28, 2012, requesting a shared parenting plan. See R102, 103. After the father requested this parenting plan, mother filed a 2005 domestic violence report on July 6, 2012. R116.

In preparation for the initial temporary parenting plan hearing, the mother requested and received an order allowing her to exceed the page limits for the temporary parenting hearing, but despite this order, submitted no supporting declarations from witnesses. R111. The father filed multiple supporting declarations.

The Court Commissioner ordered a 8/6 split of overnights in a 14 day period, with the mother having 8 overnights and the father having 6 overnights. School breaks were shared equally. See R113, R115. While exchange times were adjusted in a subsequent order, the parties

followed this 8/6 overnight split (with shared school breaks) since 2012 and though the time of trial.

On May 8, 2013, the father filed a motion requiring the mother to provide him with phone contact when the children were with her. R119. Commissioner Ressa granted the motion, commending the father for providing the mother with phone contact *even while his contact was being denied by the mother.* (Emphasis added.) See R122 (order) and R123 (transcript of hearing).

Trial was scheduled before Judge Cooney on July 21, 2014. See R132. About a month before trial, the mother contacted the GAL (with the child), claiming that Kailey had found a dildo and fuzzy handcuffs at her father's house that had been sitting out in the open. The mother and child met with the GAL and showed her a photo of the dildo and fuzzy handcuffs. The GAL was concerned about this allegation. This allegation occurred very shortly after the guardian ad litem issued a report recommending residential time to the father contrary to that requested by the mother. See testimony beginning at RP 31, line 20.

The father denied that any dildo had ever been in his home and that the handcuffs were an old gag gift that had sat in a drawer dating back to the period prior to his separation from the mother. The father, through

his attorney, coordinated with the GAL to set up a polygraph examination with Lawrence Kuciemba on this dildo accusation. The father appeared for, and passed, the polygraph examination. See R135. The "dildo" issue was then dropped. The father alleged that it was a plant by the mother, but she never offered to take a polygraph herself.

With this ongoing "dildo" investigation, trial was continued by Judge Cooney to August 25, 2014. See R136. Within weeks of the August 25, 2014 trial date, the mother began claiming that Kailey was suicidal. See R137, R143. Because of the suicidal ideation claim by the mother, the GAL needed to investigate this and trial was continued to December 1, 2014 by Judge Cooney. See R138.

Despite her claim that Kailey was suicidal, the mother did not take Kailey in to see her established psychologist Dr. Lisa Christian or any other therapist. In fact, the mother ceased paying Dr. Christian altogether. See R140. The father was then required to pay the mother's portion of Dr. Christian's bill in order to keep Kailey in therapy with her. See R140, R141, R142.

The mother claimed that Dr. Christian was biased in favor of the father and that Kailey did not want to see her. See R144. Previously,

there had been no issue between Dr. Christian and Kailey and they had a good relationship. Dr. Christian informed the GAL that Kailey was not suicidal. The mother requested that Kailey get a new therapist, which occurred in 2015.

With trial continued to December 1, 2014 because of the mother's suicidal ideation claims, the mother filed a motion to reduce the father's residential time seeking to move him to every other weekend and a mid-week visit. See R139. Commissioner Ressa denied this motion and left the 8/6 schedule in place. R149.

Trial was continued by Judge Moreno to February 23, 2015. See R151, R152. About a month before the trial date scheduled by Judge Moreno, the mother filed a motion claiming that Kailey needed a Neuroeducation assessment. See See R156. The father objected to this motion and indicated that the mother was continuously making claims before trial designed to cause continuances. See R157.

The order for a Neuroeducation order was entered (R158) and Judge Moreno continued trial to allow for the receipt of the report. See R159, R160. Trial was continued to March 23, 2015 by Judge Moreno. See R159.

The Neuroeducation report was not completed by the trial date.

Trial was continued by Judge Moreno with a provision that any motion must be presented to the trial judge. See R162. Judge Moreno continued trial to June 22, 2015. See R163.

A little over a month before trial, June 2015, the mother changed her attorney. See R164. On June 2, 2015, the mother filed a motion for trial continuance since she had a new attorney. See R165. On June 5, 2015, three days after she filed a motion to continue trial, the mother secretly made a call to Kailey's pediatrician claiming that Kailey was depressed. See R170. The father learned of this call only after making a records request.

Judge Moreno continued trial to October 19, 2015 and assigned the matter to an IC Judge. See R162.

The mother has made negative comments about the father to the schools. See R167, R168, R169.

The mother secretly took Kade to an Urgent Care visit on August 12, 2015 claiming abuse by the father. See R172. At about this same time, the mother called CPS on the father, but this was not known until later contact from CPS. See R189.

During this same period of time, the mother had provided Kailey with a secret cell phone which the father discovered. Kailey would not

provide the father with the access code (at her mother's instruction) and the father's subsequent phone call to the mother also provided no success. After this phone call from the father to the mother, the mother called the next door neighbor and asked her to go get Kailey claiming fear of abuse by the father. See generally R173.

The mother called the sheriff on the father and the sheriff responded to the father's home. See generally R173. The mother drove to the father's residence attempting to pick up the children. The sheriff found no fault with the father, required Kailey to go to his home, and sent the mother home.

The mother then made a CPS report on the father with regard to Kailey, but this was not known until later contact by CPS. See R189 and R176.

On August 31, 2015, just before school resumed, the mother refused to turn Kailey over to the father claiming that Kailey wanted to stay with her through the start of school. See R175. The father refused to waive his time and the mother claimed that Kailey was hysterical over this.

From August 2015 through October 2015, the mother substantially refused any phone contact to the father while the children were with her. See R176, R181, R183, R185, R187, R188, R190-195. The mother

claimed that the children did not want to speak with the father. See R176, R186. The mother also claimed the father called too late. See R184. However, the mother has regularly contacted the children after 8:00 p.m. when they are with the father.

The mother again took Kade to the pediatrician on September 3, 2015 claiming that he was still suffering from his father's spanking (which formed the basis for her CPS report). See R177. On September 17, 2015, the mother secretly took Kailey to the pediatrician over emotional issues, making reference to the father. See R182. The father learned of this visit only after making the medical records request.

Trial was continued to January 4, 2016 by Judge Plese while the father awaited findings from CPS. CPS filed a formal report on November 4, 2015 finding the mother's two complaints to be unfounded. R189.

The mother did not provide discovery as ordered. See R201-202. Pursuant to an order on the second motion to compel, attorney fees were reserved by Judge Moreno. See R202. The mother wrote a "sticky note" to her attorney Matthew Dudley asking if she had to turn over bank statements (which ultimately showed a very substantial sign-on bonus from LPL Financial). See R219 (original sticky note preserved

for trial). This "sticky note" was inadvertently turned over to the father's counsel after Judge Moreno's order on motion to compel.

The mother's disclosures to the Court regarding her income for child support purposes were substantially less than her actual earnings. See testimony beginning RP 454.

ARGUMENT

I. THERE WAS NO ERROR BY THE TRIAL JUDGE THAT WAS SUBSTANTIALLY PREJUDICIAL TO THE OUTCOME OF THE CASE RELATIVE TO LEADING QUESTIONS GIVEN THE WIDE LATITUDE AFFORDED TO THE COURT IN NON-JURY TRIALS AND GIVEN THE BREADTH OF EVIDENCE AVAILABLE TO THE COURT FROM MANY WITNESSES, WHERE NO VIOLATION IS EVEN ALLEGED.

In the brief of the appellant, a few citations to alleged leading questions are provided. Given the scope of the trial and the number of witnesses and evidence available to the Court, a few leading questions would be meaningless to the Court's determination. Even if the alleged leading questions were removed from consideration, there is an overwhelming amount of evidence available to the trial court that would substantially support her findings and determinations.

In State v Swanson, 73 Wn.2d 698, 699 (1968), the prosecutor asked an "obviously" leading question that resulted in the identification of the defendant. Despite the high burdens involved in criminal prosecution, the court ruled that this leading question did not justify a mistrial because other witnesses appropriately identified the defendant. Id. at 699. "In consequence of those unshaken and undenied identifications, defendant is unable to effectively assert that the prosecutor's leading question prejudicially affected the result of the trial." Id. Here, the Appellant completely fails to provide a link or nexus between any particular alleged leading question and the court's ultimate determinations.

Appellant's implication is that, but for the cited leading questions, the trial court could not have made its parental alienation findings. This argument ignores overwhelmingly substantial information from other witnesses where no claim of a leading question is even being raised by the Appellant.

The children's guardian ad litem, Mary Ronnestad, was called as a witness by appellant's trial attorney Jane Brown on direct examination. RP 10. Ms. Ronnestad performed a complete investigation. RP 13, line 6. She testified that the parties' daughter initially wanted more time with the father beyond the 8/6 shared schedule. RP 29, line 24. Kailey

expressed concerns about the lack of attention from her mother. RP 30, line 2. See also RP 30 lines 22-25.

However, the child's behavior changed after the guardian ad litem released her first report to both parties. See testimony beginning at RP 31, line 7. A pattern of allegations then began by the mother to include allegations that the father exposed the child to a dildo, that the child was suicidal, that the child's counselor Dr. Christian was suddenly no longer fit, that the child needed a neuroeducation study, and that the mother then commenced making reports to CPS about the father alleging abuse. See RP 31 line 20 through RP 33, line 7. Each of these issues was explored in substantially more detail from RP 36 through RP 63. See also RP 120, line 8-25. The trial court was entitled to consider and rely on this testimony.

Furthermore, the guardian ad litem testified that the child's psychologist Dr. Christian did not see any of the behaviors reported by the mother. RP 79, line 4. See also RP 117 lines 9-21 where the GAL testified that neither of the child's counselors raised any of the complaints being raised by the mother.

The GAL further testified that the parenting proposal made by the mother was inconsistent with her recommendations. See RP 118 through 122. The guardian ad litem's testimony spans from RP 10 to RP 124. No

objections were raised by Ms. Minderman. The trial court was entitled to consider and rely on this information presented.

Sean Minderman provided testimony as to his involvement with the children. Mr. Minderman provided said testimony with regard to problems in working with Ms. Minderman, with regard to aforementioned allegations made by Ms. Minderman that his testimony was false, and with regard to calls made by Ms. Minderman to CPS and the sheriff where Ms. Minderman was making false allegations against him. See RP 134 through RP161 and RP 188 through RP 247 line 11. No objections were raised until RP 225 where a single hearsay objection was sustained by the Court. This was very extensive testimony that the trial was entitled to consider. This testimony in and of itself would support all of the trial court's findings and conclusions.

Ms. Minderman was then called as a witness by Mr. Minderman. See testimony beginning at RP 365. Literally every issue raised in this case was discussed with Ms. Minderman. Ms. Minderman's testimony proceeded to RP 459 line 17. Every single finding and conclusion made by the trial court finds support in the testimony of Ms. Minderman to include all of the findings about parental alienation and inappropriate parental conduct by Ms. Minderman. Importantly, not a single objection was raised

by Ms. Minderman during this testimony. The trial court was entitled to consider and rely upon this testimony.

An expert, Ms. Rita Zorrozua was called by Mr. Minderman at RP 525and an extensive background and foundation was laid. No objection was raised by Ms. Minderman until RP 549, line 5 and that was over the issue of whether pornography was discussed, not inappropriate questioning.

The next objection by Ms. Minderman's counsel does not occur until RP 561, line 25 and it was sustained by the trial court. Beginning at RP 565, Ms. Minderman's counsel does raise objections and the trial court required that questions be related to hypothetical situations only. Granted, other objections were raised and ruled on by the trial court. However, even if certain portions of the testimony were excised, the vast majority was not objected to. Testimony continued to RP 609. The trial court was entitled to rely on the very substantial information that was not objected to. Furthermore, Mr. Minderman submits that the trial court appropriately ruled on the objections.

In addition to the aforementioned testimony, substantial lay testimony was provided by Robert Sola beginning at RP 610 through RP 630. No objections were raised. Donna Jean Minderman provided lay testimony from RP 637 through RP 663. Again, no objections were raised.

Ms. Minderman took the stand again at RP 670, called by her attorney as a witness. She was examined extensively on cross by Mr. Minderman's counsel. Her testimony concluded at RP 697. No objections were raised. Her testimony provides additional support for the findings and conclusions entered by the trial court.

As illustrated above, the vast majority of all the testimony presented was not objected to. The portions that were objected to are minuscule compared to the other evidence. This substantial evidence, not objected to, provides complete support for every finding and conclusion made by the trial court.

The requirement to show a material effect in the overall outcome is a consistent theme in the case law. "An erroneous evidentiary decision is reversible error only if it is reasonable to conclude that the trial outcome would have been materially affected had the error not occurred." Miller v. Kenny, 180 Wn.App. 772, 794 (2014). Lutz Tile, Inc. v. Krech, 136 Wn.App. 899, 905 (2007), review denied 162 Wn.2d 1009 (2008). Here, there was very substantial testimony available to the trial court beyond the very small portion of Rita Zorrozua's testimony that was objected to.

Only in the most extreme cases does the existence of a leading question warrant a new trial. In State v. Torres, 16 Wn.App. 254, 258

(1976), the prosecutor intentionally and consistently continued to ask leading question to the point that the court was required to find the prosecutor contemptuous. The defendants were referred to by racial references. The prosecutor also repeatedly raised the issue that the defendants refused to testify during trial and in closing. The court held that "while the asking of leading questions is not prejudicial error in most instances, the persistent pursuit of such a course of action is a factor to be added in the balance." Id. at 258. Only when combined with the error of violating the privilege against self-incrimination and the racial references did the court grant a new trial. Id. at 258-265. A fair reading of this case indicates that even given the prosecutor's gross violation of leading questions leading to a finding of contempt, even this conduct was not enough to warrant a new trial without the other cumulative misconduct.

Certainly, nothing even close to the facts of Torres have occurred here. Many days worth of testimony had no issues of leading questions raised whatsoever, and no objections were made. The trial courts findings and conclusions were abundantly supported by a myriad of witnesses testimony not objected to.

II. THE TRIAL COURT'S FINDINGS DEMONSTRATE THAT THERE IS SUBSTANTIAL EVIDENCE SUPPORTING ITS DETERMINATIONS.

An appellate court reviews findings of fact erroneously labeled conclusions of law as findings of fact, and it reviews conclusions of law erroneously labeled findings of fact as conclusion of law. Trotzer v. Vig, 149 Wn.App. 594, 608 (2009), Willener v. Sweeting, 107 Wn.2d 388, 394 (1986).

Arguments have been raised on appeal relative to the mandatory family law forms, either that there were not used or that their use did not cover all legal necessities. This was addressed in Daubert v. Johnson, 124 Wn.App. 483 (2004). In Daubert, the former husband argued that the court's failure to use the form WPF DR 06.0600 constituted reversible error. Id. at 490. The court held that the failure to use the forms was harmless error and that "The question is whether the findings which were made are supported by evidence and support the conclusion of law and order of the curt." Id. As discussed throughout this brief, substantial evidence supports all of the court's core determinations such as the parenting plan and child support determination. The Appellant's effort to find fault with very minor underlying issues completely ignores the

substantial evidence that supports the court's key determinations.

III. THERE WAS VERY SUBSTANTIAL EVIDENCE SUPPORTING THE PARENTING PLAN ORDERED BY THE COURT, AND THE TRIAL COURT DID NOT RELY ON THE PARTIES' TEMPORARY ORDER IN DETERMINING ITS FINAL PARENTING PLAN.

An appellate court reviews a trial court's findings of fact to determine whether they are supported by substantial evidence. In re Marriage of McDole, 122 Wn.2d 604, 610 (1993). A trial court's custody disposition will not be disturbed on appeal absent a manifest abuse of discretion. Schuster v. Schuster, 90 Wn.2d 626, 632 (1978). A trial court abuses its discretion when its decision is manifestly unreasonable or based on untenable grounds. In re Marriage of Kovacs, 121 Wn.2d 795, 801 (1993).

It is hard to even comprehend Ms. Minderman's claim that the trial relied on the temporary parenting plan. The trial court entered a final parenting plan that was different than the temporary parenting plan. The trial court had very substantial information that it was entitled to rely on in making its parenting determination. This claim by Ms. Minderman is meritless.

IV. THE TRIAL COURT IS AFFORDED DISCRETION IN ALLOCATING THE FATHER AS THE CUSTODIAL PARENT UNDER THE APPLICABLE SECTION OF THE PARENTING PLAN.

The trial court did not err in its allocation of custodial parent under the decree. This issue was squarely addressed in the Division III case of Kimpel v. Kimpel, 122 Wn.2d 729 (2004). In Kimpel the parents had a "fairly even split of residential time". The decree designated the mother as the custodial parent although the father mathematically received slightly more time, about 4 extra days in a 28 day period. Id. at 731, 733. The father claimed that he should be designated the custodial parent.

Division III stated, "We hold that in an intended 50-50 residential time split situation, exact mathematical precision is not determinative under RCW 26.09.285" and that substantial discretion is afforded the trial court. Id. A fair reading of this case makes it clear that the trial court has the authority to list one parent as the custodial parent in a 50-50 situation under RCW 26.09.285. There was no error.

V. THE TRIAL COURT PROPERLY CALCULATED CHILD

SUPPORT TO INCLUDE THE DENIAL OF A REQUESTED TRANSFER PAYMENT DEVIATION BY THE MOTHER.

The appellate court reviews child support orders for a manifest abuse of discretion. In re Marriage of Griffin, 114 Wn.2d 772, 776 (1990). To succeed on appeal the appellant must show that the trial court's decision was manifestly unreasonable, or based on untenable grounds or reasons. Carroll v. Junker, 79 Wn.2d 12, 26 (1971). A court's decision is manifestly unreasonable if it is outside the range of acceptable choices, given the facts and the applicable legal standard; it is based on untenable grounds if the factual findings are unsupported by the record; it is based on untenable reasons if it is based on an incorrect standard or the facts do not meet the requirements of the correct standard. In re Marriage of Littlefield, 133 Wn.2d 39, 47 (1997).

Appellant references the use of the mandatory forms in her appellate brief, arguing in essence that they were not fully filled out. This is not the issue. The issue is whether substantial evidence supports the Court's order. "The law must drive the forms, not vice versa". Marriage of Allen, 78 Wn.App. 672, 679 (1995). The trial court properly calculated the incomes of the parties based on the evidence before it, and the Court properly utilized the requisite child support schedules. The decision on

whether to grant or deny a deviation resides in the discretion of the trial court. The courts retain the power to deviate for a legally sufficient reason. RCW 26.19.075. A deviation may be based on residential time. RCW 26.19.075(1)(d). However, there is no requirement for the Court to deviate and the trial court is vested with the discretion to deny the deviation. There is nothing manifestly unreasonably about the trial court's approach.

See also Matter of the Parentage of C.M.F., 179 Wn.2d 411, 431 (2013) where the mother highlighted the father's use of the wrong statutory basis and accompanying mandatory form. While the appellate court acknowledged that the wrong statutory basis and form was used, it also clearly held that "The statutes requiring the use of standard forms, however, are clear that a court should not dismiss a case because a petitioner uses and improper form." Id. at 431 citing RCW 26.18.220(3). Certainly, nothing in this case involved even the use of a wrong form. Instead, the appellant argues that the form and/or findings are not adequately complete.

The use of mandatory forms provides the opportunity for ceaseless litigation at both the trial court level and on appeal, as a litigant argues that the mandatory form did not include enough information or that all of the "boxes" in a form were not used. This was the case in Marriage of Morris, 176 Wn.App. 893, 903 (2013), where the father argued that the court lacked

jurisdiction to order post-secondary child support because the mother used a motion for adjustment rather than the petition for modification. The court found that the father was provided appropriate notice and had the opportunity to meaningfully respond. Id. The father argued that the harmless error doctrine does not apply where the statute provides that the court "shall" do something but this argument was expressly rejected by the court which held, "Further, it is well established that errors in civil cases are rarely grounds for relief without showing a prejudice to the losing party. Moreover, the court has broad equitable powers in family law matters." Id. at 903-904 citing Saleemi v. Doctor's Assocs., 176 Wn.2d 368, 380 (2013) and Pippins v. Jankelson, 110 Wn.2d 475, 478 (1988). (Emphasis added.) The court found that to grant the father's request for strict enforcement would mean that the older daughter of the parties would be foreclosed from receiving postsecondary child support. Morris at 904.

This holding provides key guidance on both the child support and parenting plan issues that have been raised by the appellant herein. Her arguments focus on the minutiae and ignore the trial court's broad equitable authority. While pointing to issues that would at best be denoted as harmless error, the appellant ignores the overwhelming amount of evidence that supports the trial court's findings, conclusions and orders.

The father's income was discussed substantially in testimony beginning at RP 248. The mother's income was discussed substantially in testimony beginning at RP 454. The trial court's determinations fall squarely within the range of the evidence presented. By no means was a single determination made by the trial court an "outlier".

VI. THE SHOULD MICHELLE MINDERMAN BE ORDERED TO PAY THE FATHER'S ATTORNEY FEES ON APPEAL.

RCW 26.09.140 governs cost and attorney fee awards in domestic relations proceedings. That statute states that "[t]he court from time to time after considering the financial resources of both parties may order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding under this chapter and for reasonable attorney's fees or other professional fees in connection therewith..." This statutory language is often referred to as "need and ability to pay." Additional support is found in RAP 14.

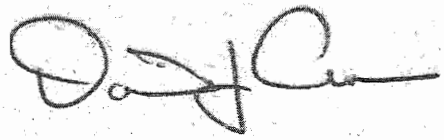
Here, the final order of child support and child support worksheets show the substantial difference in the finances of the parties. Updated financial documents will show that Sean Minderman has a current need for assistance in attorney fees and Michelle Demand has the ability to pay these fees. Sean Mnderman requests that attorney fees be ordered to him for

defending on this appeal.

CONCLUSION

Ms. Minderman bases her appeal on a tiny segment of the trial proceedings occurring during the testimony of only one witness, Ms. Rita Zorrozua. While Mr. Minderman submits that there was no error by the trial court, even if this Court were to disagree, the error would be harmless. There was very substantial information, not objected to, that supported every finding and conclusion reached by the trial court. In sum, there was overwhelming support for the trial court's determinations and the trial court is entitled to rely on this evidence.

Respectfully submitted,



David J. Crouse, WSBA #22978
Attorney for Respondent Sean Minderman

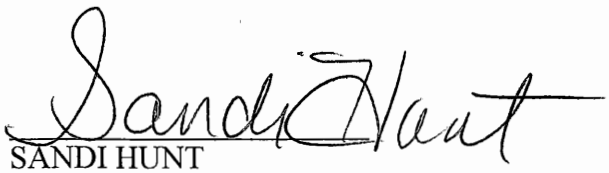
CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is a person of such age and discretion to be competent to serve papers.

That on the 21st day of August, 2018, she personally served a copy of the Respondent's trial brief to the persons hereinafter named at the places of address stated below which is the last known address.

ATTORNEY FOR APPELLANT

Gary Stenzel
Attorney At Law
1304 W. College Ave. LL
Spokane, WA 99201



SANDI HUNT
Legal Assistant to David J. Crouse

SUBSCRIBED AND SWORN to before me this 21 day of August, 2018.

NOTARY PUBLIC in and for the State of Washington, residing in Spokane.
My Commission Expires: 8/29/20