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DIVISION II

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STATE OF WASHINGTON  
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DEPUTY  
IN THE COURT OF APPEALS  
OF THE STATE OF WASHINGTON  
DIVISION TWO

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In re the Marriage of:

ROBIN M. FREEMAN  
N/K/A ROBIN ABDULLAH

Respondent/cross-appellant

and

ROB R. FREEMAN

Appellant/Cross-Respondent

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ON APPEAL FROM THE SUPERIOR COURT OF THE  
STATE OF WASHINGTON FOR THURSTON COUNTY

The Honorable Christine Pomeroy, Judge

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BRIEF OF RESPONDENT/CROSS-APPELLANT

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## **A. INTRODUCTION**

This appeal raises the question of whether a permanent protection order is permanent. This is not an appeal from the original protection order, entered in 1998, despite Freeman's efforts to make it so. Rather, it is a challenge to the trial court's findings that the victims of Freeman's domestic violence continue to fear him and that Freeman failed to offer any justification for terminating the order. These findings are supported by substantial evidence and the court, in denying Freeman's motion, acted well within the discretion bestowed upon it by the Domestic Violence Prevention Act. Indeed, this appeal is wholly devoid of merit.

## **B. ISSUES IN RESPONSE TO APPELLANT'S BRIEF**

1. Does the appellate court review a trial court's written findings and conclusions for a manifest abuse of discretion, particularly where the trial court made credibility determinations from both oral and documentary testimony?

2. Does the moving party who seeks termination of a permanent protection order bear the burden of proof and persuasion?

3. Did the trial court abuse its discretion when it denied the motion to terminate the permanent protection order, given the

lack of justification for termination and given the continuing fear of the victims?

**C. MOTION FOR ATTORNEY FEES**

Respondent Robin Abdullah respectfully requests she be awarded her attorney fees and costs on appeal, as authorized by statute and by court rule.

**D. CROSS APPEAL ASSIGNMENT OF ERROR**

The trial court erred when it declined to order Freeman to pay Abdullah's attorney fees for the revision hearing.

**E. RESTATEMENT OF THE CASE**

In 1998, toward the end of the Freeman/Abdullah marriage, Robin Abdullah obtained a permanent protection order against Rob Freeman for herself and her children, then minors. CP 86-87.<sup>1</sup> Abdullah alleged domestic violence perpetrated by Freeman, including beatings, threats, screaming and yelling, displaying weapons, and once rendering his stepdaughter unconscious. CP 7-11, 25-26, 78. After hearing considerable testimony and viewing several exhibits, the trial court (Commissioner Wickham) carefully weighed the evidence and granted the order. CP 29-31, 84. The court found that Freeman committed domestic violence and that an

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<sup>1</sup> For clarity's sake, the parties will be referred to by their current last names.

order of any shorter duration would be insufficient to prevent further acts of domestic violence. CP 85, 87. Freeman did not appeal the order.

In 2006, Freeman moved to modify the protection order, effectively to terminate it. CP 4-33. He claimed that time had passed, that he had not violated the order, that he no longer lived in Washington, that he had suffered the loss of one hand, and that the protection order impaired his ability to work at jobs requiring national security clearance. CP 4-5, 36.<sup>2</sup>

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<sup>2</sup> Freeman, a former Green Beret, does not specify the jobs he seeks or the impediments posed by the protection order. However, federal law restrains firearm possession where domestic violence has been established. *See, e.g.*, 18 U.S.C. 1922(g):

**It shall be unlawful for any person –**

...

**(8)** who is subject to a court order that–

**(A)** was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

**(B)** restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

**(C)(i)** includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

**(ii)** by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; ...

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

His former wife, Robin Abdullah, submitted in writing a sworn statement that she and her children “have lived in fear of [Freeman] since the divorce was final.” CP 88.<sup>3</sup> She described various unsettling events post-divorce that stopped when Freeman left the state. CP 88-89. She also described unexplained phenomena occurring after Freeman left the state, also unsettling to her. CP 89. She remains “terrified of this man.” CP 90.

Freeman’s former stepdaughter, Yasmeen Abdullah, testified in open court. RP 2-5. She is the stepdaughter whom Freeman rendered unconscious by dragging her down the hall and applying pressure to points in the area of her neck and head. CP 7-11, 78. Freeman described this as “escorting” her to her room. CP 13. 20. Yasmeen confirmed that Freeman had victimized her. RP 2. She testified that after entry of the protection order, Freeman violated the contact provisions by coming to her high school and watching her. RP 3; CP 54 (¶ 2.6). She described how Freeman tried to break into their house several times after entry of the protection order, while only she and her younger brother were present. RP 4-5. She reported that they called the police “lots of times.” RP 5.

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<sup>3</sup> Though she did not testify, Abdullah appeared at the 2006 hearing, as indicated by her signature on the order denying the motion. CP 38. (The clerk’s minutes, which fail to note her presence, appear to be in error. CP 93.)

She corroborated her mother's testimony that "weird stuff" had happened since then and affirmed that she remains in fear of Freeman. RP 4.

The trial court ruled, based on review of the statute and the court's own training, that the burden of proof was on Freeman, as moving party. RP 7; CP 54 (§§ 2.14). The court reasoned that the Legislature did not intend to require a victim of domestic violence "to prove year after year after year that they are still a victim." RP 7; CP 54-55 (§§ 2.15). Though Freeman had argued, in 1998, that his specialized combat and weapons training should not have factored into the court's assessment of the victims' fears, the trial court disagreed (then and now). RP 6. Rather, the fact that Freeman is trained in the use of force and weapons and has access to the latter is relevant to the victims' fears. CP 55 (§§ 2.19 and 2.20). The court concluded that Freeman had failed his "burden of showing that the [petitioner] is not entitled to maintain the permanent protection order entered on February 4, 1998." CP 56 (§§ 3.3).

The court entered the following specific factual findings and conclusions:

2.5 The court considered the pleadings and sworn statements filed prior to the hearing, as well as the sworn testimony of Yasmeen Abdullah.

...

2.12 Yasmeen Abdullah is currently in fear of the respondent.

2.13 The petitioner is currently in fear of the respondent.

2.14 The burden is on the party requesting to modify or terminate the protection order to show that the respondent will not resume acts of domestic violence against the petitioner or the petitioner's family members.

...

2.21 It is not appropriate for the mere passage of time without any other showing to lift a person's reasonable fears that they may be a victim of domestic violence by someone who has hurt them in the past.

...

2.23 Yasmeen Abdullah's testimony was credible with respect to the initial contacts and her fear of the respondent.

...

Yasmeen Abdullah has a present and reasonable fear of Mr. Freeman.

3.2 Ms. Freeman has a present and reasonable fear of Mr. Freeman.

CP 54-56. Of these findings, Freeman challenges on appeal only ¶¶ 3.1, 3.2, and 3.3. **See** RAP 10.3(g) (“A separate assignment of error for each finding of fact a party contends was improperly made must be included with reference to the finding by number.”); **State v. Rankin**, 151 Wn.2d 689, 709, 92 P.3d 202 (2004) (unchallenged findings are verities on appeal).

Freeman moved for revision and was denied. CP 57-59, 94-96, 97, 98-99. The court also denied Abdullah’s request for attorney fees. CP 99. On appeal, Freeman challenges the sufficiency of the evidence.

#### **F. ARGUMENT**

##### **1. THE STANDARD OF REVIEW IS ABUSE OF DISCRETION.**

Freeman urges this Court to conduct an independent review of the record, arguing an exception to the general rule that “the trial court is in the best position to weigh evidence and evaluate credibility ...” Br. Appellant, at 11; **State v. Glenn**, 115 Wn. App. 540, 546, 62 Wn. App. 921 (2003). Appellant is mistaken in at least two respects.

First, he fails to acknowledge that the exception he urges has been substantially narrowed. The Washington Supreme Court, affirming this Court, held that where there has been a bench trial on

affidavits and documentary evidence and the trial court has entered findings of fact, particularly where credibility is at issue, the appellate court should review the findings for substantial evidence, the same as if there had been live testimony. **See *In re Marriage of Rideout***, 150 Wn.2d 337, 350-351, 77 P.3d 1174 (2003). In so holding, the court noted the experience and expertise of the trial level judicial officer in such matters. ***Id.*, accord *In re Parentage of Jannot***, 149 Wn.2d 123, 126-127, 65 P.3d 664 (2003) (also emphasizing the special interest in finality in family law cases). Here, the trial court entered four pages of factual findings and conclusions, including findings that are based expressly on credibility. See, e.g., CP 55 (§ 2.23). Thus, the rule from ***Rideout*** should apply here, especially since Freeman makes no challenge to most of these findings.

In any case, Freeman is simply wrong about the nature of the evidence before the trial court. Though there was documentary evidence, including historical evidence, there was also the oral testimony of Abdullah's daughter, Yasmeen. CP 54 (§ 2.5 "The court considered ... the sworn testimony of Yasmeen Abdullah."). Thus, this court's review includes review of a credibility determination by the trial court based on oral testimony.

For either or both of these reasons, the correct standard of review is abuse of discretion. In the first instance, the decision whether to issue a protection order or to renew one, including whether to make the order permanent, is entrusted to the discretion of the trial court. RCW 26.50.060(1); RCW 26.50.130; **Barber v. Barber**, 136 Wn. App. 512, 513, 150 P.3d 124 (2007); **Hecker, et al. v. Cortinas**, 110 Wn. App. 865, 869, 43 P.3d 50 (2002); **Spence v. Kaminski**, 103 Wn. App. 325, 331, 12 P.3d 1030 (2000). The appellate court “will not disturb such an exercise of discretion on appeal absent a clear showing of abuse.” **Cortinas**, 110 Wn. App. at 869, *citing State ex rel. Carroll v. Junker*, 79 Wn.2d 12, 26, 482 P.2d 775 (1971). Rather, the appellate court will uphold the trial court’s findings if they are supported by substantial evidence in the record. **Pilcher v. State Dep’t of Revenue**, 112 Wn. App. 428, 435, 49 P.3d 947 (2002) *review denied*, 149 Wn.2d 1004, 67 P.3d 1096 (2003); **In the Matter of the Contested Election of Schoessler**, 140 Wn.2d 368, 385, 998 P.2d 818 (2000). Substantial evidence is evidence sufficient to persuade a fair-minded, rational person of the truth of the finding. **Pilcher**, 112 Wn. App. at 435. Here, it is not even debatable that the trial court acted wholly within this authority.

2. THE TRIAL COURT DID NOT ABUSE ITS DISCRETION WHEN IT DENIED THE MOTION TO VACATE THE PERMANENT PROTECTION ORDER.

Under the Domestic Violence Protection Act, protection orders may be either for fixed terms or may be permanent, within the discretion of the court. RCW 26.50.060(2). With respect to duration, the court is constrained only when the protection order would restrain a respondent from contacting his or her own children, in which case the court must fix a period of one year or less for the order. RCW 26.50.060(2).

Orders that are time-limited may be renewed upon certain conditions. RCW 26.50.060(2) and (3). That is, once the petitioners, in a timely fashion, state reasons for seeking renewal, the statute provides that “[t]he court shall grant the petition for renewal unless the respondent proves by a preponderance of the evidence that the respondent will not resume acts of domestic violence against the petitioner or the petitioner's children or family or household members when the order expires.” RCW 26.50.060(3). If the respondent fails this burden of proof, the court may issue another fixed duration order or a permanent order. *Id.*

Except when the order applies to the respondent’s own children, the court is authorized to enter a permanent order of

protection in the first instance or upon a requested renewal. RCW 26.50.060(2) and (3); **Barber**, 136 Wn. App. at 514-516. The duration is left entirely to the court's discretion, as follows:

With regard to other relief, if the petitioner has petitioned for relief on his or her own behalf or on behalf of the petitioner's family or household members or minor children, and the court finds that the respondent is likely to resume acts of domestic violence against the petitioner or the petitioner's family or household members or minor children when the order expires, the court may either grant relief for a fixed period or enter a permanent order of protection.

RCW 26.50.060(2). It is not necessary for a petitioner to prove a recent act of domestic violence in order to obtain a permanent protection order. **Spence v. Kaminski, supra**. Nor is it necessary for a petitioner to prove a new act of domestic violence in order to obtain renewal of a protection order of fixed duration. **Barber**, 136 Wn. App. at 514-516. Rather, present fear based on past domestic violence is sufficient to obtain renewal of a protection order, including making the renewed order permanent. **Id.**

a) The Burden of Proof Was On Freeman.

In this case, the court issued a permanent protection order in 1998, meaning the court necessarily found: (1) that Freeman committed acts of domestic violence, defined as “[p]hysical harm,

bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members” (RCW 26.50.010(1)(a)); and found (2) that Freeman was “likely to resume acts of domestic violence against the petitioner or the petitioner's family or household members or minor children....” RCW 26.50.060(2). CP 84, 85, 87. Freeman did not appeal from this order. Yet he comes now and argues as if Abdullah again has the burden to prove domestic violence and as if he has no burden at all. See, e.g., Br. Appellant, at 14-15 (“[t]he facts here are insufficient to persuade a fair-minded person that Rob represents a threat of imminent harm to Robin or her adult children.”).

That makes no sense. Rather, the statute’s structure, as well as common sense, make plain that Freeman bears the burden of proof and persuasion on why a “permanent” order should not be permanent.

Permanent orders, as the term would suggest, do not require renewal. Rather, a party restrained by such an order may seek modification of it under a general provision that allows the trial court to “modify the terms of an existing order for protection.” RCW 26.50.130. Granted, the statute does not offer any standards for implementation, beyond the general authorization that the trial court

exercise its discretion. **See *Id.*** But, necessarily, since Freeman was the moving party, the burden is on him to establish a reason for modification, as the trial court correctly held. CP 54 (§ 2.14). **See, e.g., *Teller v. APM Terminals Pacific, Ltd.***, 134 Wn. App. 696, 142 P.3d 179 (2006) (burden on party seeking to have pleading amendment relate back and to justify failure to timely amend); ***Parrott Mechanical, Inc. v. Rude, et al***, 118 Wn. App. 859, 864, 78 P.3d 1026 (2004) (moving party bears burden of proof on summary judgment).

Not only is this simple rule almost universal in its application, it makes sense in this context where a party seeks to terminate a “permanent” order. It hardly bears observing that the party seeking such a modification would have to justify it. Likewise, it hardly bears observing that a person protected by a “permanent” order would not be required to prove again and again the need for the order. Otherwise, the word “permanent” in the DVPA is rendered superfluous, contrary to well-settled rules of statutory construction. ***State v. Roggenkamp***, 153 Wn.2d.2d 614, 624, 106 P.3d 196 (2005) (“well-settled principle of statutory construction is that ‘each word of a statute is to be accorded meaning.’”) (internal citations omitted). **See, also, *Barber***, 136 Wn. App. at 516 (renewal

provision must be interpreted to give it effect). Any way you look at it, contrary to his argument on appeal, Freeman bore the burden of proof.

b) Freeman Failed to Justify Termination of the Order

The statute does not identify what a party must prove to justify modification of a protection order. However, in order to get an order in the first place, permanent or otherwise, a petitioner must prove domestic violence and prove that respondent will resume domestic violence if the order expires. RCW 26.50.060(2) and (3). If renewal is sought, the burden shifts to the respondent to prove that he or she will not resume domestic violence. *Id.* This standard harmonizes with the statute's purpose of prevention. Inferentially, at least, a court may fairly assume that a similar (or higher) standard applies to a party seeking modification of an order. In other words, at a minimum, the party must prove that he or she will not resume domestic violence. Freeman failed to make that showing.

The trial court found that Freeman proved that time had passed since the first order. The court logically concluded that such proof alone could not be sufficient to terminate a permanent order, or the order would not be permanent. An order that

terminates (or is subject to termination) upon the passage of a certain amount of time is simply not permanent.

Moreover, contrary to his argument on appeal, Freeman did not prove that “he has not contacted Robin or Yasmeen since the protection order was entered.” Br. Appellant, at 14. The evidence on this point was disputed. Pointedly, Yasmeen testified that there had been contact. RP 3; CP 54 (¶ 2.6). Freeman failed to prove there was no post-order contact. *See George v. Helliard*, 62 Wn. App. 378, 384, 814 P.2d 238 (1991) (“[t]he absence of a finding on an issue is presumptively a negative finding against the person with the burden of proof.”).

In any case, even had he proved compliance with the order, that would not suffice, even when combined with duration of compliance, to justify termination of the order, or the Legislature would have said so. The Legislature could easily have said that permanent orders are subject to termination if the restrained party has no violations over a specific period of time. The Legislature did not say this, probably because such a provision is at odds with the idea of permanently protecting a victim of domestic violence. Freeman offers no argument or authority for why this Court should do what the Legislature chose not to do.

Likewise unavailing is Freeman's argument that, since the parties' relationships have terminated, there are no "opportunities for future conflict." Br. Appellant, at 14. Of course, this would be true of the vast majority of parties protected by and restrained by protection orders. Their relationships generally end. Obviously, the Legislature did not believe that separation alone was, in all cases, a guarantor of safety.

Freeman states that he "has suffered a serious disability" and no longer lives in, nor has he visited, Washington. Br. Appellant, at 14. The trial court made no findings on the issue of his alleged disability and Freeman neither appeared nor offered medical evidence. In any case, whatever the truth of these assertions, Freeman fails to establish a nexus between them and the safety of his victims. That is, he does not prove an inability to harm them, e.g., an injury disabling to that degree. Indeed, the evidence suggests he remains capable at least of performing whatever tasks a job requiring national security clearance would demand, which could include carrying a weapon. Accordingly, these factual assertions are irrelevant.

Finally, Freeman fails utterly to offer what conceivably could be relevant proof: an alteration in his attitude, remorse, insight.

This absence is concerning. Yet, Freeman simply made no attempt to establish facts that might ameliorate the fears of his victims. He offered no evidence of domestic violence counseling, or any counseling. He expressed no remorse for his conduct. In fact, in his declaration in support of the motion to modify, Freeman continued to deny and to minimize his conduct, despite having been found to have committed multiple acts of domestic violence and despite having not appealed the order entered on that basis in 1998. Indeed, he appears oblivious to the seriousness of what was proved in 1998, including that, by his own admission, he forcibly “escorted” Yasmeen (i.e., “grabb[ed]” and “push[ed]” and “put”) her in her room. CP 20. These actions rendered her unconscious and were but one of numerous acts of violence perpetrated upon his then-wife and her children. CP 7-11. He asks the court to terminate the protection order because it has “a serious negative affect [sic] on [his] ability to earn a living.” CP 92. Yet he never acknowledges the “serious negative effect” his violence may have had upon the members of his family.

In light of this proof, and lack of proof, it is no wonder that the trial court found credible the testimony of Robin and Yasmeen Abdullah that they remain in fear of Freeman. Such credibility

determinations are the sole province of the fact-finder. **State v. O'Neal**, 126 Wn. App. 395, 409, 109 P.3d 429 (2005).

Commissioner Hirsch had the opportunity to hear the testimony of Yasmeen Abdullah and to observe her demeanor, voice inflection, and manner of testifying, which is why the appellate court does not disturb credibility determinations. **Morse v. Antonellis**, 149 Wn.2d 572, 574, 70 P.3d 125 (2003). **Accord Barber v. Barber**, 136 Wn. App. at 515 (credibility determination unreviewable). These same principles apply to Commissioner Wickham's findings in 1998 that Robin Abdullah had a reasonable and present fear of Freeman.<sup>4</sup>

c) The Trial Court Did Not Abuse Its Discretion.

Essentially, Freeman asks this Court to hold that compliance with a protection order is grounds to terminate it, even if the compliance is, by his own proof, mainly a matter of time and distance and the Army's own efforts to restrain him. He further asks this Court to ignore the legislative determination to prevent domestic violence, whenever possible. When the Legislature enacted the domestic violence statute it determined that "domestic violence must be addressed more widely and more effectively in

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<sup>4</sup> The 1998 findings and the order itself is res judicata. **Kemmer v. Keiski**, 116 Wn. App. 924, 68 P.3d 1138 (2003).

our state.” RCW 26.50.030 (legislative findings). Protection orders are meant “to reduce and prevent domestic violence by intervening before the violence becomes severe.” *Id.* It is “the legislature’s intent to intervene *before* injury occurs.” *Kaminski*, 103 Wn. App. at 334, *citing State v. Dejarlais*, 136 Wn. 2d 939, 944, 969 P.2d 90 (1998) (Chapter 26.50 RCW reflects the Legislature’s belief that the public has an interest in preventing domestic violence). The trial court’s order in this case denying modification of the permanent protection order furthers this interest in prevention.

#### **G. MOTION FOR ATTORNEY FEES**

Robin Freeman requests the court award her attorneys fees on appeal. The Domestic Violence Prevention Act authorizes an award of reasonable attorney’s fees incurred by a protected party in seeking an order or renewal of an order. RCW 26.50.060(1)(g); RCW 26.50.060(3); RAP 18.1(a). *See In re Gourley*, 124 Wn. App. 52, 98 P.3d 816, *aff’d* 158 Wn.2d 460, 470, 145 P.3d 1185 (2004) (wife entitled by statute to attorney fees on husband’s unsuccessful appeal from domestic violence protection order, despite that request made under incorrect statute). This rule should apply here because it is no different to defend a permanent

protection order than to seek an order in the first place or renewal of an order.

Abdullah is also entitled to fees and costs because Freeman's appeal is frivolous. RAP 18.9 permits this Court to sanction a party who files a frivolous appeal, one where there are no debatable issues upon which reasonable minds could differ and that is so totally devoid of merit that there is no possibility of reversal. *Mahoney v. Shinpoch*, 107 Wn.2d 679, 691, 732 P.2d 510 (1987). This appeal meets that definition. The 1998 order was res judicata as to nearly every fact and issue Freeman raised. He offered no specific authority for his legal arguments. He ignored this Court's recent case, *Barber, supra*, which addresses many of the same issues. His appeal boils down to nothing more than a challenge to the trial court's credibility determination, which is unreviewable. *Barber*, 136 Wn. App. at 516. In short, he raises no debatable issues, yet he has put Abdullah to the extra expense of responding to his appeal, on top of his motion in the trial court. She respectfully asks this Court to award her fees.

**H. ARGUMENT ON CROSS APPEAL: THE TRIAL COURT ABUSED ITS DISCRETION IN DECLINING TO AWARD ATTORNEY FEES TO ABDULLAH.**

As indicated above, the Domestic Violence Prevention Act authorizes attorney fees. Abdullah did not ask for fees at the initial hearing on the motion. CP 93. She did ask for fees on revision, as she does here, because the initial hearing revealed Freeman's motion to be baseless. After the testimony was presented and the commissioner had carefully and completely weighed the evidence and analyzed the issues and, in short, after Freeman's motion was exposed as lacking legal or factual merit, his motion for revision was frivolous, just as this appeal is.

Abdullah's attorney fees request must be viewed in the context of the purposes of the Domestic Violence Prevention Act. For one thing, the legislation is expressly designed to make it simple and economical for victims of domestic violence to obtain court protection. **See, e.g.,** RCW 26.50.030(4) (forms provided free of charge); RCW 26.50.040 (filing and service fees not permitted; copies provided petitioners at no charge). By these and other means, the Legislature made clear that it did not want costs to be an impediment to the prevention of domestic violence. **See** RCW 26.50.040 Legislative Findings (1992) ("Refinements are needed so

that victims have the easy, quick, and effective access to the court system envisioned at the time the protection order process was first created.”). Certainly, the Legislature did not intend that victims who have received permanent protection orders may be subjected to the ongoing cost of defending these “permanent” orders.

Moreover, the Legislature’s overarching goal, to prevent domestic violence, necessarily must mean more than simply diverting physical abuse into litigation abuse. Freeman had his day in court and failed to establish any legal or factual basis for modification of the permanent protection order. If that was his goal, he came nowhere near achieving it. Yet he made the same baseless arguments twice more. The result is that Abdullah has had to pay (and pay and pay) for the protection extended to her by the court in 1998. Pursuit of this baseless claim after the initial hearing was intransigent on Freeman’s part.

The law is well established that intransigence will support an award of attorney’s fees. *Fleckenstein v. Fleckenstein*, 59 Wn.2d 131, 133, 366 P.2d 688 (1961); *In re Marriage of Crosetto*, 82 Wn. App. 545, 563, 918 P.2d 954 (1996); *In re Marriage of Morrow*, 5 Wn. App. 579, 590, 770 P.2d 197 (1989). Such an award is justified where the conduct of one of the parties causes

the other “to incur unnecessary and significant attorney fees.”

*Burrill v. Burrill*, 113 Wn. App. 863, 873, 56 P.3d 993 (2002).

That is precisely the case here.

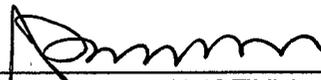
For these reasons, the trial court should have granted Abdullah’s motion for attorney fees on revision.

**I. CONCLUSION**

For the foregoing reasons, Robin Abdullah respectfully asks this Court to affirm the trial court’s decision properly denying the husband’s motion to modify the permanent protection order, to reverse the court’s order denying her attorney fees on revision, and to award her attorney fees and costs for having to respond to the husband’s frivolous appeal.

Dated this 16<sup>th</sup> day of April 2007.

RESPECTFULLY SUBMITTED,



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