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ORIGINAL

NO. 63228-1-I

COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION I

In Re the Marriage of

TRACIE LINN LANG,

Respondent,

v.

BROOK WESTER LANG,

Appellant.

APPELLANT'S CONSOLIDATED REPLY BRIEF ON APPEAL
AND ANSWERING BRIEF ON CROSS APPEAL
(CORRECTED)

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I. ARGUMENT IN REPLY

A. **The Trial Court Erred by Refusing To Allow Brook To Add Expert Witnesses Essential to His Ability to Challenge Parenting Evaluator Lynn Tuttle's Conclusions Regarding Domestic Violence. Tracie's Defense of That Refusal Mischaracterizes the Record and Fails to Come to Grips with the Governing Law.**

Tracie argues that the trial court acted within its discretion in excluding two witnesses that Brook contends were essential to his rebuttal of Lynn Tuttle's conclusions regarding domestic violence and her parenting plan recommendations based on those conclusions. In doing so, Tracie mischaracterizes the record, and also fails to come to grips with the well-established limits that have been placed on a trial court's case management authority to refuse permission to add a witness after the deadline for designating witnesses has passed.

Tracie mischaracterizes the record when she claims Brook had notice that domestic violence would be an issue at trial, by failing to admit that the notice she invokes occurred *before her counsel withdrew domestic violence as an issue on the vital question of residential time, by an affirmative statement made at the May 2008 status conference -- a withdrawal confirmed by Judge North himself during the same status conference.* Tracie further mischaracterizes the record when she claims that the deadline for designating an expert witness on the issue of domestic violence had already passed, ignoring that she was allowed to call a

witness at trial because that witness had been designated in compliance with a witness disclosure deadline *that had not yet run at the time her counsel withdrew domestic violence as an issue*. Finally, Tracie mischaracterizes the record when she claims that Charlotte Svenson was the only expert designated to rebut Ms. Tuttle's allegations and recommendations concerning domestic violence. In fact, Drs. Hutchins-Cook and Dunn were the primary experts designated to rebut Ms. Tuttle's parenting evaluation report and its conclusions, yet Judge North refused to allow Brook to call either witness.

As for the governing law: Tracie asserts that the trial court was mandated to exclude Drs. Hutchins-Cook and Dunn as untimely disclosed witnesses. To the contrary: Washington law holds that it is an abuse of discretion to exclude witnesses where a party has shown good cause for the untimely designation. Moreover, when considering whether to sanction a party for a "late" witness designation, due process independently requires that a trial court must fashion the least severe sanction that will serve the purposes of the discovery rules. Exclusion of essential witnesses is a severe sanction that was plainly not warranted in this case. A continuance would have allowed Tracie sufficient time to prepare for the witnesses that Brook had to designate out of time -- a designation that was out of time, moreover, only because of Tracie's

personal decision to interject the issue of domestic violence into the parenting evaluation process, after her lawyer had represented in open court that the issue was being withdrawn and Brook in reliance on that representation had allowed the final deadline for witness designations to pass without naming experts who could rebut any claim that Brook's residential time should be substantially limited supposedly because he was guilty of domestic violence. The prejudice to Brook of this unfair result is manifest, and requires a new trial on Parenting Plan issues.

1. Tracie's Defense of the Trial Court's Refusal to Allow Brook to Add Drs. Hutchins-Cook and Dunn -- Expert Witnesses Fully Qualified and Prepared to Challenge the Tenability of Lynn Tuttle's Methodology and Conclusions -- Rests on Several Mischaracterizations of the Record.

Tracie's defense of Judge North's refusal to allow Brook to add Drs. Hutchins-Cook and Dunn rests on three mischaracterizations of the record.

First, Tracie mischaracterizes the record regarding whether she withdrew domestic violence as an issue for trial. To see just how Tracie has mischaracterized the record on this point, one must place the events she cites, as purportedly establishing that she did not withdraw the issue of domestic violence, within the chronology of the case as it actually unfolded.

- On April 23, 2007, Tracie filed for dissolution of her marriage to Brook, six days after the episode involving her and Brook that constitutes the only *actual* episode of domestic violence documented in the record, and which Judge North ultimately held he was giving no weight to when he made his (contradictory) determinations on the issue. *See* CP ___ (Dkt. No. 1, King County Superior Court Cause No. 07-3-03124-7 SEA) (App. A).¹ In her petition, Tracie alleged that Brook had “committed domestic violence as defined by 26.50 RCW” against her (Petition at 4, ¶1.12, CP ___), but *also* stated that her proposed parenting plan for the children would “be filed and served at a later date pursuant to RCW 26.09.181” (*id.* at 6, ¶1.16, CP ___).

- Five days before (on April 18, 2007), Tracie, in a separate “domestic violence” proceeding initiated through King County District Court, had applied for and received a “Temporary Order for Protection” which, like her petition for dissolution, accused Brook of domestic violence. *See* Trial Ex. 6 (order entered in Cause No. 07-2-12520-5 SEA) (App. B). But on May 18, 2007, Tracie entered into an agreed temporary parenting in which she certified that *none of the RCW 26.09.191 factors*

¹ Brook has designated this and certain other documents for inclusion in the Clerk’s papers already on file, in a supplemental designation being filed with this brief, and will provide the CP pages for these documents as soon as they are available.

applied. See CP 64 (Agreed Temporary Parenting Plan at 2, section II, subsections 2.1 & 2.2) (App. C). In plain English: Tracie was now certifying that she was no longer accusing Brook of domestic violence regarding either their respective parenting responsibilities or Brook's residential time with his daughters.

- The same day that the trial court entered the agreed parenting plan, the court consolidated the "domestic violence" proceeding into the pending dissolution proceeding. See CP ___ (Dkt. No. 7, King County Superior Court Cause No. 07-3-03124-7 SEA & No. 07-2-12520-5 SEA) (consolidation order) (App. D). Then, on June 6, 2007, Tracie and Brook jointly stipulated to the dismissal of Tracie's initial petition for dissolution. See CP ___ (Dkt. No. 16, King County Superior Court Cause No. 07-3-03124-7 SEA) (stipulated order of dismissal) (App. E)

- The chronology of the case now reaches the two filings upon which Tracie rests her appellate claim that she did not withdraw the issue of domestic violence. The first is Tracie's second petition for dissolution,² filed on July 7, 2007. See CP 3-7 (Petition for Dissolution, King County Superior Court Cause No. 07-3-04818-2 SEA) (App. F).

² The record is not entirely clear as to why Tracie dismissed her initial petition, and filed a second petition. What is clear is that Tracie in the second dissolution proceeding would henceforth be represented by Mr. Ted Billbe, who would make the crucial representations in open court at the May 2008 status conference.

This petition does contain vague references to an issue of domestic violence, first in a statement noting that a protection order had previously been entered under cause number 07-2-12520-5 SEA (the “domestic violence” case), *see* CP 5 (Petition at 3, ¶1.12), and second in a statement of relief requested asking for the entry of a “domestic violence protection order.” *See* CP 6 (*id.* at 4, “Relief Requested” subsection e). But Tracie fails to acknowledge that just two months later, on September 7, 2007, she entered into a second agreed parenting plan in which she -- once again -- certified that *none of the RCW 26.09.191 factors applied*. *See* CP 1055 (Second Agreed Temporary Parenting Plan at 2, section II, subsections 2.1 & 2.1) (App. G). In other words, and again in plain English: Tracie was -- for the second time -- certifying that she was not accusing Brook of domestic violence regarding either their respective parenting responsibilities or Brook’s residential time with his daughters.

- The chronology now reaches the second of the two submissions upon which Tracie rests her claim that she did not withdraw the issue of domestic violence. On October 26, 2007, the parties filed a document entitled “Confirmation of Issues and Certificate Regarding Mediation.” *See* CP 1117-1120 (confirmation) (App. H). Tracie is correct that this document included a reference to domestic violence being an issue in the case -- specifically, a checked form entry stating “yes” to the

question, “[i]s there an allegation of domestic violence in this case?” *See* CP 1119 (Confirmation at 3).³

If the chronology of relevant case events came to a close with this submission, Brook would admit that his case for relief on this point would be severely compromised, perhaps fatally so. But as this Court is by now well aware from its review of the record set forth in Brook’s Opening Brief, the sequence of relevant case events does *not* come to such a close. Given the importance of what next transpired at the status conference held on May 30, 2008, Brook asks the Court’s indulgence as he sets forth again in full the crucial exchange that ensued between Tracie’s counsel and the trial court on the question of whether domestic violence would be an issue at trial:

MR. BILLBE: . . . We do have issues of restrictions in decision-making. My client will seek sole decision-making.

THE COURT: Is that due to abusive use of conflict or what – or anything?

MR. BILLBE: Yes. Abusive use of conflict.

THE COURT: Okay.

³ The undersigned counsel acknowledges that this document should have been addressed in the course of the discussion of this issue set forth in Brook’s Opening Brief. The document was overlooked during the preparation of that brief, and counsel hereby apologizes for the resulting omission.

MR. BILLBE: *There is a history of domestic violence. There was a conviction or at least a plea at the beginning of the case.*

THE COURT: Okay.

MR. BILLBE: *But we're not -- at least at this time, I'll say to Mr. Lang and to you, we're not seeking to restrict his time with the children because of that, because I -- we believe it's principally an interaction between him and his wife in terms of an inability to cooperate or work stuff out.*

THE COURT: *Okay. So I'm going to cross out the restrictions in residential time, though, but just indicate there may be restrictions on decision-making authority and dispute resolution process.*

MR. BILLBE: *That's exactly what we're seeking.*

THE COURT: *Okay.*

May 30, 2008 Pre-Trial Conference VRP 36-37 (emphasis added) (App. I).

“I’ll say to Mr. Lang and to you, we’re not seeking to restrict his time with the children because of that [i.e., because of domestic violence]” -- there is nothing ambiguous about this statement, or the trial court’s reaction to it. And even if this exchange could somehow be deemed an insufficient basis for someone in Brook’s position to think that domestic violence had been taken off the proverbial table for the vital issue of residential time, the exchange that immediately ensued between Brook and the trial court can leave no doubt:

MR. LANG: Is that saying the we’re -- we have an agreement of what the time is or --

THE COURT: No, no, no, no. What they're saying is that they -- they're not saying that you should have less time with the kids because of things that you have done like the domestic violence or abusive use of conflict. They see that as rather a conflict with the mother, *but not something that restricts your ability to spend time with the children.*

MR. LANG: *Okay.*

May 30, 2008 VRP 37 (emphasis added).

Tracie's subsequent actions, however, would render all too hollow this solemn assurance of her counsel. When interviewed by Lynn Tuttle, Tracie proceeded to blast Brook for "domestic violence." And Tracie's tactic worked; Tuttle proved willing to label Brook guilty based on her radically broad notions about what constitutes "domestic violence," and recommend severe restrictions on Brook's decision-making *and* residential time. *See* Trial Exhibit No. 518 (Tuttle Evaluation) at 25. And Tracie seized the resulting opportunity with both hands, now demanding that Brooks' decision-making *and* residential time be restricted in accordance with Tuttle's recommendations.

Brook is not arguing that Tracie should have been barred from seeking relief based on Tuttle's recommendations. Brook's point is one of fundamental fairness. As the full record establishes, Tracie represented in open court that she would not seek to restrict Brook's residential time based on domestic violence, then reversed position when (after suitably primed by Tracie herself) Parenting Evaluator Lynn Tuttle recommended

such restrictions. At that point, Brook should have been afforded the opportunity to designate experts ready to challenge Tuttle's conclusions.

Which brings this narrative to Tracie's second mischaracterization of the record. Tracie claims that, by the time of the May 30 status conference, the time for designating witnesses had passed over two months before -- specifically, on March 3, 2008. In other words, according to Tracie, even if she did change position after the publication of Tuttle's report, it is of no moment because Brook had already forfeited the right to designate experts on the issue by failing to do so in compliance with a supposed earlier deadline for such a designation.

Once again Tracie's characterization of the facts is belied by the full record. Tracie fails to acknowledge that, on the first day of trial, Tracie's counsel requested that the court allow testimony from one Patrick Feist, whom Tracie had first designated as a witness on June 10, 2008. *See* I VRP 4:21-5:19. Acknowledging that the court and the parties had gotten off the formal case schedule due to several continuances, Tracie's counsel urged that his disclosure of Mr. Feist nonetheless was timely because, regardless of the deadline for preliminary witness disclosures, Mr. Feist was disclosed *two weeks before the discovery cutoff of June 23, 2008*. I VRP 7:17-8:10. Moreover, the trial court confirmed Mr. Billbe's understanding of the discovery deadlines, stating: that "it sounds like

Patrick Feist may have been timely designated,” I VRP 6:8-10, ultimately ruling that Feist could be called as a witness by Tracie. I VRP 8:22-24.

In short: When Tracie’s counsel represented on May 30 that Tracie would not seek to limit Brook’s residential time based on domestic violence, Brook had another four weeks (until June 23) to designate witnesses. At least he did according to the position that Tracie would subsequently take at trial, when she successfully persuaded the trial court that she had timely designated Mr. Feist because she had first disclosed her intent to call him as a witness two weeks before June 23. Tracie should not be allowed to claim the benefits of a reading of the discovery and disclosure deadlines she successfully urged at trial, then turn around and on appeal deprive Brook of the benefits of that same reading, in order to avoid the consequences of having first represented she would not seek to limit Brook’s residential time based on domestic violence, only to change her position after the Parenting Evaluator recommended precisely such limitations based on a finding that Brook was guilty of domestic violence.

In Tracie’s final mischaracterization, she asserts that the trial court allowed Brook to call Charlotte Svenson, “the one witness he identified as an expert on domestic violence and for the purpose of rebutting the allegations [i.e., the adverse findings and recommendations of Lynn

Tuttle].” *See* Br. of Respondent at 35-36. In fact, Drs. Hutchins-Cook and Dunn were the primary expert witnesses Brook designated to challenge Ms. Tuttle’s procedures and conclusions, including those concerning domestic violence. Brook’s Motion to Allow Late Witness Designation and to Allow Testimony makes this *crystal* clear:

The expert witnesses (Drs. Hutchins-Cook and Dunn) will testify about the procedure for conducting parenting evaluations (and, by extension that it was not followed by Ms. Tuttle), about the impact of divorce on young children and why it is important that young girls have a proper relationship with their father. Ms Svenson will also rebut the domestic violence conclusions and recommendations of Ms. Tuttle.

CP 1036. It should go without saying that Tuttle’s conclusions could be valid only to the extent they were the result of the proper “procedure for conducting parenting evaluations.” Given that only Drs. Hutchins-Cook and Dunn were designated as the experts who would testify regarding parenting evaluation procedures, their testimony was obviously essential for Brook to be able to launch an expert attack on so vital a point, and nothing Svenson might say could fill the yawning gap in Brook’s case that opened up when the trial court refused to allow him to call Hutchins-Cook and Dunn.

In short, only Drs. Hutchins-Cook and Dunn could offer an expert critique of Lynn Tuttle’s work. And given it was Lynn Tuttle’s work that constituted the basis for Tracie’s eleventh-hour demand that Brook’s

residential time as well as decision-making be restricted because of (supposed) domestic violence, and given as well the trial court's decision to impose such restrictions in express reliance on Tuttle's conclusions and recommendations, the trial court's refusal to allow Brook to add Drs. Hutchins-Cook and Dunn as witnesses cannot be salvaged on the ground that -- as Tracie's mischaracterization of the record implies -- Ms. Svenson's evidence was all that Brook needed to have a fair opportunity to challenge Tuttle's findings and conclusions.

2. The Trial Court Abused Its Discretion by Excluding Testimony From Drs. Hutchins-Cook and Dunn, Absent a Showing of "Intentional Nondisclosure, Willful Violation of a Court Order, Or Other Unconscionable Conduct" as Required by *Burnet v. Spokane Ambulance*.

As shown, consideration of the full record establishes that Brook had *ample* good cause for designating experts after the deadline for doing so had passed, and the trial court's refusal to grant relief in the face of that good cause must be deemed an abuse of the court's discretionary authority under King County Local Civil Rule 26(b)(4) (providing that relief from the exclusion of late-designated witnesses should be granted when "good cause" for the late designation has been established). Moreover, contrary to Tracie's assertions regarding the broad discretion afforded trial courts to decide whether to exclude witnesses who were not designated in accordance with case management order deadlines, due process requires

that courts must impose the least severe sanction that will adequately serve the purposes of the discovery rules, including timely disclosure of expert witnesses in accordance with case management order deadlines. A court will be found to have abused its discretion when it excludes essential expert testimony, absent a showing of “intentional nondisclosure, willful violation of a court order, or other unconscionable conduct.” *Burnet v. Spokane Ambulance*, 131 Wn.2d 484, 494, 933 P.2d 1036 (1997) (quoting *Fred Hutchinson Cancer Research Ctr. v. Holman*, 107 Wn.2d 693, 706, 732 P.2d 974 (1987)).

Burnet, a medical malpractice case, is the leading case in Washington regarding exclusion of late designated witnesses. In that case, the trial court ordered that witness lists be submitted by a cutoff date, with all expert depositions to be concluded within sixty days thereafter. Plaintiffs failed to fully supplement their prior witness list by the required date, and then submitted an untimely supplemental list that included experts necessary to establish plaintiffs’ claim of corporate negligence but without full disclosure of their opinions. 131 Wn.2d at 490-91. The defendant moved for, and the trial court granted, a protective order striking all expert testimony regarding the corporate negligence claim, based solely on the untimeliness of the designations. *Id.* The Court of Appeals affirmed. *Id.*

On review, the Supreme Court characterized the issue before it as “whether the trial court’s order [excluding testimony] was a justifiable response to ‘compliance problem[s] with a scheduling order.’” *Id.* at 493 (quoting the Court of Appeals’ decision in *Burnet v. Spokane Ambulance*, 54 Wn. App. 162, 772 P.2d 1027 (1989)). The Supreme Court proceeded to reverse, finding that “the sanction imposed in this case was too severe in light of the length of time to trial, the undisputedly severe injury to [plaintiff], and the absence of a finding that the [plaintiffs] willfully disregarded an order of the trial court.” *Id.* at 497-98 (emphasis added) (citation omitted).

Here, Brook did not “willfully” disregard the trial court’s scheduling order. Brook was not aware that he would need expert testimony regarding the interplay between residential time and domestic violence until Ms. Tuttle filed her report. Brook promptly made a proper motion to the trial court to allow testimony from expert witnesses to rebut the report’s conclusions. Any prejudice to Tracie from this “late” designation could have been remedied by a short continuance, allowing her time to depose the witnesses and prepare to meet their evidence. Had the court found Brook to be at fault for the late designations it could have assessed the less severe sanction of costs. Instead, the trial court assessed the most severe sanction of excluding Brook’s witnesses. Under *Burnet*,

imposing the severe sanction of excluding these essential witnesses was an abuse of discretion.⁴

Tracie's reliance on *Blair v. TA-Seattle East #176*, 150 Wn. App. 904, 210 P.3d 326 (2009), *review granted*, 168 Wn. 2d 1006, 226 P.3d 781 (2010), to justify the trial court's exclusion of Drs. Hutchins-Cook and Dunn, is badly misplaced. In *Blair*, the plaintiff disclosed a list of possible witnesses well after the deadline for disclosing primary witnesses had passed, and the defendant moved to exclude the witnesses as untimely. 150 Wn. App. at 907. The plaintiff offered "no legitimate cause" for her failure to comply with the court's scheduling order, and the trial court struck seven of the fourteen witnesses. *Id.* at 907. This Court affirmed the sanction because the plaintiff did not have a legitimate reason for the late designation. *Id.* at 909. In doing so, this Court observed that "[a] trial court may properly exclude witnesses or testimony as a sanction *where there is a showing of intentional or tactical nondisclosure*, willful

⁴ A key factor for the Supreme Court's reversal of the sanction in *Burnet* was the contribution made by defense counsel to the inability of plaintiff's counsel to meet the deadline. Here, Tracie's counsel represented prior to the disclosure deadline that Tracie would not seek to restrict Brook's residential time based on domestic violence. Then, after that deadline had passed, Tracie accused Brook of domestic violence when interviewed by Tuttle, who proceeded to find Brook had engaged in domestic violence and recommend severe restrictions on his residential time based on that finding. Trace then repudiated her prior representation and proceeded to pursue such restrictions based on Tuttle's findings and conclusions. Tracie's conduct thus contributed to Brook's failure to timely designate the needed experts at least as much as the conduct of defense counsel contributed to the inability of the plaintiff to meet the witness designation deadline in *Burnet*.

violation of a court order, or unconscionable conduct.” *Id.* (emphasis added).

Here, there was no intentional or tactical nondisclosure. Had Tracie’s counsel represented at the May 30 status conference that she would seek limits on residential time based on domestic violence, Brook would have been on notice that he needed to retain an expert witness to be prepared to rebut such a claim. Instead, Tracie’s counsel made the opposite representation, and Brook had every reason to believe that he did not have to worry about incurring the substantial expenses associated with retaining such an expert. Brook’s subsequent request to add Drs. Hutchins-Cook and Dunn may have been untimely (if only because it was made after the June 23 deadline for designating such witnesses had passed), but under no reading of this record can it be fairly characterized as either tactical or intentional.

In sum, the trial court’s refusal to allow Brook to add these vital witnesses disregarded the standard of good cause, and also cannot be reconciled with the mandates of due process as laid down by the Supreme Court in *Burnet*. Brook was deprived of a fair trial on the vital issue of domestic violence, and this result alone mandates the vacation of the trial court’s domestic violence findings and a remand for a new trial on Parenting Plan issues.

B. There Is No Evidence That Brook Committed Domestic Violence, as Defined by the Washington Legislature.

1. Tracie's Response Asks This Court to Expand the Definition of "Domestic Violence" Beyond Its Statutorily Defined Limits to Include Verbal Arguments That Do Not Include Violence, Threats, Or Cause a Reasonable Fear of Injury.

Despite the legislature's clear and unambiguous direction otherwise, Tracie asks this Court to broaden the definition of domestic violence to include acts of "intimidation and control" that have no relation to physical violence, the threat of such violence, or the fear of such violence.

Tracie applies the same definition used by the trial court to argue that domestic violence does not require actual violence, threats of violence, or even a reasonable fear of violence. In support of this expanded definition, Tracie relies on *Hernandez v. Ashcroft*, 345 F.3d 824 (9th Cir. 2003), to support her assertion that "the dynamics of power and control pervade domestic violence relationships." *See* Br. of Respondent at 34.

Tracie offers no reason why this Court should look beyond Washington's statutory definition of domestic violence, found at RCW 26.50.010, to consider the Ninth Circuit's jurisprudence concerning the meaning of domestic violence under the federal Violence Against

Women's Act.⁵ Furthermore, Tracie neglects to inform the Court either that the woman alleging domestic violence in *Hernandez*, Laura Luis Hernandez, had in fact "experienced life-threatening violence at the hands of her husband" which caused her to flee him, or that after she returned to him "the *physical abuse* began again." 345 F.3d at 827 (emphasis added). The non-Washington authority relied on by Tracie to support her expansive definition of domestic violence is not only irrelevant to defining the term under Washington law, but it actually supports the contention that domestic violence requires some form of violence, whether it be actual violence, threats of violence, or conduct inducing a reasonable fear of violence.

Based on the federal Violence Against Women Act, and her own all-too obvious desire to have Brook labeled guilty of domestic violence, Tracie now asks this Court to impermissibly broaden the definition of domestic violence beyond its statutory limits. The Court should decline this invitation.

⁵ At issue in *Hernandez* was whether Ms. Hernandez, having fled and then returned to a physically abusive husband in Mexico, had suffered the required "extreme cruelty" in the United States as defined by the Violence Against Women Act, such that she should be afforded protection from deportation. 345 F.3d at 827-28.

2. None of the Conduct Attributed to Brook as Constituting Domestic Violence Includes Actual Violence, Threats of Violence, Or Inducing a Reasonable Fear of Violence.

A review of the actions attributed to Brook that Tracie claims are evidence of domestic violence shows that Tracie relies on the incorrect legal standard adopted by the trial court, that domestic violence is defined as “intimidation and control,” rather than the statutorily mandated standard, which requires proof of physical harm, threats of such harm, or causing reasonable fear of such harm. RCW 26.50.010.

Tracie generally describes the same conduct that Brook does in his Opening Brief. *See* Appellant’s Opening Br. at 21-23, 37-39. She describes Brook confronting another driver that had cut him off on the highway. Br. of Respondent at 5. She describes him turning off lights in her bedroom and turning off power to the house during arguments. *Id.* at 33. She describes that he alternated between “restricted sexual intimacy” and then “pressured her to have intercourse, to produce another child[.]” *Id.* at 6, 34.

Tracie’s contention that these actions constitute domestic violence is directly contradicted by the statutory definition of domestic violence, which requires physical harm (or the threat or fear thereof), sexual assault, or stalking. RCW 26.50.010. Tracie cannot point to any time at which

Brook threatened her with violence. She cannot point to any time that she was fearful that he would hurt her or their children. Discounting the events of April 17, 2007, to which the trial court expressly declined to give any weight, there is *no* evidence that Brook engaged in any form of physical violence, threatened Tracie or any of their children with physical violence, or caused Tracie or any of their children to be fearful of physical violence.

In tacit acknowledgment that Brook never threatened or hurt Tracie or their children, Tracie now argues that Brook was “stalking” her by following her through the house “as he harangued her.”⁶ As a preliminary matter, the trial court based its finding of domestic violence on “assault or the infliction of fear of imminent physical harm, bodily injury or assault,” not stalking. CP 1024. Furthermore, as admitted by Tracie in her response, stalking requires “placing that person in reasonable fear of injury[.]” Br. of Respondent at 33, citing RCW 9A.46.110. Tracie cannot point to anywhere in the record where she expresses a “reasonable fear of injury.” There is a simple reason for this: She never experienced a

⁶ Harangue is defined as a “speech addressed to a public assembly,” a “bombastic speech,” a “didactic, scolding, or hortatory talk or discussion,” or an “animated discussion or conversation.” WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 1031 (1993).

reasonable fear that Brook would physically harm her or their children.⁷ In sum, the trial court's finding of domestic violence cannot be sustained when the evidence in the record is considered against the statutory standard, and the trial court's error in nonetheless finding such violence mandates a new trial on Parenting Plan issues.

C. The Trial Court Erred by Making Inconsistent Findings Regarding RCW 26.09.191, And There Is No Authority Supporting Tracie's Suggestion That This Court "Fix" the Problem, Much Less in a Fashion That Would Arbitrarily Favor Tracie.

The Washington legislature adopted the Parenting Act of 1987 to provide a legal framework for determining, *inter alia*, when restrictions on residential time are warranted. *See* RCW 26.09.002, *et seq.* In adopting RCW 26.09.191, the legislature limited the courts' discretion by mandating restrictions where certain conduct occurs, such as domestic violence. RCW 26.09.191(1) and (2). But the legislature also granted the court discretion to enter alternative restrictions under RCW 26.09.191(3) where certain specific factors exist, such as parental neglect or a drug impairment. Courts have further discretion to enter restrictions for unspecified conduct found to be detrimental to the children, but only

⁷ As for sexual assault, Tracie initially testified at trial that Brook forced her to have sexual intercourse, which could have provided a basis for sexual assault as domestic violence; but on cross examination Tracie admitted that she consented to Brook's sexual advances. *See* Appellant's Opening Br. at 22-23.

where the nature of such conduct is expressly specified in the court's findings. RCW 26.09.191(3)(g); *In re Marriage of Katare*, 125 Wn. App. 813, 105 P.3d 44 (2004).

Here, the trial court ignored the statutory requirements of RCW 26.09.191 and entered findings and conclusions that both Brook and Tracie agree are inconsistent and erroneous under RCW 26.09.191. The court found that there was domestic violence, but then found that the restrictions mandated by such a finding under RCW 26.09.191(1) and (2) were not applicable. The court restricted Brook's residential time, as would have been mandated by a proper finding of domestic violence under RCW 26.09.191(2), but then ordered mediation of disputes, which would have been precluded by such a finding under RCW 26.09.191(1). Brook also maintains that the trial court failed to make any express findings as to what adverse conduct warranted restrictions on residential time under RCW 26.09.191(3)(g), instead referring generally to "the Court's findings of fact and conclusions of law filed herewith." CP 954. Bluntly put, the trial court's findings with regards to RCW 26.09.191 are a mess.

This Court's leading case on inconsistent findings under RCW 26.09.191, *In re Marriage of Katare*, 125 Wn. App. 813, 105 P.3d 44 (2004), gives clear direction as to the proper remedy: vacation of the inconsistent findings with remand for further proceedings. Tracie instead

urges this Court to undertake the trial court's obligation to make the express findings required by RCW 26.09.191(3)(g), by reviewing the record and making a guess as to what the trial court basis for restrictions under § 191(3)(g) may have been. Alternatively, Tracie asks that this Court affirm the erroneous findings that are advantageous to her (i.e., those regarding domestic violence and restrictions on residential time), and vacate those seemingly advantageous to Brook (i.e., private mediation of disputes).

Both of Tracie's proposed remedies contravene this Court's prior jurisprudence with respect to inconsistent findings under RCW 26.09.191, as laid down by this Court's decision in *In re Katare*, 125 Wn. App. 813, 105 P.3d 44 (2004). Tracie argues that *Katare* is not controlling here because in *Katare* the trial court "said one thing (no basis for 191 restrictions) and did another (entered restrictions)." Br. of Respondent at 30. But that is exactly what the trial court did here as well. It found that there was domestic violence, but ordered mediation of disputes in contravention of § 191(1). It entered restrictions under § 191(3)(g), but did not make the express finding necessary to support such restrictions. It said there was domestic violence, but did not enter mandatory restrictions on residential time under § 191(2). In Tracie's own words, the trial court "*said one thing . . . and did another.*" See Br. of Respondent at 30

(emphasis added). Under *Katara*, the proper remedy is vacation of the inconsistent findings and a remand for reconsideration of the Parenting Plan.

D. Remand to a New Trial Judge Is Necessary Because Judge North's Comments and Conduct Fail to Preserve the Appearance of Fairness.

Brook wants only what he is entitled to -- a fair trial before an impartial judge. Tracie claims that Judge North was "even-handed," but fails to explain how his comments and conduct in pre-trial, trial, and post-trial proceedings can possibly be reconciled with the appearance of fairness. *See* Br. of Respondent at 39. Tracie argues that an appearance of fairness claim cannot succeed "[w]ithout evidence of actual or potential bias," *see* Br. of Respondent at 40, but then wholly fails to address the evidence of bias set forth in Brook's Opening Brief.

Long before the trial commenced, Judge North volunteered to Brook that "[i]t may -- just not be in the children's best interest to spend a lot of time with you." 5/30/08 VRP 50. Judge North then worked to ensure that he would preside over the Langs' trial for the expressly stated reason that the pre-trial judge (himself in this case) "gets to know the parties" and knows "who's been causing problems." *Id.* 23-24. Judge North's bias against Brook continued at trial, and became manifest in the grounds Judge North offered for refusing to allow Brook to call Drs.

Hutchins-Cook and Dunn. Thus, Judge North suggested that it would be as effective for Brook's counsel to "use the ideas that [counsel] has gotten, undoubtedly, from conferring with [Drs. Hutchins-Cook and Dunn] in cross-examining Ms. Tuttle" as it would be to have those experts testify themselves. III VRP 237. According to Judge North, Brook did not need expert witnesses to rebut Ms. Tuttle's conclusions regarding domestic violence because his attorney could cross-examine Ms. Tuttle with questions such as "Well what about this theory?" and 'Don't other experts think this?'"⁸ *Id.* Brook respectfully submits that this astonishing suggestion on the part of a trial judge as experienced as Judge North must raise a concern about whether Judge North was so determined to see the trial concluded on terms favorable to Tracie that he was prepared to rule against Brook's requests for additional witnesses, no matter how flimsy the proffered basis for those rulings.

The evidence of Judge North's bias continued in his rulings following trial. Judge North manifested an extreme dislike for Brook's personality, repeatedly referring to him as a "bully," and "one of the most

⁸ Judge North did not explain how such assertions by trial counsel, without foundation in the evidentiary record, could possibly be admissible.

controlling people I've ever seen[.]” CP 923, 987.⁹ Judge North’s comments that Brook is a bully and controlling are similar to the comments by the trial court in *In re Custody of R.*, whose expostulation to the mother that “I don’t like what you did” compelled the Court of Appeals to remand the matter to a different judge. *See* 88 Wn. App. 746, 754-55, 947 P.2d 745 (1997). And regardless of actual bias, the *appearance* of impartiality is not maintained where a trial judge expresses a personal dislike for a litigant. In *In re Custody of R.*, the trial judge’s comments concerning his personal dislike for a mother’s conduct, coupled with his denial of her otherwise reasonable request for a continuance, warranted remand to a different trial judge. Here, Judge North’s comments expressing his personal dislike for Brook likewise warrant remand to a new trial judge.

Tracie’s reliance on *In re Guardianship of Wells*, 150 Wn. App. 491, 208 P.3d 1126 (2009), is misplaced. In *Wells*, a debtor failed to make payment to the Wells Estate as required by a promissory note and deed of trust. The guardian of the estate noted a show cause hearing requiring the debtor to explain why his obligations had not been met. *Id.* at 495-496.

⁹ Judge North’s scathing critiques of Brook have continued in subsequent post-judgment proceedings. Brook has moved separately under RAP 9.11 to have those comments added to the record.

When the debtor appeared at the hearing with copies of cashier's checks that would satisfy the debt, but did not bring the checks themselves, the commissioner ordered the debtor bring in the actual checks later that day. *Id.* at 496-497. The debtor failed to appear or deposit the checks and the commissioner ordered sanctions and a warrant for the debtor's arrest. *Id.*

On appeal, the debtor claimed that the commissioner's comments and order for an arrest warrant showed bias. *Id.* The bias alleged in *Wells* stemmed from the following comments by the commissioner:

Your client is not going to scam this Court with "I don't have possession of the checks." ... He's invited to bring the checks to Court as I've advised him, and I told him we would discuss what's going to happen. I'll hear from you by a written presentation from him as to what his issues are, but if I don't see those checks at 3:00, counsel, I will be issuing a citation for his arrest and incarceration until the checks are produced.

Id. at 497. Unlike the present case, the commissioner did not express a personal dislike for the debtor, and instead merely expressed, in no uncertain terms, the debtor was required to bring certain checks in his possession to the court, and that he could not "scam" the court. When the debtor ignored the commissioner's order to appear at a subsequent hearing, the commissioner undertook the -- wholly understandable -- action of issuing a warrant for the debtor's arrest.

Here, Judge North made comments that did express a personal dislike for Brook. Judge North denied Brook's motion to allow late-

designated witnesses despite Brook's legitimate reason for their untimely disclosure. In addressing the validity of Lynn Tuttle's conclusions regarding domestic violence, which could result in mandatory restrictions on the time he could spend with his children, Judge North told Brook it was sufficient for him to use his experts' theories without their supporting testimony. Judge North then proceeded to launch a scathing, personal attack Brook in his oral and written trial rulings.

The present case thus is more closely aligned with *In re Custody of R.* than *Wells*. Judge North's personal dislike for Brook prevented him from maintaining even the "appearance of fairness" required by Washington law. See, e.g., *Chicago, Milwaukee, St. Paul & Pacific R.R. Co. v. Washington State Human Rights Comm'n*, 87 Wn.2d 802, 557 P.2d 307 (1977). Brook therefore is entitled to remand to a new trial judge to preserve the appearance of a fair and impartial tribunal.

II. RESTATEMENT OF ISSUES FOR CROSS APPEAL

1. Where the trial court erred by entering inconsistent findings under RCW 26.09.191, is the proper remedy remand for further proceedings, as required by *In re Katare*, or should this Court presume to make an independent determination as to which findings should be vacated, which should be modified, and how they should be modified?

2. Did the trial court err in requiring dispute resolution through mediation, which is prohibited by RCW 26.09.191(1) in cases of domestic violence, where the trial court expressly found that § 191(1) restrictions were not warranted?

3. Should this Court make a factual finding as to the value of the Montavo stock based on the record where the trial court did not make a finding as to either the precise value or a range of value for the stock?

III. RESTATEMENT OF THE CASE FOR CROSS APPEAL

A principal asset of Brook and Tracie's community property was 1,911,397 shares of stock of Montavo, Inc., a Delaware corporation formerly known as North Coast Partner's, Inc. CP 969. At trial, Tracie initially represented to the court that the stock had been worth 80¢ a share when it was first issued. V VRP 601-604. On further questioning, Tracie admitted that she did not know the actual value of the stock when issued. *Id.* She never testified as to its value at the time of trial, and at no time during trial did Tracie introduce expert testimony to establish the value of the Montavo stock. XII VRP 1441.

Brook did provide testimony at trial as to the value at which Montavo stock was trading on the open market: he testified that the stock had traded at 65¢ a share on November 12, 2008, and at 79¢ a share on

December 2, 2008.¹⁰ VIII VRP 988; XI VRP 1309. Brook also testified that SEC regulations prevented him, as CEO of Montavo, from selling *his* shares -- the community's shares -- as a block on the open market. XII VRP 1449-50. Brook further testified that, even if Tracie were allowed sell as little as 100,000 shares -- just five percent of the Langs' community stock interest -- would reduce the value of the stock significantly. XII VRP 1454:10-22.

During closing argument, Tracie's counsel agreed with Brook that the restrictions associated with the community's stock holdings left the trial court no choice but to divide the shares between Brook and Tracie:

I don't know what Montavo's worth, but I don't think you have to make a finding. Divide the shares. Of course there are restrictions and that's a problem. They are not liquid. *I agree completely, wholeheartedly with Mr. Lang that if someone tries to sell those shares on the over-the-counter market, you try to dump a bunch, the price will plummet. It's a problem. You can't solve that problem. All you can do is divide the shares.*

XIII VRP 1572:11-19 (emphasis added).

In its findings of fact and conclusions of law, the trial court acknowledged the difficulty of placing a fair market value on the community's Montavo shares:

Mr. Lang testified, however, that there certain practical and legal realities that bear upon the market price/value of the [Montavo]

¹⁰ Tracie mistakenly asserts that it traded at 79¢ a share on December 2, 2009. *See* Br. of Respondent at 23.

shares.... [I]f a large number of shares were to be offered on the OTC exchange, it likely would negatively impact the price.

See CP 972. Rather than presume to place a hard dollar value on the stock, the trial court instead awarded 55% of the shares to Tracie and 45% of the shares to Brook.¹¹ CP 987. Since the stock was in Brook's name and would have to be sold over time to comply with SEC regulations, the court structured the award so that Brook would be obligated to pay spousal support of \$3000 per month until Tracie was paid for her portion of the Montavo shares on a graduated scale. CP 987-88.

IV. ARGUMENT IN RESPONSE TO CROSS APPEAL

A. **The Cross Appeal Request for Modification of the Parenting Plan Dispute Resolution Procedures Actually Supports Brook's Request for a New Trial on Parenting Plan Issues.**

Tracie and Brook agree that the Parenting Plan entered by the trial court violates RCW 26.09.191. Brook requests that the erroneous findings in the plan be vacated pursuant to *In re Marriage of Katare*, with the case remanded for further proceedings below. Tracie, on the other hand, requests that this Court wade through the trial court's inconsistent findings, affirm its restrictions under § 191(3)(g) (which favor Tracie), reverse its finding with regards to mediation under § 191(1) (which favor Brook), and enter new restrictions on residential time under § 191(2).

¹¹ The extra five percent of Montavo stock awarded to Tracie was in lieu of an award of attorneys' fees. CP 987.

Tracie requests this relief even though she can offer no authority as to why this Court should presume to affirm, reverse, and enter new findings in such a fashion, rather than simply remand for further proceedings by the trial court, as this Court did in *Katare*. See Br. of Respondent at 41. In fact, *Katare* is controlling here; the trial court's erroneous findings should be vacated and this matter remanded for a new trial on Parenting Plan issues.

B. The Trial Court Did Not Make a Factual Finding as to the Actual Market Value of the Montavo Stock, and Its Decision Not To Do So Is Amply Supported by the Record.

Trial courts have broad discretion in the disposition of property in dissolution proceedings. *In re Marriage of Nicholson*, 17 Wn. App. 110, 118, 561 P.2d 1116 (1977), citing *Wilder v. Wilder*, 85 Wn.2d 364, 366, 534 P.2d 1355 (1975). A party challenging a property distribution must demonstrate that the trial court manifestly abused its discretion. *In re Marriage of Gillespie*, 89 Wn. App. 390, 398, 948 P.2d 1338 (1997).

There was no such abuse of discretion here. The trial court found that the Langs had one significant community asset, a substantial number of shares of Montavo stock, which were in Brook's name.¹² CP 987. Rather than award the entire block of shares to one party, with a money

¹² The other community assets were relatively insignificant, including a house with no built-up equity, a single vehicle, household furniture and photographs. CP 969-73.

judgment for half the value to the other party, the court divided the shares equitably, ordering Brook to convert Tracie's shares to cash as soon as practical. *Id.* The court provided Brook with an incentive to liquidate the shares as soon as practicable, by making his spousal support to Tracie expire upon completion of the transfer.

Tracie now asks this Court to reverse the trial court's equitable plan for the division of the stock and enter a money judgment against Brook. In doing so, Tracie misconstrues the applicable law and mischaracterizes the record. Tracie first asserts that the trial court must place a dollar value on each asset in order to determine the fairness of the award, relying on *In re Marriage of Hadley*, 88 Wn.2d 649, 657, 565 P.2d 790 (1977). *See* Br. of Respondent at 42. To the contrary: The court in *Hadley* actually held that the lower court did not err in failing to value each asset. *Hadley*, 88 Wn.2d at 657 ("Consequently, we find this assignment of error without merit"). Moreover, where a trial court is unable to place a dollar value on a community asset, it is proper to instead divide that asset on a percentage basis, as the trial court did here. *See e.g.*, *Greene v. Greene*, 97 Wn. App. 708, 712, 986 P.2d 790 (1977) (affirming division of a pension on a percentage basis where trial court was unable to determine present value of pension).

Tracie mischaracterizes the record by asserting that the value of the stock at trial was undisputed. The trial court did not make a finding as to the market value of the stock or even a range of such values. Instead, the trial court noted that small quantities of stock had traded at a range of values on the open market, while acknowledging that the trade value of the Langs' community stock holdings would be negatively impacted if it were to be sold in large quantities. CP 972. The court further acknowledged that even if Brook had wanted to sell the stock at a reduced price, SEC regulations would prohibit Brook from doing so. *Id.* Moreover, the court did so after Tracie's counsel conceded in closing argument that this was the proper course to take, precisely because the restrictions to which Brook had testified created a "problem" that could not be solved: "*All you can do is divide the shares.*" XIII VRP 1572:18-19 (emphasis added).

Under this Court's decision in *Landauer v. Landauer*, 95 Wn. App. 579, 975 P.2d 577 (1999), restrictions on the transfer of community assets must be acknowledged, and the value of such assets adjusted accordingly. In *Landauer*, the trial court was tasked with dividing community assets which included real property located on the Muckleshoot reservation. *Id.* at 590. Both husband and wife submitted expert appraisals, the critical difference between the appraisals being that the wife's appraiser

discounted the value of the property due to tribal restrictions on use and conveyance while the husband's appraiser assumed there were no such restrictions. *Id.* at 590-91. The trial court adopted the non-restricted value proposed by the husband's expert and the wife appealed. *Id.*

This Court reversed, finding that the restrictions had a significant effect on the fair market value of the property. *Id.* at 591. This Court reasoned that the fair market value of the asset is "the amount a willing buyer would pay a seller who is willing but not obligated to sell." *Id.* Overlooking factors material to the determination of that value, such as restrictions on the transfer or use of the asset, was held to be an abuse of discretion. *Id.* The matter was remanded with instructions that the trial court reconsider the value of the property in light of the restrictions placed on the property. *Id.*

Tracie now asks this Court to adopt a valuation of the community's Montavo stockholdings based on a publicly traded price without taking into account the legal and practical restrictions that apply to the community's Montavo stockholdings. Tracie had the opportunity at trial to provide expert testimony as to the actual value of the Montavo shares, and chose not to. *See* XII VRP 1441. She cannot now ask this Court to assess the value of the shares with a record so lacking in such testimony. Nor should she be granted relief from this Court based on a supposed error

when at trial she urged the trial court to take the very course with which she now presumes to quarrel on appeal.

In fact, under *Landauer*, it would have been an abuse of discretion for the trial court to have assessed the value of the Montavo shares without taking into account the effect of the restrictions on their transfer. The trial court's decision to take those restrictions into account was entirely in accord with the rule of law laid down by this Court in *Landauer*, and should be affirmed on that basis alone.

V. CONCLUSION

In the proceedings below, the trial judge lost patience with the appellant, Brook Lang, and subsequently let his personal dislike for Brook affect the court's actions. It affected the court's decision to deny Brook's request to introduce expert testimony to rebut the new allegations of domestic violence. It affected the court's comments to Brook before and during trial. It eventually affected the court's post-trial rulings and resulted in a series of inconsistent findings and conclusions.

As a result, the appearance of fairness has been fatally compromised. This Court should vacate the trial court's unsupported finding of domestic violence, its erroneous § 191(3)(g) restrictions, and remand to a new judge for a new trial on Parenting Plan issues. And as no error or abuse of discretion has been shown regarding the disposition of

assets, the Decree of Dissolution should be affirmed except to the extent it incorporates the provisions of the Parenting Plan.

RESPECTFULLY SUBMITTED this 26th day of April, 2010.

CARNEY BADLEY SPELLMAN, P.S.

By Michael B. King
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Of Attorneys for Appellant Brook W. Lang

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APPENDIX A

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**Superior Court of Washington
County of King**

RECEIVED
COURT OF APPEALS
DIVISION ONE
APR - 6 2010

In re the Marriage of:

TRACIE LINN LANG

Petitioner,

and

BROOK WESTER LANG

Respondent.

No 07 - 3 - 03124 - 7 SEA

**Petition for Dissolution of
Marriage
(PTDSS)**

I. Basis

1.1 Identification of Petitioner

Name (first/last) Tracie Linn Lang, Birth date 12/3/73

Last known residence 5206 Isola Pl. NW Issaquah, King County, Washington (county and state).

1.2 Identification of Respondent

Name (first/last) Brook Wester Lang, Birth date 9/20/64

Last known residence 5206 Isola Pl. NW Issaquah, King County, Washington (county and state).

1.3 Children of the Marriage Dependent Upon Either or Both Spouses

The husband and wife are both the parents of the following dependent children:

Name (first/last) Alessandria Lang Age 6

Name (first/last) Giavanna Lang Age 4

Name (first/last) Caprielle Lang Age 2

Name (first/last) _____ Age _____

*Pet for Disso of Marriage (PTDSS) - Page 1 of 10
WPF DR 01.0100 (6/2006) - RCW 26.09.020*

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1.4 Allegation Regarding Marriage

This marriage is irretrievably broken.

1.5 Date and Place of Marriage

The parties were married on 5/13/00 at Seattle, Washington.
[Date] [City and State]

1.6 Separation

Husband and wife are not separated.

Husband and wife separated on 4/17/07

[Date].

1.7 Jurisdiction

This court has jurisdiction over the marriage.

This court has jurisdiction over the respondent because:

the respondent is presently residing in Washington.

the petitioner and respondent lived in Washington during their marriage and the petitioner continues to reside, or be a member of the armed forces stationed, in this state.

the petitioner and respondent may have conceived a child while within Washington.

Other:

This court does not have jurisdiction over the respondent.

1.8 Property

There is community or separate property owned by the parties. The court should make a fair and equitable division of all the property.

The division of property should be determined by the court at a later date.

The petitioner's recommendation for the division of property is set forth below.

The petitioner should be awarded the parties' interest in the following property:

The respondent should be awarded the parties' interest in the following property:

Other:

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1.9 Debts and Liabilities

- The parties have no debts and liabilities.
- The parties have debts and liabilities. The court should make a fair and equitable division of all debts and liabilities.
- The division of debts and liabilities should be determined by the court at a later date.
- The petitioner's recommendation for the division of debts and liabilities is set forth below.
 - The petitioner should be ordered to pay the following debts and liabilities to the following creditors:
 - The respondent should be ordered to pay the following debts and liabilities to the following creditors:
- Each party should pay their debts incurred since separation.
- Other:

1.10 Spousal Maintenance

- Spousal maintenance should not be ordered.
- There is a need for spousal maintenance as follows:
- Other:

1.11 Continuing Restraining Order

- Does not apply.
- A continuing restraining order should be entered which restrains or enjoins the husband wife from disturbing the peace of the other party.
- A continuing restraining order should be entered which restrains or enjoins the husband wife from going onto the grounds of or entering the home, work place or school of the other party or the day care or school of the following children: Alessandria Lang, Giavanna Lang, Caprielle Lang
- A continuing restraining order should be entered which restrains or enjoins the husband wife from knowingly coming within or knowingly remaining within 1000 ft (distance) of the home, work place or school of the other party or the day care or school of these children: Alessandria Lang, Giavanna Lang, Caprielle Lang
- Other:
- A continuing restraining order should be entered which restrains or enjoins _____ [Name] from molesting, assaulting, harassing, or stalking _____ [Name]. (If the court orders this relief,

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the restrained person will be prohibited from possessing a firearm or ammunition under federal law for the duration of the order. An exception exists for law enforcement officers and military personnel when carrying department/government-issued firearms. 18 U.S.C. § 925(a)(1).)

Other:

1.12 Protection Order

Does not apply.

A domestic violence protection order should be entered protecting Tracie Linn Lang from Brook Wester Lang because Brook Wester Lang has committed domestic violence as defined by 26.50 RCW against Tracie Linn Lang. (If the court orders this relief, the restrained person will be prohibited from possessing a firearm or ammunition under federal law for the duration of the order. An exception exists for law enforcement officers and military personnel when carrying department/government-issued firearms. 18 U.S.C. § 925(a)(1).)

If you need immediate protection, contact the clerk/court for RCW 26.50 Domestic Violence forms.

1.13 Pregnancy

The wife is not pregnant.

The wife is pregnant. Note: Under RCW 26.26.116, the husband is the presumed father. If husband or wife believes the husband is not the father, this presumption may be challenged up to two years after the birth of the child or as otherwise provided in RCW 26.26.500 through 26.26.625.

Other:

1.14 Jurisdiction Over the Children

Does not apply because there are no dependent children.

This court has jurisdiction over the children for the reasons set forth below:

This court has exclusive continuing jurisdiction. The court has previously made a child custody, parenting plan, residential schedule or visitation determination in this matter and retains jurisdiction under RCW 26.27.211.

This state is the home state of the children because

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the children lived in Washington with a parent or a person acting as a parent for at least six consecutive months immediately preceding the commencement of this proceeding.

the children are less than six months old and have lived in Washington with a parent or a person acting as parent since birth.

any absences from Washington have been only temporary.

Washington was the home state of the children within six months before the commencement of this proceeding and the children are absent from the state but a parent or person acting as a parent continued to live in this state.

The children and the parents or the children and at least one parent or person acting as a parent, have significant connection with the state other than mere physical presence; and substantial evidence is available in this state concerning the children's care, protection, training and personal relationships; and

the children have no home state elsewhere.

the children's home state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under RCW 26.27.261 or .271.

All courts in the children's home state have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the children under RCW 26.27.261 or .271.

No other state has jurisdiction.

This court has temporary emergency jurisdiction over this proceeding because the children are present in this state and the children have been abandoned or it is necessary in an emergency to protect the children because the children, or a sibling or parent of the children is subjected to or threatened with abuse. RCW 26.27.231.

There is a previous custody determination that is entitled to be enforced under this chapter or a child custody proceeding has been commenced in a court of a state having jurisdiction under RCW 26.27.201 through 26.27.221. The requirements of RCW 26.27.231(3) apply to this matter. This state's jurisdiction over the children shall last until _____ [Date].

There is no previous custody determination that is entitled to be enforced under this chapter and a child custody proceeding has not been commenced in a court of a state having jurisdiction under RCW 26.27.201 through 26.27.221. If an action is not filed in _____ [potential home state] by the time the child has been in Washington for six months, _____ [Date], then Washington's jurisdiction will be final and continuing.

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1.15 Child Support and Parenting Plan for Dependent Children

- The parties have no dependent children.
- Support for the dependent children listed below, should be set pursuant to the Washington State Child Support Schedule.

<u>Name of Child</u>	<u>Mother's Name</u>	<u>Father's Name</u>
Alessandria Lang	Tracie Lang	Brook Lang
Giavanna Lang	Tracie Lang	Brook Lang
Caprielle Lang	Tracie Lang	Brook Lang

The petitioner's proposed parenting plan for the children listed above:

- is attached and is incorporated by reference as part of this Petition.
- will be filed and served at a later date pursuant to RCW 26.09.181.

(The following information is required only for those children who are included in the petitioner's proposed parenting plan.)

During the last five years, the children have lived:

- in no place other than the state of Washington and with no person other than the petitioner or the respondent.
- in the following places with the following persons (list each place the children lived, including the state of Washington, the dates the children lived there and the names of the persons with whom the children lived. The present addresses of those persons must be listed in the required Confidential Information Form):

Claims to custody or visitation:

- The petitioner does not know of any person other than the respondent who has physical custody of, or claims to have custody or visitation rights to, the children.

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The following persons have physical custody of, or claim to have custody or visitation rights to the children (list their names and the children concerned below and list their present addresses in the Confidential Information Form. Do not list the responding party):

Involvement in any other proceeding concerning the children:

The petitioner has not been involved in any other proceeding regarding the children.
 The petitioner has been involved in the following proceedings regarding the children (list the court, the case number, and the date of the judgment or order):

Other legal proceedings concerning the children:

The petitioner does not know of any other legal proceedings concerning the children.
 The petitioner knows of the following legal proceedings which concern the children (list the children concerned, the court, the case number, and the kind of proceeding):

1.16 Other

II. Relief Requested

The petitioner *Requests* the court to enter a decree of dissolution and to grant the relief below.

- Provide reasonable maintenance for the husband wife.
- Approve the petitioner's proposed parenting plan for the dependent children listed in paragraph 1.14.
- Determine support for the dependent children listed in paragraph 1.14 pursuant to the Washington State Child Support Schedule.
- Approve the separation contract or prenuptial agreement.
- Divide the property and liabilities.

Pet for Disso of Marriage (PTDSS) - Page 7 of 10
WPF DR 01.0100 (6/2006) - RCW 26.09.020

THE GOURAS LAW FIRM PLLC.
FAMILY LAW ATTORNEYS

20819 72nd Ave. S.
Suite 620
Kent, WA 98032
(253) 895-5552
(253) 895-1022 fax

- Change name of husband to (first, middle, last): _____
- Enter a domestic violence protection order.
- Enter a continuing restraining order.
- Order payment of day care expenses for the children listed in paragraph 1.14.
- Award the tax exemptions for the dependent children listed in paragraph 1.14 as follows:
- Order payment of attorney fees, other professional fees and costs.
- Other:

I declare under penalty of perjury under the laws of WA that the foregoing is true and correct.

Dated: 4/23/07

Tracie Lang
Signature of Petitioner or Lawyer/WSBA No.

Tracie Lang
Print or Type Name

~~I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.~~

Signed at Kent, [City] WA [State] on 4/23/07 [Date].

Christine Glenn
Signature of Petitioner Attorney

Christine Glenn
Print or Type Name
CHRISTINE GLENN / WSBA 38403

Joinder

I, the respondent, join in the petition. I understand that by joining in the petition, a decree or judgment and order may be entered in accordance with the relief requested in the petition, unless prior to the entry of the decree or judgment and order a response is filed and served.

I waive notice of entry of the decree.

I demand notice of all further proceedings in this matter. Further notice should be sent to the following address [You may list an address that is not your residential address where you agree to accept legal documents]:

Any time this address changes while this action is pending, you must notify the opposing parties in writing and file an updated Confidential Information Form (WPF DRPSCU 09.0200) with the court clerk.

Dated: _____

Signature of Respondent

Print or Type Name

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**Superior Court of Washington
County of King**

In re the Marriage of:

TRACIE LINN LANG

Petitioner,

and

BROOK WESTER LANG

Respondent.

NO 07 - 3 - 03124 - 7 SEA

**Petition for Dissolution of
Marriage
(PTDSS)**

I. Basis

1.1 Identification of Petitioner

Name (first/last) Tracie Linn Lang, Birth date 12/3/73

Last known residence 5206 Isola Pl. NW Issaquah, King County, Washington (county and state).

1.2 Identification of Respondent

Name (first/last) Brook Wester Lang, Birth date 9/20/64

Last known residence 5206 Isola Pl. NW Issaquah, King County, Washington (county and state).

1.3 Children of the Marriage Dependent Upon Either or Both Spouses

The husband and wife are both the parents of the following dependent children:

Name (first/last) Alessandria Lang Age 6

Name (first/last) Giavanna Lang Age 4

Name (first/last) Caprielle Lang Age 2

Name (first/last) _____ Age _____

*Pet for Disso of Marriage (PTDSS) - Page 1 of 10
WPF DR 01.0100 (6/2006) - RCW 26.09.020*

THE GOURAS LAW FIRM PLLC
FAMILY LAW ATTORNEYS

20819 72nd Ave. S.
Suite 620
Kent, WA 98032
(253) 895-5552
(253) 895-1022 fax

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1.4 Allegation Regarding Marriage

This marriage is irretrievably broken.

1.5 Date and Place of Marriage

The parties were married on 5/13/00 at Seattle, Washington
[Date] [City and State]

1.6 Separation

Husband and wife are not separated.

Husband and wife separated on 4/17/07
[Date].

1.7 Jurisdiction

This court has jurisdiction over the marriage.

This court has jurisdiction over the respondent because:

the respondent is presently residing in Washington.

the petitioner and respondent lived in Washington during their marriage and the petitioner continues to reside, or be a member of the armed forces stationed, in this state.

the petitioner and respondent may have conceived a child while within Washington.

Other:

This court does not have jurisdiction over the respondent.

1.8 Property

There is community or separate property owned by the parties. The court should make a fair and equitable division of all the property.

The division of property should be determined by the court at a later date.

The petitioner's recommendation for the division of property is set forth below.

The petitioner should be awarded the parties' interest in the following property:

The respondent should be awarded the parties' interest in the following property:

Other:

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1.9 Debts and Liabilities

- The parties have no debts and liabilities.
- The parties have debts and liabilities. The court should make a fair and equitable division of all debts and liabilities.
 - The division of debts and liabilities should be determined by the court at a later date.
 - The petitioner's recommendation for the division of debts and liabilities is set forth below.
 - The petitioner should be ordered to pay the following debts and liabilities to the following creditors:
 - The respondent should be ordered to pay the following debts and liabilities to the following creditors:
- Each party should pay their debts incurred since separation.
 - Other:

1.10 Spousal Maintenance

- Spousal maintenance should not be ordered.
- There is a need for spousal maintenance as follows:
 - Other:

1.11 Continuing Restraining Order

- Does not apply.
- A continuing restraining order should be entered which restrains or enjoins the husband wife from disturbing the peace of the other party.
- A continuing restraining order should be entered which restrains or enjoins the husband wife from going onto the grounds of or entering the home, work place or school of the other party or the day care or school of the following children: Alessandria Lang, Giavanna Lang, Caprielle Lang
- A continuing restraining order should be entered which restrains or enjoins the husband wife from knowingly coming within or knowingly remaining within 1000 ft (distance) of the home, work place or school of the other party or the day care or school of these children: Alessandria Lang, Giavanna Lang, Caprielle Lang
- Other: _____
- A continuing restraining order should be entered which restrains or enjoins _____ [Name] from molesting, assaulting, harassing, or stalking _____ [Name]. (If the court orders this relief,

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the restrained person will be prohibited from possessing a firearm or ammunition under federal law for the duration of the order. An exception exists for law enforcement officers and military personnel when carrying department/government-issued firearms. 18 U.S.C. § 925(a)(1).)

Other:

1.12 Protection Order

Does not apply.

A domestic violence protection order should be entered protecting Tracie Linn Lang from Brook Wester Lang because Brook Wester Lang has committed domestic violence as defined by 26.50 RCW against Tracie Linn Lang. (If the court orders this relief, the restrained person will be prohibited from possessing a firearm or ammunition under federal law for the duration of the order. An exception exists for law enforcement officers and military personnel when carrying department/government-issued firearms. 18 U.S.C. § 925(a)(1).)

If you need immediate protection, contact the clerk/court for RCW 26.50 Domestic Violence forms.

1.13 Pregnancy

The wife is not pregnant.

The wife is pregnant. Note: Under RCW 26.26.116, the husband is the presumed father. If husband or wife believes the husband is not the father, this presumption may be challenged up to two years after the birth of the child or as otherwise provided in RCW 26.26.500 through 26.26.625.

Other:

1.14 Jurisdiction Over the Children

Does not apply because there are no dependent children.

This court has jurisdiction over the children for the reasons set forth below:

This court has exclusive continuing jurisdiction. The court has previously made a child custody, parenting plan, residential schedule or visitation determination in this matter and retains jurisdiction under RCW 26.27.211.

This state is the home state of the children because

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- the children lived in Washington with a parent or a person acting as a parent for at least six consecutive months immediately preceding the commencement of this proceeding.
- the children are less than six months old and have lived in Washington with a parent or a person acting as parent since birth.
- any absences from Washington have been only temporary.
- Washington was the home state of the children within six months before the commencement of this proceeding and the children are absent from the state but a parent or person acting as a parent continued to live in this state.

The children and the parents or the children and at least one parent or person acting as a parent, have significant connection with the state other than mere physical presence; and substantial evidence is available in this state concerning the children's care, protection, training and personal relationships; and

- the children have no home state elsewhere.
- the children's home state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under RCW 26.27.261 or .271.

All courts in the children's home state have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the children under RCW 26.27.261 or .271.

No other state has jurisdiction.

This court has temporary emergency jurisdiction over this proceeding because the children are present in this state and the children have been abandoned or it is necessary in an emergency to protect the children because the children, or a sibling or parent of the children is subjected to or threatened with abuse. RCW 26.27.231.

There is a previous custody determination that is entitled to be enforced under this chapter or a child custody proceeding has been commenced in a court of a state having jurisdiction under RCW 26.27.201 through 26.27.221. The requirements of RCW 26.27.231(3) apply to this matter. This state's jurisdiction over the children shall last until _____ [Date].

There is no previous custody determination that is entitled to be enforced under this chapter and a child custody proceeding has not been commenced in a court of a state having jurisdiction under RCW 26.27.201 through 26.27.221. If an action is not filed in _____ [potential home state] by the time the child has been in Washington for six months, _____ [Date], then Washington's jurisdiction will be final and continuing.

Other:

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1.15 Child Support and Parenting Plan for Dependent Children

- The parties have no dependent children.
- Support for the dependent children listed below, should be set pursuant to the Washington State Child Support Schedule.

<u>Name of Child</u>	<u>Mother's Name</u>	<u>Father's Name</u>
Alessandria Lang	Tracie Lang	Brook Lang
Giavanna Lang	Tracie Lang	Brook Lang
Caprielle Lang	Tracie Lang	Brook Lang

The petitioner's proposed parenting plan for the children listed above:

- is attached and is incorporated by reference as part of this Petition.
- will be filed and served at a later date pursuant to RCW 26.09.181.

(The following information is required only for those children who are included in the petitioner's proposed parenting plan.)

During the last five years, the children have lived:

- in no place other than the state of Washington and with no person other than the petitioner or the respondent.
- in the following places with the following persons (list each place the children lived, including the state of Washington, the dates the children lived there and the names of the persons with whom the children lived. The present addresses of those persons must be listed in the required Confidential Information Form):

Claims to custody or visitation:

- The petitioner does not know of any person other than the respondent who has physical custody of, or claims to have custody or visitation rights to, the children.

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The following persons have physical custody of, or claim to have custody or visitation rights to the children (list their names and the children concerned below and list their present addresses in the Confidential Information Form. Do not list the responding party):

Involvement in any other proceeding concerning the children:

- The petitioner has not been involved in any other proceeding regarding the children.
- The petitioner has been involved in the following proceedings regarding the children (list the court, the case number, and the date of the judgment or order):

Other legal proceedings concerning the children:

- The petitioner does not know of any other legal proceedings concerning the children.
- The petitioner knows of the following legal proceedings which concern the children (list the children concerned, the court, the case number, and the kind of proceeding):

1.16 Other

II. Relief Requested

The petitioner *Requests* the court to enter a decree of dissolution and to grant the relief below.

- Provide reasonable maintenance for the husband wife.
- Approve the petitioner's proposed parenting plan for the dependent children listed in paragraph 1.14.
- Determine support for the dependent children listed in paragraph 1.14 pursuant to the Washington State Child Support Schedule.
- Approve the separation contract or prenuptial agreement.
- Divide the property and liabilities.

Pet for Disso of Marriage (PTDSS) - Page 7 of 10
WPF DR 01.0100 (6/2006) - RCW 26.09.020

THE GOURAS LAW FIRM P.L.L.C.
FAMILY LAW ATTORNEYS

20819 72nd Ave. S.
Suite 620
Kent, WA 98032
(253) 396-6662
(253) 396-1022 fax

- Change name of husband to (first, middle, last): _____
- Enter a domestic violence protection order.
- Enter a continuing restraining order.
- Order payment of day care expenses for the children listed in paragraph 1.14.
- Award the tax exemptions for the dependent children listed in paragraph 1.14 as follows:
- Order payment of attorney fees, other professional fees and costs.
- Other:

I declare under penalty of perjury under the laws of WA that the foregoing is true and correct.

Dated: 4/23/07

Tracie Lang
Signature of Petitioner or Lawyer/WSBA No.

Tracie Lang
Print or Type Name

~~I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.~~

Signed at Kent, [City] WA [State] on 4/23/07 [Date].

Christine Glenn
Signature of Petitioner ~~Attorney~~

Christine Glenn
Print or Type Name
Christine Glenn / WSBA 33403

Joinder

I, the respondent, join in the petition. I understand that by joining in the petition, a decree or judgment and order may be entered in accordance with the relief requested in the petition, unless prior to the entry of the decree or judgment and order a response is filed and served.

- I waive notice of entry of the decree.
- I demand notice of all further proceedings in this matter. Further notice should be sent to the following address [You may list an address that is not your residential address where you agree to accept legal documents]:

Any time this address changes while this action is pending, you must notify the opposing parties in writing and file an updated Confidential Information Form (WPF DRPSCU 09.0200) with the court clerk.

Dated: _____

Signature of Respondent

Print or Type Name

APPENDIX B

FILED

FAM01

2007 MAY 18 AM 9:31

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA.

ISSUED

Superior Court of Washington For King County	
<u>Tracie Linn Lang</u>	<u>12/3/1973</u>
Petitioner (First, Middle, Last Name)	DOB
v.	
<u>Brook Wester Lang</u>	<u>9/20/1964</u>
Respondent (First, Middle, Last Name)	DOB

Order for Protection

No. 07-2-12520-5SEA

Court Address: 516 3rd Ave., Seattle, WA

Telephone Number: 206-296-9300

Clerk's Action Required) (ORPRT)

Names of Minors: [] No Minors Involved

First	Middle	Last	Age
<u>Alessandria A.</u>	<u>Lang</u>		<u>6</u>
<u>Giavonna A.</u>	<u>Lang</u>		<u>4</u>
<u>Caprielle L.</u>	<u>Lang</u>		<u>2</u>

Respondent Identifiers

Sex	Race	Hair
<u>Male</u>	<u>White</u>	<u>Brown</u>
Height	Weight	Eyes
<u>6 feet</u>	<u>190</u>	<u>green</u>

Respondent's Distinguishing Features:

Caution:

Access to weapons: yes no unknown

The Court Finds:

The court has jurisdiction over the parties, the minors, and the subject matter and the respondent has been provided with reasonable notice and an opportunity to be heard. Notice of this hearing was served on the respondent by personal service service by mail pursuant to court order service by publication pursuant to court order other: agreement.

This order is issued in accordance with the Full Faith and Credit provisions of VAWA: 18 U.S.C. § 2265.

Based upon the case record, the court finds that the respondent's relationship to the petitioner is:

- spouse or former spouse
- current or former dating relationship
- in-law
- parent or child
- parent of a common child
- stepparent or stepchild
- blood relation other than parent or child
- current or former cohabitant as intimate partner
- current or former cohabitant as roommate

Additional findings of this order are set forth below.

The Court Orders:

That the respondent is restrained from committing acts of abuse as listed in restraint 1, on page 2.

No-contact provisions apply as set forth on the following pages.

The terms of this order shall be effective for one year from today's date,

Order for Protection (ORPRT) - Page 1
WPF DV-3.015 (6/2006) - RCW 26.50.060

ORIGINAL COPY

unless stated otherwise here (date):

The court further finds that the respondent committed domestic violence as defined in RCW 26.50.010 and represents a credible threat to the physical safety of petitioner, and ***It is Ordered:***

1. Respondent is ***Restrained*** from causing physical harm, bodily injury, assault, including sexual assault, and from molesting, harassing, threatening, or stalking petitioner the minors named in the table above these minors only:

(If the respondent's relationship to the petitioner is that of spouse or former spouse, parent of a common child, or former or current cohabitant as intimate partner, then effective immediately, and continuing as long as this protection order is in effect, the respondent may not possess a firearm or ammunition. 18 U.S.C. § 922(g)(8). A violation of this federal firearms law carries a maximum possible penalty of 10 years in prison and a \$250,000 fine. An exception exists for law enforcement officers and military personnel when carrying department/government-issued firearms. 18 U.S.C. § 925(a)(1).)

2. Respondent is ***Restrained*** from coming near and from having any contact whatsoever, in person or through others, by phone, mail, or any means, directly or indirectly, except for mailing or service of process of court documents by a 3rd party or contact by Respondent's lawyer(s) with petitioner the minors named in the table above these minors only:

Except that respondent shall be able to contact the Petitioner electronically (such as email/text messages) for matters strictly pertaining to the children and financial matters. Electronic communications shall not be used for other purposes.

If both parties are in the same location, respondent shall leave.

3. Respondent is ***Excluded*** from petitioner's residence school; the day care or school of the minors named in the table above these minors only:

Other Petitioner's parents house: Mark and Sharon Wilhelm 27537 12th Place South, DesMoines, WA 981989

Petitioner's address is confidential. Petitioner waives confidentiality of the address which is: 5206 Isola Place, NW, Issaquah, WA.

4. Petitioner shall have exclusive right to the residence that petitioner and respondent share. The respondent shall immediately ***Vacate*** the residence. The respondent may take respondent's personal clothing and tools of trade from the residence while a law enforcement officer is present.

This address is confidential. Petitioner waives confidentiality of this address which is: 5206 Isola Place, NW, Issaquah, WA.

5. Respondent is **Prohibited** from knowingly coming within, or knowingly remaining within 500 feet _____ (distance) of: petitioner's residence workplace school; the day care or school of the minors named in the table on page one these minors only:

6. Petitioner shall have possession of essential personal belongings, including the following:

7. Petitioner is granted use of the following vehicle:
 Year, Make & Model: GMC Yukon XL License No. _____

8. Other: Respondent verifies that he is not monitoring petitioner's communications, by electronic or other means.

9. Respondent shall participate in treatment and counseling as follows:
 domestic violence perpetrator treatment program approved under RCW 26.50.150 or counseling at: _____
 parenting classes at: _____
 drug/alcohol treatment at: _____
 other: _____

10. Petitioner is granted judgment against respondent for \$ _____ fees and costs.

11. Parties shall return to court on _____, at _____ .m. for review.

Complete only if the protection ordered involves minors: This state has exclusive continuing jurisdiction; is the home state; no other state has exclusive continuing jurisdiction; other: _____

12. Petitioner is **Granted** the temporary care, custody, and control of the minors named in the table above these minors only:

13. Respondent is **Restrained** from interfering with petitioner's physical or legal custody of the minors named in the table above these minors only:

14. Respondent is **Restrained** from removing from the state the minors named in the table above these minors only:

[X] 15. The respondent will be allowed visitations as follows: _____

Per the terms of the Temporary Parenting Plan, King County Cause No. 07-3-03124-7 SEA

If the person with whom the child resides a majority of the time plans to relocate the child, that person must comply with the notice requirements of the Child Relocation Act. Persons entitled to time with the child under a court order may object to the proposed relocation. See RCW 26.09, RCW 26.10 or RCW 26.26 for more information.

Warnings to the Respondent: Violation of the provisions of this order with actual notice of its terms is a criminal offense under chapter 26.50 RCW and will subject a violator to arrest. If the violation of the protection order involves travel across a state line or the boundary of a tribal jurisdiction, or involves conduct within the special maritime and territorial jurisdiction of the United States, which includes tribal lands, the defendant may be subject to criminal prosecution in federal court under 18 U.S.C. §§ 2261, 2261A, or 2262.

Violation of this order is a gross misdemeanor unless one of the following conditions apply: Any assault that is a violation of this order and that does not amount to assault in the first degree or second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony. Any conduct in violation of this order that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony. Also, a violation of this order is a class C felony if the respondent has at least two previous convictions for violating a protection order issued under Titles 7, 10, 26 or 74 RCW.

If the respondent is convicted of an offense of domestic violence, the respondent will be forbidden for life from possessing a firearm or ammunition. 18 U.S.C. § 922(g)(9); RCW 9.41.040.

You Can Be Arrested Even if the Person or Persons Who Obtained the Order Invite or Allow You to Violate the Order's Prohibitions. You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order upon written application.

Pursuant to 18 U.S.C. § 2265, a court in any of the 50 states, the District of Columbia, Puerto Rico, any United States territory, and any tribal land within the United States shall accord full faith and credit to the order.

It is further ordered that the clerk of the court shall forward a copy of this order on or before the next judicial day to Issaquah Police Department County Sheriff's Office
[X] Police Department *Where Petitioner Lives* which shall enter it in a computer-based criminal intelligence system available in this state used by law enforcement to list outstanding warrants.

Service

- The clerk of the court shall also forward a copy of this order on or before the next judicial day to _____ County Sheriff's Office Police Department *Where Respondent Lives* which shall personally serve the respondent with a copy of this order and shall promptly complete and return to this court proof of service.
- Petitioner shall serve this order by mail publication.
- Petitioner shall make private arrangements for service of this order.
- [X] Respondent appeared and was informed of the order by the court; further service is not required.

85-17-'07 18:57 FROM-Law Offices

4254624377

T-235 P005/005 F-777

Law enforcement shall assist petitioner in obtaining:

- Possession of petitioner's residence personal belongings located at: the shared residence respondent's residence other: _____
- Custody of the above-named minors, including taking physical custody for delivery to petitioner.
- Possession of the vehicle designated in paragraph 7, above.
- Other: _____
- Other: _____

This Order is in effect until the expiration date on Page One.

If the duration of this order exceeds one year, the court finds that an order of one year or less will be insufficient to prevent further acts of domestic violence.

Dated: 5/17/07 at 9:30 AM P.M.

Marilyn Sellers MARILYN SELLERS
Judge/Commissioner

Presented by:
Tracee Lang 5/17/07
Petitioner Tracee Lang Date

I acknowledge receipt of a copy of this Order:
Brook W. Lang 5/17/07
Respondent Brook Lang Date

A Law Enforcement Information Sheet (LEIS) must be completed.

Ted D. Billie
TED D. BILLIE, WSBA 23024
ATTORNEY FOR PETITIONER

APPENDIX C

RECEIVED

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2007 MAY 18 AM 9:23

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

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Superior Court of Washington
County King

In re the Marriage of:
TRACIE LINN LANG

No. 07-3-03124-7 SEA

AGREED
Parenting Plan

ms

Petitioner,
and
BROOK WESTER LANG
Respondent.

Temporary (PPT)

This parenting plan is: a temporary parenting plan signed by the court.

It is Ordered, Adjudged and Decreed:

I. General Information

This parenting plan applies to the following children:

Name	Age
Alessandria Lang	6
Giavanna Lang	4
Caprielle Lang	2

Parenting Plan (PPP, PPT, PP) Page 1 of 8
WPF DR 01.0400 (6/2006) - RCW 26.09.181; .187; .194

(Client File#17287S491030.DOC)
FamilySoft FormPAK 2008

ORIGINAL

	LASHER	ATTORNEYS AT LAW
	HOLZAPFEL	2600 TWO UNION SQUARE
	SPERRY &	801 UNION STREET
	EBBERSON	SEATTLE WA 98101-4000
		TELEPHONE 206 424 1220
		FAX 206 340 2583

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II. Basis for Restrictions

Under certain circumstances, as outlined below, the court may limit or prohibit a parent's contact with the children and the right to make decisions for the children.

2.1 Parental Conduct (RCW 26.09.191(1), (2))

Does not apply.

2.2 Other Factors (RCW 26.09.191(3))

Does not apply.

III. Residential Schedule

The residential schedule must set forth where the children shall reside each day of the year, including provisions for holidays, birthdays of family members, vacations, and other special occasions, and what contact the children shall have with each parent. Parents are encouraged to create a residential schedule that meets the developmental needs of the children and individual needs of their family. Paragraphs 3.1 through 3.9 are one way to write your residential schedule. If you do not use these paragraphs, write in your own schedule in Paragraph 3.13.

3.1 Schedule for Children Under School Age

Upon enrollment in school, the children shall reside with the mother except for the following days and times when the children will reside with or be with the father:

6 week Transition Schedule:

For six weeks, commencing on Sunday, May 20, 2007:

Father shall have residential time every Wednesday from 3:15 to 6:00 p.m. He shall pick up the oldest child at 3:15 from her school, and mother shall deliver the other children to father's parents or his sister's home.

Father shall additionally have 2 weekend visits:

003
WAS [SATURDAY 5/19 Sunday, May 20, 2007 from 10:00 a.m. to 4:00 p.m.
SUNDAY 5/27 Saturday, May 26, 2007 from 10:00 a.m. to 4:00 p.m. *WAS*

Parenting Plan (PPP, PPT, PP) Page 2 of 9
WPF DR 01.0400 (6/2006) - RCW 26.09.181; .187; .194

(Client Files\172875481030.DOC)
FamilySoft FormPAK 3006

**LASHER
HOLZAPFEL
SPERRY &
EBBERSON**
ATTORNEYS AT LAW
2600 1ST UNION SQUARE
801 UNION ST, STE 1
SEATTLE WA 98101-4000
TELEPHONE 206 476-1220
FAX 206 240-3582

APPENDIX D

FAM01

RECEIVED

2007 MAY 18 AM 9: 23

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

IN THE SUPERIOR COURT OF WASHINGTON STATE FOR KING COUNTY

In the Matter of

TRACIE LANG
Petitioner,

and

BROOK LANG
Respondent

NO. 07-2-12520-5 SEA
(DV Cause Number)

NO. 07-3-03124-7 SEA
(Family Law Cause Number)

ORDER CONSOLIDATING
DOMESTIC VIOLENCE CASE
WITH FAMILY LAW CASE

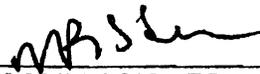
CLERK'S ACTION REQUIRED

The court having been apprised of the existence of a Domestic Violence Protection Order proceeding and a Family Law proceeding involving the same parties, now on its own motion,

ORDERS that Domestic Violence proceeding number 07-2-12520-5 SEA is hereby consolidated into Family Law proceeding 07-3-03124-7 SEA.

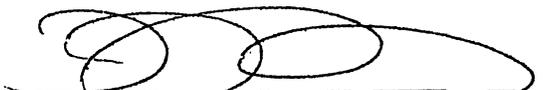
All further pleadings in both matters shall be filed in and shall use the Family Law cause number.

Dated: 5/18/07



JUDGE/COMMISSIONER
MARILYN SELLERS

Copy Received:



TED D. BILLGE, WSAB # 23021
ATTORNEY FOR PETITIONER

APPENDIX E

AGREED ORDER

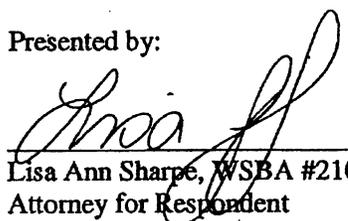
THIS MATTER having come before the above-captioned court upon the foregoing Stipulation of the parties, NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Petition for Dissolution of Marriage filed on April 23, 2007 is hereby dismissed, without prejudice, and without an award of attorney's fees and costs to either party.

DONE IN OPEN COURT this ____ day of June 2007.



Judge/Court Commissioner

Presented by:


Lisa Ann Sharpe, WSBA #21047
Attorney for Respondent

Order and Attachments approved
JUN 06 2007
Kimberley Prochnau
Court Commissioner

Approved for Entry;
Notice of Presentation Waived by:



Ted D. Billbe, WSBA #23021
Attorney for Petitioner

L A S H E R	2800 TWO UNION SQUARE
H O L Z A P F E L	801 UNION STREET
S P E R R Y &	SEATTLE, WA 98101-4000
E B B E R S O N	(206) 624-1230
	FAX (206) 340-2563

FILED
2007 MAY 31 AM 9:49
KING COUNTY
SUPERIOR COURT

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
COUNTY OF KING

In re the marriage of:

TRACIE LINN LANG,

Petitioner,

and

BROOK WESTER LANG,

Respondent.

NO. 07-3-03124-7 SEA

**STIPULATION AND ORDER
DISMISSING PETITION FOR
DISSOLUTION OF MARRIAGE**

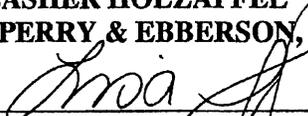
STIPULATION

WHEREAS, on April 23, 2007, Tracie Lang commenced the above-captioned matter by the filing of a Petition for Dissolution of Marriage; and

WHEREAS, the parties have agreed to dismiss the Petition for Dissolution of Marriage;

NOW THEREFORE, the parties, by and through their counsel of record, and stipulate to entry of the subjoined order.

**LASHER HOLZAPFEL
SPERRY & EBBERSON, PLLC**


Lisa Ann Sharpe, WSBA # 21047
Attorney for Respondent

LAW OFFICE OF TED D. BILLBE, PLLC


Ted D. Billbe, WSBA # 23021
Attorney for Petitioner

L A S H E R	2600 TWO UNION SQUARE
H O L Z A P F E L	601 UNION STREET
S P E R R Y &	SEATTLE, WA 98101-4000
E B B E R S O N	(206) 624-1230
PLLC	Fax (206) 340-2583

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AGREED ORDER

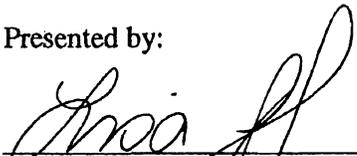
THIS MATTER having come before the above-captioned court upon the foregoing Stipulation of the parties, NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Petition for Dissolution of Marriage filed on April 23, 2007 is hereby dismissed, without prejudice, and without an award of attorney's fees and costs to either party.

DONE IN OPEN COURT this ____ day of June 2007.

KIMBERLEY D. PROCHNAU JUN 06 2007

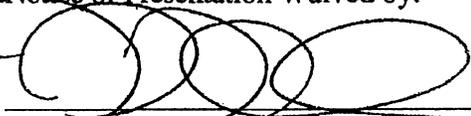
Judge/Court Commissioner

Presented by:



Lisa Ann Sharpe, WSBA #21047
Attorney for Respondent

Approved for Entry;
Notice of Presentation Waived by:



Ted D. Billbe, WSBA #23021
Attorney for Petitioner

L A S H E R	2600 TWO UNION SQUARE
H O L Z A P F E L	801 UNION STREET
S P E R R Y &	SEATTLE, WA 98101-4000
E B B E R S O N	(206) 824-1230
	FAX (206) 340-2583



LASHER
HOLZAPFEL
SPERRY &
EBBERSON

PLLC

ATTORNEYS AT LAW * 2600 TWO UNION SQUARE * 601 UNION STREET
SEATTLE WA 98101-4000 / TELEPHONE 206 624-1230 / FAX 206 340-2563
WWW.LASHER.COM

FAX COVER SHEET

TO: DOUG PITTMAN
OF: CHICAGO TITLE
FAX NO: (206) 623-7463

June 6, 2007

FROM: LISA SHARPE
OF: LASHER HOLZAPFEL SPERRY & EBBERSON, PLLC

OUR CLIENT: Lang
OUR FILE #:

NUMBER OF PAGES: _____ (Cover sheet included)

DOCUMENTS TRANSMITTED: STIPULATION AND ORDER DISMISSING PETITION FOR
DISSOLUTION OF MARRIAGE

COMMENTS:

Re: *Brook W. Lang/Tracie L. Lang Dissolution*
King County Superior Court Cause No. 07-3-03124-07 SEA

If you do not receive the number of pages indicated, or there are other problems with this fax transmission, please call our receptionist at 206-624-1230.

CAUTION - CONFIDENTIAL INFORMATION

This facsimile message is confidential and is intended solely for the use of the individual named above. If you are not the intended recipient, or the person responsible to deliver it to the intended recipient, you are hereby advised that any dissemination, distribution or copying of this communication is prohibited. If you have received this FAX in error, please immediately notify the sender by telephone and return the original FAX message to the sender by U.S. mail. Thank you.

**CERTIFIED
COPY**

FILED

2007 JUN -6 AM 9:54

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

EXPOI

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
COUNTY OF KING**

In re the marriage of:

TRACIE LINN LANG,

Petitioner,

and

BROOK WESTER LANG,

Respondent.

NO. 07-3-03124-7 SEA

**STIPULATION AND ORDER
DISMISSING PETITION FOR
DISSOLUTION OF MARRIAGE**

Clk
Final Case Schedule

STIPULATION

WHEREAS, on April 23, 2007, Tracie Lang commenced the above-captioned matter by the filing of a Petition for Dissolution of Marriage; and

WHEREAS, the parties have agreed to dismiss the Petition for Dissolution of Marriage;

NOW THEREFORE, the parties, by and through their counsel of record, and stipulate to entry of the subjoined order.

**LASHER HOLZAPFEL
SPERRY & EBBERSON, PLLC**

Lisa Ann Sharpe

Lisa Ann Sharpe, WSBA # 21047
Attorney for Respondent

LAW OFFICE OF TED D. BILLBE, PLLC

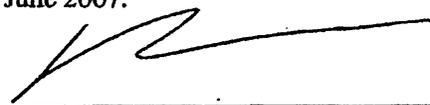
Ted D. Billbe

Ted D. Billbe, WSBA # 23021
Attorney for Petitioner

AGREED ORDER

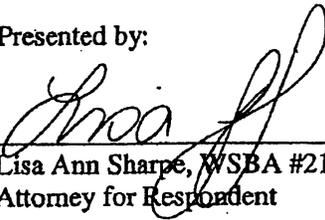
THIS MATTER having come before the above-captioned court upon the foregoing Stipulation of the parties, NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Petition for Dissolution of Marriage filed on April 23, 2007 is hereby dismissed, without prejudice, and without an award of attorney's fees and costs to either party.

DONE IN OPEN COURT this ____ day of June 2007.



Judge/Court Commissioner

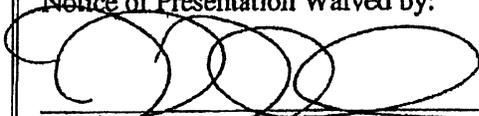
Presented by:



Lisa Ann Sharpe, WSBA #21047
Attorney for Respondent

Order and Attachments approved
JUN 06 2007
Kimberley Prochnaut
Court Commissioner

Approved for Entry;
Notice of Presentation Waived by:



Ted D. Billbe, WSBA #23021
Attorney for Petitioner

L A S H E R	2600 TWO UNION SQUARE
H O L Z A P F E L	601 UNION STREET
S P E R R Y &	SEATTLE, WA 98101-4000
E B B E R S O N	(206) 824-1230
	FAX (206) 340-2563

STATE OF WASHINGTON } ss.
County of King

I, BARBARA MINER, Clerk of the Superior Court of the State of Washington, for the County of King, do hereby certify that I have compared the foregoing copy with the original instrument as the same appears on file and of record in my office, and that the same is a true and perfect transcript of said original and of the whole thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of said Superior Court at my office at Seattle this

day of JUN - 6 2007 20

BARBARA MINER Superior Court Clerk

By

Deputy Clerk

APPENDIX F

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1.3 CHILDREN DEPENDENT UPON EITHER OR BOTH SPOUSES.

The husband and wife are both the parents of the following dependent children:

- Alessandria Lang Age 6
- Giavanna Lang Age 4
- Caprielle Lang Age 2

1.4 ALLEGATION REGARDING MARRIAGE.

This marriage is irretrievably broken.

1.5 DATE AND PLACE OF MARRIAGE.

The parties were married on May 13, 2000 at Seattle, Washington.

1.6 SEPARATION.

The parties separated April 17, 2007.

1.7 JURISDICTION.

This court has jurisdiction over the marriage.

This court has jurisdiction over the respondent because Respondent is presently residing in Washington, because Petitioner and Respondent lived in Washington during their marriage and Petitioner continues to reside in this state, and because the petitioner and respondent conceived their children while within Washington.

1.8 PROPERTY.

There is community or separate property owned by the parties. The court should make a fair and equitable division of all the property.

The division of property should be determined by the court at a later date.

1.9 DEBTS AND LIABILITIES.

The parties have debts and liabilities. The court should make a fair and equitable division of all debts and liabilities.

The division of debts and liabilities should be determined by the court at a later date.

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1.10 SPOUSAL MAINTENANCE.

There is a need for spousal support as follows:

The wife needs spousal support. The wife is a stay-at-home mother who has not worked outside the home.

1.11 CONTINUING RESTRAINING ORDER.

Does not apply.

1.12. PROTECTION ORDER.

The Court has separately entered an Order for Protection in King County Cause Number 07-2-12520-5 SEA

1.13 PREGNANCY.

The wife is not pregnant.

1.14 JURISDICTION OVER THE CHILDREN.

This court has jurisdiction over the children for the reasons set forth below.

This state is the home state of the children because the children lived in Washington with a parent, or a person acting as a parent, for at least six consecutive months immediately preceding the commencement of this proceeding, and any absences from Washington have been only temporary.

1.15 CHILD SUPPORT AND PARENTING PLAN FOR DEPENDENT CHILDREN.

Support for the dependent children listed below should be set pursuant to the Washington State Child Support Schedule.

<u>Name</u>	<u>Mother's Name</u>	<u>Father's Name</u>
Alessandria Lang	Tracie Lang	Brook Lang
Giavanna Lang	Tracie Lang	Brook Lang
Caprielle Lang	Tracie Lang	Brook Lang

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Petitioner's proposed parenting plan will be submitted to the court at a later date.

During the last five (5) years, the children have lived in no place other than the state of Washington and with no person other than Petitioner or Respondent.

Claims to Custody or Visitation: Petitioner does not know of any person other than Respondent who has physical custody of, or claims to have custody or visitation rights to, the children.

Involvement in any other Proceeding Concerning the Children: Petitioner has not been involved in any other proceeding regarding the children.

Other Legal Proceedings Concerning the Children: Petitioner does not know of any other legal proceedings concerning the children.

1.16 OTHER

None.

II. RELIEF REQUESTED

Petitioner REQUESTS the court to enter a decree of dissolution and to grant the relief below:

- a. Provide reasonable spousal maintenance for the wife.
- b. Approve the petitioner's proposed parenting plan for the children listed in Paragraph 1.15.
- c. Determine support for the dependent children listed in Paragraph 1.15 pursuant to the Washington State Child Support Schedule.
- d. Approve the separation agreement, if any, or divide the property and liabilities.
- e. Enter a domestic violence protection order.
- f. Order payment of education and daycare expenses for the children listed in Paragraph 1.15
- g. Award the tax exemptions for the children for the children listed in

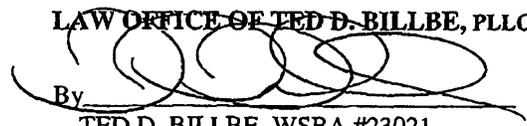
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Paragraph 1.15.

h. Grant such other relief as the court deems just and equitable.

Dated this 15th day of June 2007.

LAW OFFICE OF TED D. BILLBE, PLLC

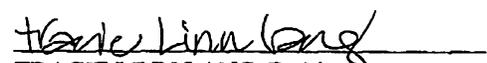


By
TED D. BILLBE, WSBA #23021
Attorney for Petitioner

VERIFICATION

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed at Bellevue, Washington on June 15, 2007.


TRACIE LINN LANG, Petitioner

APPENDIX G

FILED

FAM01

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KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

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SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

In re the Marriage of:

No. 07-3-04818-2 SEA

TRACIE LINN LANG

PARENTING PLAN
TEMPORARY (PPT)

Petitioner,

and

BROOK WESTER LANG,

Respondent.

This is a temporary parenting plan approved by the Court.

I. GENERAL INFORMATION

This Parenting Plan parenting plan is for the following children:

<u>Name:</u>	<u>Age</u>
Alessandria Lang	6
Giavanna Lang	4
Caprielle Lang	2

TEMPORARY PARENTING PLAN
Page 1
M:\Client\1495\Mot_Enforce\Temp_PPlan.doc

LAW OFFICE OF TED D. BILLBE, PLLC
9 Lake Bellevue Drive, Suite 218
Bellevue, Washington 98005
Tel 425.456.0614 Fax 425.462.4377

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II. BASIS FOR RESTRICTIONS

2.1 PARENTAL CONDUCT (RCW 26.09.191(1), (2)).

Does not apply.

2.2 OTHER FACTORS (RCW 26.09.191(3)(g)).

Does not apply.

III. RESIDENTIAL SCHEDULE

These provisions set forth where the children shall reside each day of the year and what contact the children shall have with each parent. Unless the parents agree otherwise in writing, the provisions of this Parenting Plan shall apply.

3.1 PRE-SCHOOL SCHEDULE.

Same as Section 3.2

3.2 SCHOOL SCHEDULE.

During the school year, the children shall reside with the mother, except for the following dates and times with they shall reside or be with the father:

OB [Every other weekend from ^{Friday to 6:00 p.m.} ~~Saturday at 10:00 a.m.~~ until Sunday at 6:00 p.m.

3.3 SCHEDULE FOR WINTER VACATION.

Same as Section 3.2.

3.4 SCHEDULE FOR SPRING VACATION.

Same as Section 3.2.

3.5 SUMMER SCHEDULE.

Same as Section 3.2.

3.6 SUMMER VACATION WITH PARENTS.

Same as Section 3.2.

LAS
OB

THIS SHALL COMMENCE SO THE CHILDREN ARE WITH THEIR FATHER FRIDAY SEPTEMBER 21, 2007.

FATHER ALSO SHALL HAVE THE CHILDREN EVERY WEDNESDAY 4:30 TO 7:30, THE PARENTS DESIGNEE'S SHALL MEET AT AN AGREED POINT BETWEEN EQUAL DISTANCE ~~FROM~~ BETWEEN ISSAQUAH & FEDERAL WAY.

Just
9/21/07

APPENDIX H

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FILED
2007 OCT 26 AM 10:27
KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

In re the Marriage of:

No. 07-3-04818-2 SEA

TRACIE LINN LANG,

CONFIRMATION OF ISSUES
AND CERTIFICATE REGARDING
MEDIATION

Petitioner,

and

BROOK WESTER LANG,

Clerk's Action Required

Respondent.

The parties make the following joint representations:

[A CASE STATUS CONFERENCE AS NOTED IN THE CASE SCHEDULING ORDER WILL BE CANCELED ONLY IF THIS BOX IS CHECKED AND ALL PARTIES HAVE SIGNED THIS FORM OR GIVEN THEIR TELEPHONIC AUTHORITY FOR SIGNATURE]

1. All parties have been served or have waived service.
2. All mandatory pleadings have been filed.
3. No additional issues will be raised.
4. The parties anticipate no problems in meeting the deadlines for disclosing possible witnesses and other, subsequent deadlines in the Case Schedule.
5. All parties have cooperated in completing this report.

The parties do not join in making the foregoing representations, as explained below

CONFIRMATION OF ISSUES

Page 1

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LAW OFFICE OF TED D. BILLBE, PLLC

9 Lake Bellevue Drive, Suite 218

Bellevue, Washington 98005

Tel 425.456.0614 Fax 425.462.4377

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(if appropriate, check both the box at left and every applicable box below):

[IF THE BOX ADJACENT TO THE PRECEDING SENTENCE IS CHECKED, THERE WILL BE A STATUS CONFERENCE, AS NOTED IN THE CASE SCHEDULING ORDER, AT WHICH ALL PARTIES OR THEIR ATTORNEYS MUST APPEAR.]

- A party remains to be served.
- A mandatory pleading remains to be filed.
- An additional issue will be raised.
- One or more parties anticipate a problem in meeting the deadlines for disclosing possible witnesses or other subsequent deadlines in the Case Schedule.
- A party has refused to cooperate in drafting this report.
- Other explanation:

In order to obtain the Court's direction in the matters described above, the parties will appear at an Initial Status Conference, the date of which (as stated in the notices on the Case Schedule) is NOT APPLICABLE.

CERTIFICATE REGARDING MEDIATION

Petitioner:	Tracie L. Lang	Respondent:	Brook W. Lang
Address:	See attorney's address	Address:	See attorney's address
Telephone:	See attorney's number	Telephone:	See attorney's number
Attorney for Petitioner:	Ted D. Billbe	Attorney for Respondent:	Lisa Sharpe
Address:	9 Lake Bellevue Drive Suite 218 Bellevue, WA 98005	Address:	Lasher Holzapfel Sperry & Ebberson Two Union Square, Suite 2600 601 Union Street Seattle, WA 98101
Telephone:	425.456.0614 425.462.4377 FAX	Telephone:	(206) 654-2404 (206) 340-2563 FAX

1. Is there a court order or other action regarding mediation? [] Yes [X] No.

CONFIRMATION OF ISSUES
Page 2
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LAW OFFICE OF TED D. BILLBE, PLLC
9 Lake Bellevue Drive, Suite 218
Bellevue, Washington 98005
Tel 425.456.0614 Fax 425.462.4377

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If yes, check the appropriate box below:

- This matter has been referred to mediation by court order dated _____.
- Mediation was waived by court order dated _____.
- The parties are presently engaged in private mediation with (name, address and telephone)

If any of the above boxes are checked, the case will not be referred to mediation per KCLR 4.2(b)(1)(E).

- 2. Is parenting of minor children contested in this case? [X] Yes [] No.
[Check "yes" unless the same parenting plan has been signed by both parties.]
- 3. Is there an allegation of domestic violence in this case? Yes X No _____
- 4. Is there an allegation of child abuse? Yes _____ No X
- 5. Is there an allegation of sexual abuse? Yes _____ No X
- 6. Is there a GAL or CASA appointed? Yes _____ No X

If the answer is yes, provide the name, address & phone number of the appointed individual.

- 7. Is there a private parenting plan evaluator or Family Court Services evaluator previously ordered in this matter? Yes _____ No X

If the answer is yes, provide the name, address, & phone number of the appointed individual.

- 8. Is an interpreter needed for either party? Yes _____ No X

If the answer is yes, provide the name of the party(s) and language(s) needed.

Notice to parties: This matter will be referred to mediation at Family Court Services whenever the parenting of the children is contested and you do not obtain a court order waiving mediation.

DATED this 23rd day of October 2007.

LAW OFFICE OF TED D. BILLBE, PLLC

By *Ted D. Billbe*
 Ted D. Billbe, WSBA #23021
 Attorney for Petitioner

Gayne Bjorn
 #38017

see attached.
 Lisa Sharpe, WSBA # 21047
 Attorney for Respondent

CONFIRMATION OF ISSUES

Page 3

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[Check "yes" unless the same parenting plan has been signed by both parties.]
- 3. Is there an allegation of domestic violence in this case? Yes No _____
- 4. Is there an allegation of child abuse? Yes _____ No
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If the answer is yes, provide the name, address, & phone number of the appointed individual.

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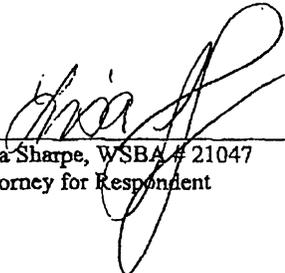
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DATED this 23rd day of October 2007.

LAW OFFICE OF TED D. BILLBE, PLLC

By: _____
Ted D. Billbe, WSBA #23021
Attorney for Petitioner



Lisa Sharpe, WSBA # 21047
Attorney for Respondent

CONFIRMATION OF ISSUES

Page 3

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Bellevue, Washington 98005
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APPENDIX I

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR KING COUNTY

IN RE THE MARRIAGE OF:)	
)	
TRACIE LINN LANG,)	
)	
Petitioner,)	Cause No. 07-3-04818-2 SEA
)	
and)	Appeals No. 63228-1-I
)	
BROOK WESTER LANG,)	
)	
Respondent.)	
)	

CERTIFIED COPY

HEARING

May 30, 2008

BEFORE THE HONORABLE DOUGLASS A. NORTH

RECEIVED
COURT OF APPEALS
DIVISION ONE
APR - 6 2010

TRANSCRIBED BY: Phillip Puzio, CETD
Reed Jackson Watkins
Court-Certified Transcriptionist
206.624.3005

1 Dad. Sometimes Dad's got allegations against Mom.
2 Sometimes you got them going both ways.

3 MR. BILLBE: You can -- I'm the petitioner. We
4 do have issues of restrictions in decision-making. My
5 _ client will seek sole decision-making.

6 THE COURT: Okay.

7 MR. BILLBE: There is --

8 THE COURT: Is that due to abusive use of
9 conflict or what -- or anything?

10 MR. BILLBE: Yes. Abusive use of conflict.

11 THE COURT: Okay.

12 MR. BILLBE: There is a history of domestic
13 violence. There was a conviction or at least a plea at
14 the beginning of the case.

15 THE COURT: Okay.

16 MR. BILLBE: But we're not -- at least at this
17 time, I'll say to Mr. Lang and to you, we're not seeking
18 to restrict his time with the children because of that,
19 because I -- we believe it's principally an interaction
20 between him and his wife in terms of an inability to
21 cooperate or work stuff out.

22 THE COURT: Okay. So I'm going to cross out
23 the restrictions in residential time, though, but just
24 indicate there may be restrictions on decision-making
25 authority and dispute resolution process.

1 MR. BILLBE: That's exactly what we're seeking.

2 THE COURT: Okay.

3 MR. BILLBE: Yes.

4 THE COURT: Okay.

5 MR. LANG: And then -- so do I say --

6 THE COURT: Yeah. If you have --

7 MR. LANG: There's a couple things I don't
8 understand.

9 THE COURT: If you similarly have allegations
10 against the mother, then you got to let me know what
11 your allegations are.

12 MR. LANG: Well, two things. So first of all,
13 they said they're not looking to restrict my time. I
14 mean, that's --

15 THE COURT: Right.

16 MR. LANG: Is that saying that we're -- we have
17 an agreement of what the time is or --

18 THE COURT: No, no, no, no. What they're
19 saying is that they -- they're not saying that you
20 should have less time with the kids because of things
21 that you've done like the domestic violence or abusive
22 use of conflict. They see that as rather a conflict
23 with the mother, but not something that restricts your
24 ability to spend time with the children.

25 MR. LANG: Okay. So --

NO. 63228-1-I

COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION I

In Re the Marriage of

TRACIE LINN LANG,

Respondent,

v.

BROOK WESTER LANG,

Appellant.

CERTIFICATE OF SERVICE

The undersigned, under penalty of perjury, hereby declares as follows:

1. I am employed by the law firm of Carney Badley Spellman, P.S. My business and mailing address is 701 Fifth Avenue, Suite 3600, Seattle WA 98104.

2. On April 26, 2010, I served by US Mail, one copy of the following documents on:

Patricia A. Novotny
3418 NE 65th Street Suite A
Seattle WA 98115-7397

entitled exactly:

2010 APR 26 AM 4:35
COURT OF APPEALS
STATE OF WASHINGTON
DIVISION I

**APPELLANT'S CONSOLIDATED REPLY BRIEF ON APPEAL
AND ANSWERING BRIEF ON CROSS APPEAL (CORRECTED)**

DATED: April 26, 2010.



Patti Saidu

Legal Assistant to Michael B. King
Carney Badley Spellman
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Seattle, WA 98104
Tel: 206-622-8020
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Email: saidu@carneylaw.com