

No. 63414-3-I

COURT OF APPEALS, DIVISION I,  
OF THE STATE OF WASHINGTON

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PATRICIA J. PAPPAS,

Respondent,

v.

CHRISTOPHER S. PAPPAS,

Appellant.

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BRIEF OF RESPONDENT  
PATRICIA PAPPAS (n/k/a RAWLINGS)

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## A. INTRODUCTION

This case involves an entirely unremarkable action to dissolve a long-term marriage between Patricia Pappas (n/k/a Rawlings) and Christopher Pappas.<sup>1</sup> The only distinguishing features are the significant assets the trial court was asked to divide and Chris's unwillingness to meet his financial obligations following the couple's divorce.

It is well-established that this Court will not reverse the trial court's decisions in a dissolution proceeding absent a manifest abuse of discretion and that the Court cannot substitute its judgment for that of the trial court unless the trial court's decisions rest on untenable grounds. Here, the trial court did not abuse its discretion when dividing the couple's assets and liabilities, awarding maintenance, or setting child support. Moreover, its findings of fact are supported by substantial evidence. Accordingly, this Court should affirm.

## B. COUNTER STATEMENT OF THE ISSUES

Patty acknowledges Chris's assignments of error; however, she believes the issues in this case are more appropriately and simply expressed as follows:

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<sup>1</sup> The parties will be referred to by their first names to avoid confusion; no disrespect is intended.

1. Did the trial court appropriately exercise its discretion when it set the father's child support obligation above the advisory amount based on the basic needs of the child and the totality of the parent's economic circumstances?

2. Did the trial court appropriately exercise its discretion when it calculated child support and maintenance to be paid to the mother where substantial evidence supports the court's findings of fact?

3. Did the trial court appropriately exercise its discretion by awarding the mother 60% of the community property and only 40% of the community liabilities, while awarding the father the reverse, after considering the statutory factors delineated in RCW 26.09.080 and the age, education, and future employability of the couple?

4. Did the trial court appropriately exercise its discretion when it balanced the mother's financial need against the father's ability to pay and then ordered the father to pay the mother's reasonable attorney fees based on that balancing?

5. Did the trial court appropriately exercise its discretion when it ordered the father to pay the mother's reasonable attorney fees and costs based on the father's intransigence?

6. Is the mother entitled to her reasonable attorney fees and costs on appeal where she can demonstrate the need for such fees and the father has the ability to pay?

C. COUNTER STATEMENT OF THE CASE

As a preliminary matter, Chris's brief does not conform to the Rules of Appellate Procedure. For example, RAP 10.3(a)(5) requires a brief to contain a "fair statement of the facts and procedure relevant to the issues presented for review, without argument." Despite this rule, Chris's statement of the case contains improper argument. *See, e.g.*, Br. of Appellant at 8 ("There was no evidence, especially in light of the broader economy, that Chris's income would improve."); 9 ("The horse expenses were tremendous"); 10 (" . . . Chris appeared pro se and was surprised when Patty showed up represented by counsel."); 12 ("The court made Patty accountable for a minimal amount of liabilities[.]"). These arguments are out of place in a statement of the case and are a far cry from the "fair recitation of the facts, without argument," required by RAP 10.3(a)(5). Accordingly, the Court should disregard them.

In addition, RAP 10.3(g) requires a separate assignment of error for each finding of fact a party contends was improperly made, *with specific reference to the finding by number*. Yet Chris fails to refer to the findings he contends were made in error by their specific number. He also

fails to point out by number and description the findings of fact upon which he predicates the trial court's errors as required by RAP 10.4(c).

This Court on its own motion or the motion of a party, may strike portions of a brief and sanction a party for failing to comply with the Rules of Appellate Procedure. RAP 10.7; *Sheikh v. Choe*, 156 Wn.2d 441, 446-47, 128 P.3d 574 (2006). Patty does not move to strike Chris's brief in whole or in part, but feels it is important for the court to recognize Chris's repeated violations of the rules.

Although Patty agrees generally with Chris's statement of the case, she believes that he has glossed over or ignored several key facts. Accordingly, she provides the Court with the following more accurate recitation of the facts:

Patty and Chris met during college and were married on January 19, 1986. CP 4; RP 88, 91. Patty was 20 years old and Chris was 23. CP 65. They eventually had three children together. RP 89. Their oldest daughter just graduated from college, their son attends college, and their youngest daughter is now in high school. *Id.*; CP 4, 64.

Although Patty and Chris both attended college, neither one earned a degree. RP 91, 274. Chris later attended the University of Dealership Management operated by the National Automobile Dealers' Association, for which he received continuing education credits. CP 65; RP 217. All

of his education and work experience has been in the automobile retail business, where he has worked for more than 23 years. *Id.* Chris was an outstanding salesman and quickly rose into management, for which he was generously compensated. *Id.* He earned well over six figures throughout the last ten years of the couple's marriage; he earned over \$500,000 annually from 2000 to 2004. CP 67, 69.

The couple had a traditional marriage. CP 65. Chris was the primary wage-earner. CP 65. After the birth of their first child, Patty never again worked outside the home. RP 92-93. She remained at home caring for the children and was responsible for the maintenance of the home, the yard, and the household budget. CP 65, 93; Ex. 7. She also volunteered in the children's schools. Ex. 7. The couple lived below their means and were able to buy their first home during their second year of marriage. *Id.*

Patty and Chris maintained a high standard of living throughout their marriage due to Chris's significant earnings. CP 70. They owned a lakefront home mortgage-free, boats, and other "water toys." RP 95. They drove new cars and took lavish vacations with first class accommodations. CP 65-66, 71; RP 95-97. They had a housekeeper, a nanny, and a gardener. CP 71; RP 138. The children were enrolled in private schools and participated in travel abroad programs. CP 65-66;

RP 90. The couple's youngest daughter continues to participate in competitive horseback riding. CP 66. During the marriage, the family did not have a budget and was accustomed to a monthly cash surplus. *Id.*

The couple began to experience escalating marital discord when Chris began having extramarital affairs. RP 115, 117, 119-22, 128; Ex. 7. They separated in August 2005 and later attempted to reconcile. RP 115, 117-18, 123. They separated permanently in March 2007 and Patty filed for divorce in June 2007. CP 1-8; RP 130. A family law commissioner issued a temporary parenting plan relating to the couple's youngest daughter and an interim order providing Patty with monthly maintenance payments and child support. CP 27-30; RP 136. The case was assigned to the Honorable Patricia H. Clark.

The couple's youngest daughter is an avid horsewoman and has participated in competitive horseback riding for more than three years. CP 40, 66; RP 103, 107. During the divorce proceedings, unbeknownst to Patty, Chris approached the owner of the barn where his daughter was taking horseback riding lessons to inquire about buying a horse for her. RP 40, 104, 231-32. He asked the owner to keep the purchase a secret. *Id.* Later, Chris approached Patty about purchasing the horse. *Id.* Patty was afraid the horse was a bribe. RP 40. Patty and Chris agreed to purchase the horse with money from their savings account. RP 105.

Although Chris agreed to repay half of the money spent on the horse, he did not do so. RP 327-28. He paid the initial veterinary bill and the sales commission, but has not paid any other horse-related expenses since the horse was purchased. RP 40, 144-46, 321, 330-31. Patty later learned that Chris thought she would reconcile with him if they bought the horse for their daughter. RP 329.

Although Patty and Chris initially retained legal counsel to handle their divorce, they later dismissed their attorneys to minimize their attorney fees and to try to settle the matter between them. RP 3, 18. They appeared pro se before the trial court for a pre-trial conference on August 7, 2008. RP 3. The court advised them that they had a month to determine how they intended to try their case. RP 4. The case was set for trial on September 8, 2008, but later rescheduled to December 9, 2008. RP 15, 18.

On December 9, 2008, the couple appeared for trial. RP 15. Although Patty was prepared for trial, Chris was not. RP 17. Chris claimed he had no notice of the trial, *id.*, but the court declined to accept his explanations and found that he had notice of the trial date. RP 16, 20. The court then discussed the disputed issues that remained to be resolved. RP 23. In particular, the court reminded the couple that the court's job was to "look at their assets and liabilities, decide what kind they are,

separate or community, and then to divide them up.” RP 24-25, 38. The court asked the couple to provide certain financial information, including their tax returns and financial declarations, so that it could make the appropriate financial valuations and distributions. RP 26-27, 35-36.

Chris asked the court for the “Reader’s Digest version” of how the court thought it would decide the disputed issues. RP 30-31. The court responded that it would look at the length of their marriage and how the law would characterize it. RP 31-32. The court noted that when dealing with a marriage longer than five years, it would provide the nonworking spouse with enough money to get back on his or her feet and to restart his or her life. RP 32. The court also discussed the factors it would look at when presented with a long-term marriage like Chris and Patty’s marriage. *Id.* Utilizing those factors, the court stated it was not likely to divide the couple’s community estate equally because Patty needed additional assets going forward to get back onto her feet. RP 33. The court also discussed the factors it would consider when deciding maintenance. RP 34. Finally, the court discussed the factors it would consider when addressing the youngest daughter’s private school tuition and horse expenses. RP 39. The court stated it could not decide those issues based only on the couple’s financial declarations. RP 41.

The court was ultimately forced to give the couple 30 days to decide if they wanted to retain new counsel. RP 27-28, 50. The court specifically ordered them to schedule mediation, hire counsel, or reach a settlement by January 5, 2009. RP 50; CP 205-06. The trial was reset again. RP 50.

The couple appeared for trial on January 22, 2009. RP 59. Although Patty appeared with counsel pursuant to the court's earlier order and was prepared to resolve the matter, Chris did not have counsel and was unprepared to proceed. *Id.* He had not subpoenaed his witnesses or provided Patty with his witness list. RP 60, 68. He had not submitted a trial brief. CP 102. He eventually retained counsel. RP 166. Although the couple later attempted to settle their dispute, they were unsuccessful. RP 166.

The issues before the court when the trial resumed involved the property division, maintenance, the parenting plan, and child support. RP 397. The trial court had before it the temporary child support order, the couple's financial declarations, tax returns, W-2s, and other financial information. CP 13-25, 27-30, 88-95; RP 150-55, 167-68; Exs. 1-6, 8-13, 179, 199, 201. Patty submitted a financial declaration stating that to maintain her family's current lifestyle required more than \$8,000 per month, given her daughter's horse-related expenses. CP 88, 92; RP 136.

To make ends meet, she had cut back on her monthly expenses. RP 136-38. She also volunteered at the barn where her daughter's horse was boarded to cover some of the horse's ongoing expenses. RP 136-37. She also presented evidence the family enjoyed a very high standard of living during the marriage. RP 95-98.

Patty and her vocational expert also presented lengthy testimony regarding Patty's schooling, career potential, and future income. RP 175-93. At age 43, Patty is not yet ready to enter the workforce full-time because she lacks the education and/or experience to secure a job that will allow her to be self-supporting. CP 71; RP 88, 177, 180. She is enrolled in Bellevue Community College and will eventually matriculate into a four-year college to earn a bachelor's degree. *Id.*; RP 91-92. Her vocational expert testified that Patty would require five years of schooling to acquire the education necessary to obtain a decent job with benefits. RP 180, 188-86; Ex. 7. The expert also testified that Patty would need another five years of work experience beyond her schooling to qualify for truly gainful employment with benefits. RP 188; Ex. 7; CP 70. At that time, Patty's youngest child will be in college. CP 72.

Following a four-day bench trial, the court entered thorough findings of fact, conclusions of law, and a decree of dissolution.<sup>2</sup> CP 161-75. The court ordered the family home and the water “toys” to be sold, and then made a disproportionate allocation of marital assets to Patty to equalize the couple’s post-dissolution economic circumstances and to provide Patty with the means to complete her education.<sup>3</sup> CP 162-65; RP 397. Patty received 60% of the majority of the marital assets and 40% of the liabilities; Chris received the reverse. CP 162-65; RP 398-400. One financial account and the cash surrender value of Chris’s life insurance policy were split 50/50. CP 163-64; RP 398. Patty was awarded her car and the two cars driven by her older children, as well as maintenance in the amount of \$5,500 per month for eight years. CP 163, 165, 171; RP 398, 401. Chris was awarded a 1964 Corvette valued at approximately \$30,000, the couple’s substantial frequent flyer miles, and memberships in an upscale athletic club and an upscale golf and country club. CP 164; RP 307, 398. The court determined Patty should be the primary residential parent for the couple’s youngest daughter, established

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<sup>2</sup> The trial court made an oral ruling deciding the various issues in the case on February 9, 2009. Unfortunately, a portion of the trial court’s ruling was not transcribed. RP 396. The court’s oral ruling was reduced to writing on February 24, 2009. CP 157. Copies of the court’s decisions are included in the Appendix.

<sup>3</sup> In making the award, the court was mindful that the family home was mortgage-free and when sold, would provide considerable income to both parties. RP 401.

the applicable residential schedule, and set child support accordingly. CP 176-98. The trial court then ordered Chris to pay Patty's attorney fees and costs after balancing their financial circumstances and after finding Chris's intransigence increased Patty's litigation costs. CP 166, 172.

When it came time to address the younger daughter's horse, the court noted that neither party was willing to sell it. RP 400. But the court stated it was not willing to "be the heavy" by forcing the sale and ordered them to equally split the costs. RP 404, 411. The court noted that Chris brought the horse into the financial calculation at a time when he should have been preserving community assets rather than dissipating them. RP 404-05.

Chris approved the findings of fact for entry and waived presentation. CP 175; RP 408. There were a number of issues related to the parenting plan and the child support order, which were eventually resolved. RP 409-10.

Chris unsuccessfully moved for reconsideration of the trial court's decisions relating to the property division, child support, maintenance, and attorney fees. CP 134-43, 199-201. There are no significant differences between what Chris raised in his motion for reconsideration and the issues he raises on appeal. *Compare* CP 137-143 *with* Br. of Appellant at 18-42. On appeal, he challenges the trial court's child support and maintenance

awards and the property distribution. Br. of Appellant at i. He does not appeal the parenting plan. *Id.* at 13.

D. SUMMARY OF ARGUMENT

The purpose of child support is to prevent a harmful reduction in a child's standard of living when the child's parents divorce. It is designed to meet the needs of the child and its sufficiency is not measured by whether it financially strains the obligor parent. In determining support, the trial court is to consider all relevant factors without regard to misconduct. RCW 26.09.100(1).

A parent cannot avoid his or her obligation to support children by voluntarily declining to work. In deciding whether unemployment is voluntary, a trial court considers, among other factors, the parent's work history, education, health, and age. The trial court here heard ample evidence concerning those factors when it considered Patty's financial ability to contribute toward her daughter's support. The court did not abuse its discretion by failing to impute additional income to Patty when it had already imputed \$5,500 to her. Moreover, the court correctly calculated Chris's income based on all of the evidence presented at trial.

A trial court may legitimately depart from the standard child support schedule and order support in excess of that schedule commensurate with the parents' income, resources, and standard of living,

and consistent with the totality of the parents' financial circumstances. This Court defers to the trial court's determinations for amounts beyond the statutory amount. Here, the court did not abuse its discretion in setting support above the advisory amount where the record reflects that the court considered the totality of the couple's economic circumstances.

A trial court has broad discretion to grant a maintenance order in an amount and for a period of time the court deems just. RCW 26.09.090(1). The standard of living and the couple's post-dissolution economic conditions are the court's paramount concerns. The trial court here used maintenance as a flexible tool to more nearly equalize the couple's post-dissolution standard of living. The court's maintenance award is not an abuse of discretion where the record reflects the court considered the six non-exclusive factors listed in RCW 26.09.090. Moreover, the award reflects Chris's agreement that maintenance be half of his income.

Patty concedes the decree contains a typographical error extending maintenance an additional year. She has no objection if the Court chooses to remand on this limited issue with instructions for the trial court to correct the scrivener's error.

A trial court has broad discretion in evaluating and distributing property in a dissolution proceeding. An appellate court will not interfere

with a trial court's disposition of property in such a case unless the trial court abuses its discretion. The record reflects the trial court properly exercised its discretion in this case. The court considered the statutory factors enumerated in RCW 26.09.080 and rendered a comprehensive decision.

The trial court did not err in ordering Chris to reimburse Patty for \$19,982 in horse-related expenses. There is sufficient evidence in the record to confirm that Chris failed to live up to the promises he made to Patty with respect to those financial obligations. The trial court was in the best position to judge credibility.

In family law actions, an award of attorney fees and costs is discretionary. In making a fee award, the court must balance the needs of the spouse requesting the fees with the ability of the other spouse to pay. The trial court did not abuse its discretion by ordering Chris to pay one half of Patty's attorney fees and costs where it performed the necessary financial balancing.

Another important consideration when awarding fees in a dissolution action apart from the couple's relative financial abilities is the extent to which one spouse's intransigence caused the spouse seeking fees to require additional legal services. If intransigence is established, the financial resources of the couple are irrelevant. Here, the trial court did

not err by ordering Chris to pay one half of Patty's attorney fees and costs based on his intransigence where the record confirms that he failed to abide by the court's earlier orders and that he was unprepared for trial.

The Court should affirm the trial court's various decisions and award Patty her reasonable attorney fees and costs on appeal.

E. ARGUMENT IN RESPONSE

(1) Standards of Review

In the area of domestic relations, the appellate courts have historically been loath to overturn trial court decisions. “[T]rial court decisions in marital dissolution proceedings are rarely changed on appeal.” *In re Marriage of Williams*, 84 Wn. App. 263, 267, 927 P.2d 679 (1996), *review denied*, 131 Wn.2d 1025 (1997). Such decisions are difficult at best. *See In re Marriage of Landry*, 103 Wn.2d 807, 809, 699 P.2d 214 (1985).

Appellate courts should not encourage appeals by tinkering with them. The emotional and financial interests affected by such decisions are best served by finality. *The spouse who challenges such decisions bears the heavy burden of showing a manifest abuse of discretion on the part of the trial court.* The trial court's decision will be affirmed unless no reasonable judge would have reached the same conclusion.

*Id.* at 809-10 (citations omitted) (emphasis added).

A trial court manifestly abuses its discretion if it makes an untenable or unreasonable decision. *See In re Marriage of Tower*, 55 Wn. App. 697, 700, 780 P.2d 863 (1989), *review denied*, 114 Wn.2d 1002 (1990). A court's decision is manifestly unreasonable if it is outside the range of acceptable choices, given the facts and the applicable legal standard; it is based on untenable grounds if the factual findings are unsupported by the record. *See In re Marriage of Littlefield*, 133 Wn.2d 39, 47, 940 P.2d 1362 (1997) (citation omitted). When there is no abuse of discretion, this Court will uphold the trial court. *See Landry*, 103 Wn.2d at 810-11.

This Court reviews findings of fact entered after a bench trial to determine whether they are supported by substantial evidence and, if so, whether those findings support the trial court's conclusions of law. *See, e.g., Thorndike v. Hesperian Orchards, Inc.*, 54 Wn.2d 570, 575, 343 P.2d 183 (1959). Substantial evidence is evidence that would persuade a reasonable fact finder of the truth of the declared premise. *See, e.g., Wenatchee Sportsmen Ass'n v. Chelan County*, 141 Wn.2d 169, 176, 4 P.3d 123 (2000). This Court reviews questions of law and conclusions of law de novo. *See Sunnyside Valley Irrigation Dist. v. Dickie*, 149 Wn.2d 873, 880, 73 P.3d 369 (2003).

(2) The Trial Court Correctly Determined Child Support

Chris first contends the trial court inappropriately established a child support payment in an amount that exceeds his ability to pay. Br. of Appellant at 15. Specifically, he argues the trial court failed to impute income to Patty, miscalculated his income, exceeded the advisory support amount without making the requisite findings, and ordered him pay an amount exceeding 45% of his income without good cause. *Id.* at 14, 18-27. Chris's arguments are rebutted by the record, which contains testimony about the couple's present and future financial circumstances and reflects the court's awareness of those circumstances. The trial court did not abuse its discretion in setting Chris's child support obligation.

(a) Child support generally

The Legislature's intent in enacting RCW 26.19.001 was twofold: (1) to insure that child support orders are adequate to meet a child's basic needs, and (2) to provide additional child support commensurate with the parents' incomes, resources, and standard of living. *In re Marriage of Leslie*, 90 Wn. App. 796, 803, 954 P.2d 330 (1998), *review denied*, 137 Wn.2d 1003, 972 P.2d 466 (1999). The statute was designed with the primary goal of preventing a harmful reduction in a child's standard of living, in the best interests of children whose parents are divorced. *See In re Marriage of Mattson*, 95 Wn. App. 592, 599-600, 976 P.2d 157 (1999)

(citing *In re Marriage of Oakes*, 71 Wn. App. 646, 649-50, 861 P.2d 1065 (1993)). “Child support is designed to meet the needs of the children at issue; its sufficiency is not measured by whether it financially strains the obligor parent.” *In re Marriage of Scanlon and Witrak*, 109 Wn. App. 167, 180, 34 P.3d 877 (2001).

In a dissolution proceeding involving children, the trial court must order a parent having a duty of support to make child support payments for the benefit of a child who is dependent upon the parents for support. RCW 26.09.100(1). The court is to determine support on the basis of “all relevant factors but without regard to misconduct.” *Id.* The amount of support is calculated according to the child support schedule and other guidelines set forth in Chapter 26.19 RCW. *See id.*

In setting child support, the trial court must (1) compute the total income of the parents, (2) determine the child support level from the economic table,<sup>4</sup> (3) decide whether to deviate from the standard calculation based on specific statutory factors, and (4) allocate the child support obligation to each parent based on his or her share of the combined net income. *See In re Marriage of Maples*, 78 Wn. App. 696, 700, 899 P.2d 1 (1995). The end result is the standard calculation, which

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<sup>4</sup> At the time of trial in this case, the child support economic table ended at a combined monthly net income level of \$7,000. Former RCW 26.19.020 (1998). The statute was amended, effective October 2009, to provide for a combined monthly net income level of \$12,000. Laws of 2009, ch. 84 § 1.

is the presumptive amount of support the obligor parent owes. RCW 26.19.011(8).

Where, as here, the parents' combined monthly income exceeds \$7,000, the court may order support either at the maximum set forth in the economic tables or above the maximum, if it enters written findings. *See* RCW 26.19.065(3); *In re Marriage of Sacco*, 114 Wn.2d 1, 4, 784 P.2d 1266 (1990). If the trial court enters support above the maximum, it must consider the basic needs of the affected child and the totality of the economic circumstances. *See Scanlon*, 109 Wn. App. at 177 (citing *Leslie*, 90 Wn. App. at 804). Here, there is sufficient evidence to support the court's award of support above the maximum standard calculation.

(b) The court did not err by failing to impute additional income to Patty

Chris argues the trial court failed to impute income to Patty, who was attending school full time and was not working. Br. of Appellant at 18. He insists this was error because the decision not to impute additional income relieved Patty of her obligation to support her daughter. *Id.* at 19. That is certainly not the case. The court clearly considered Patty's maintenance award as income when calculating child support. CP 195. More importantly, the court's determination of Patty's income leaves her

responsible for a disproportionate share of her daughter's basic support even though she is the residential parent. CP 195.

At the outset, Chris takes issue with the trial court's failure to impute income to Patty based on its oral ruling that it intended to do so. Br. of Appellant at 17; RP 402. His objection is groundless because an oral decision is not a final order. *See Lasell v. Beck*, 34 Wn.2d 211, 212, 208 P.2d 139 (1949). The trial court is free to change its mind until it puts pen to paper and enters the formal order. *See, e.g., Fosbre v. State*, 70 Wn.2d 578, 584, 424 P.2d 901 (1967).

RCW 26.19.071(6) indicates that a parent cannot avoid his or her obligation to support children by voluntarily declining to work. *See, e.g., In re Marriage of Curran*, 26 Wn. App. 108, 110-11, 611 P.2d 1350 (1980). The term "voluntary unemployment" is undefined in the statute, but the courts have given meaning to the term. A person is voluntarily unemployed if he or she decides not to work by his or her free choice, rather than by accident; this term assumes the person is employable. *See In re Marriage of Blickenstaff*, 71 Wn. App. 489, 493, 859 P.2d 646 (1993). In deciding whether unemployment is voluntary, the trial court considers "that parent's work history, education, health, and age, or any other relevant factors." RCW 26.19.071(6).

Here, it is uncontested that at the time of trial Patty was voluntarily unemployed. She had no choice but to return to school full-time because she had a limited education and no “real world” work experience. The court nevertheless imputed income to her of \$5,500 per month, which represents the monthly maintenance payment she received from Chris.<sup>5</sup> This amount is more than the statutory median income for both men and women her age. CP 194. As the trial court explained:

. . . Patricia Pappas is age 43 . . . Patricia has never worked outside the home . . . It is clear that the wife will require substantial time to acquire the skills she will need to provide for her future. Based on the testimony of the vocational counselors, one from each side, she will need to be retrained, have time to enter a career at the bottom and work up to her projected salary range of 50-\$60,000 per year.

. . .

We’re going to impute mom’s income and for child support we’ll set father’s income based upon his . . . the W’2s.

RP 396-97, 402.

The court made additional findings concerning Patty’s work history, education, health, and age when it determined the maintenance award. CP 171-72. Although the trial court made those findings in the context of the maintenance award, they demonstrate that the court had

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<sup>5</sup> Chris does not dispute that the court “assigned” \$5,500 per month in income to Patty. Br. of Appellant at 17.

information about Patty's earning potential and her needs. Income potential and future standard of living are relevant factors to be evaluated, along with "the amount and type of support . . . that the child would have been afforded if . . . [her] parents had stayed together." *In re Marriage of Fernau*, 39 Wn. App. 695, 694 P.2d 1092 (1985) (citation omitted). Other comments from the court confirm it implicitly considered Patty's income in fashioning the decree and findings. For example, the trial court placed a time limit of eight years on Patty's maintenance award after considering her capacity to work in conjunction with the job opportunities for an individual with a business degree. The court also heard predictions from both vocational experts concerning Patty's future income potential. In short, the court had ample evidence of Patty's financial ability to contribute toward her daughter's support.

Finally, any difference in the amount of support Chris would pay if the court were directed to impute additional income to Patty is negligible and was within the court's discretion. Based on one of the worksheets Chris submitted in support of his motion for reconsideration, he claimed his basic child support obligation would be \$535.92 per month exclusive of the \$3,800 in additional horse and school-related expenses if the trial court imputed an additional \$1,957 in income to Patty. CP 138, 145. According to the final worksheet eventually adopted by the trial court,

Chris's obligation without factoring in the additional expenses is \$571.24, which creates a slight difference in the basic support obligation of \$35.32 per month. This minimal amount was certainly within the court's discretion to consider, especially when it was presented with evidence that Chris's contact with his youngest daughter has been sporadic. RP 100-01.

Even assuming for the sake of the argument that the record may be sparse with respect to the findings relating to child support, the record shows that the court considered the relevant factors. Based on the record and the principles of law discussed above, the trial court did not abuse its discretion in setting Patty's income at \$5,500 per month and in determining Chris's child support obligation.

(c) The trial court did not miscalculate Chris's income

Chris argues the trial court set his support obligation using a gross monthly income of \$11,550, which is \$96 over the amount shown on his 2008 W-2s. Br. of Appellant at 21. He insists this is reversible error. *Id.*

As an initial matter, Chris never submitted a single pay stub to substantiate his income claim. He also failed to submit his 2008 W-2 from Auto Loan, which would have reflected additional income in 2008. RP 324. It was Patty who submitted a pay stub reflecting that Chris was paid \$13,500 in November 2008. Ex. 4. In any event, Chris admitted in answers to interrogatories admitted at trial that his monthly net income

was actually \$16,000.02 per month. Ex. 15. Chris has not offered any reason why the court was not free to choose between the income figures actually provided at trial. Moreover, in setting his child support obligation the court was mindful that the couple owned their house mortgage-free and that its sale would provide considerable income to both of them. RP 401.

Even if Chris's claim is true, the amount of his monthly child support payment under RCW 26.19.020 would remain the same since the combined monthly net income column in the child support economic table increases by increments of \$100. RCW 26.19.020.

As Chris correctly notes, the court should include income from a number of sources, including salary and wages, when calculating child support. Br. of Appellant at 21. The income amount attributed to Chris was certainly within the discretion of the court to adjust. This is especially true where he has maintained a side business and has had other deals that provided him with additional income.

(d) The trial court properly ordered support over the advisory amount

Chris baldly asserts the trial court set child support over the advisory amount by \$3,800, which represents the amount of his daughter's

school and horse-related expenses, without the required findings.<sup>6</sup> Br. of Appellant at 22, 24-26. He also insists the evidence does not support the expenditures. *Id.* at 25. His assertions are flatly contradicted by the record.

As previously noted, the trial court has discretion to order a basic child support amount that exceeds the economic table when the parents' combined monthly net income exceeds \$7,000. RCW 26.19.020. To do so, the court must make written findings of fact to support the amount and, in making such findings, consider at a minimum the factors outlined in *In re Marriage of Daubert* and *In re Marriage of Rusch*.<sup>7</sup> See *In re Marriage of McCausland*, 159 Wn.2d 607, 621, 152 P.3d 1013 (2007). Those two factors are: (1) the parents' standard of living, and (2) the child's special medical, education, or financial needs. See *id.* at 620. The court may rely on additional factors in preparing its findings to support a higher award. *Id.* at 621. This Court defers to the trial court's determination for amounts beyond the statutory child support schedule. See *In re Marriage of Sievers*, 78 Wn. App. 287, 308, 897 P.2d 388 (1995).

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<sup>6</sup> Chris should not now be able to claim that he does not want his daughter to attend private school, when he stated under oath in answers to interrogatories that he "will get her the best education that fits her wants and interests." Ex. 15.

<sup>7</sup> *In re Marriage of Daubert*, 124 Wn. App. 483, 99 P.3d 401 (2004), *abrogated on other grounds by In re Marriage of McCausland*, 159 Wn.2d 607, 621, 152 P.3d 1013 (2007); *In re Marriage of Rusch*, 124 Wn. App. 226, 98 P.3d 1216 (2004), *abrogated on other grounds by In re Marriage of McCausland*, 159 Wn.2d 607, 621, 152 P.3d 1013 (2007).

Here, the trial court's findings and oral opinion address the necessary statutory findings and are supported by sufficient evidence in the record. The court specifically found: [t]he parents' combined monthly net income exceeds \$7,000 and the court sets child support in excess of the advisory amount because: the child support transfer payment includes the child's private school tuition and the cost of the child's competitive horseback riding program." CP 188 (Order of Child Support, Finding 3.5). The court addressed the couple's standard of living by finding Chris was employed earning in excess of six figures, that he earned over \$500,000 in some years, and that they lived a lavish lifestyle. CP 171-72; RP 396. The court noted that they had acquired all the trappings of prosperity. RP 396. Importantly, the court recognized that with the sale of the family home for \$1.6 million, the couple would have sufficient assets to cover these additional expenses. RP 407, 410-11.

Chris's reliance on *Daubert* is unavailing. Br. of Appellant at 23-24. There, this Court recognized that orthodontia, summer camp, college test preparation classes, computers, and travel for extra-curricular activities were within the appropriate bases for additional support under RCW 26.19.080. *Daubert*, 124 Wn. App. at 401. But the Court reversed the order of additional support based on these needs because the record did not contain evidence of the need for those expenditures or specific cost

estimates, and the trial court made no findings about the necessity and reasonableness of those additional expenses. *Id.* at 497-98. Here, Patty sufficiently established that she has expenses for her youngest daughter's needs that justified support above the advisory amount. Specifically, she asserted that additional support was necessary for expenses totaling \$3,800 for private school tuition and horse-related expenses. The trial court had the discretion to award an amount above the advisory amount upon written findings, and it did not abuse its discretion by doing so.

Chris also appears to argue without authority that the court erred by awarding additional support for his daughter's school and horse-related expenses because Patty failed to demonstrate an extraordinary need for support above the advisory amount. Br. of Appellant at 14. He is mistaken. There is no authority that requires Patty to show an extraordinary need for an award above the advisory amount. *See In re Marriage of Krieger and Walker*, 147 Wn. App. 952, 963, 199 P.3d 450 (2008) (finding neither the statute nor case law limits support awards above the advisory amount to those based on "extraordinary" needs).

- (e) The trial court did not err in setting child support that exceeds 45% of Chris's net income

Finally, Chris argues the trial court erred by requiring him to pay more than 45% of his net income for child support without a showing of

good cause. Br. of Appellant at 27. Although Chris's child support obligation is 46.9% of his net income, the record and the court's various findings clearly contain good cause for the existing deviation.

The trial court made a thoughtful and sincere effort to devise an economic plan that would not subject the couple's youngest daughter to undue economic hardship. The trial court did not err in its decision to deviate upward from the presumptive schedule amount, notwithstanding that the support awarded exceeded 45% of Chris's then-existing income. Chris's net monthly earnings represent only a portion of his economic resources and there is substantial evidence that his income will likely increase in the relatively near future.

Although RCW 26.19.075 does not specifically list disparate earning capacity or incomes as a reason for deviation, the trial court is not limited to the statutory factors when deciding whether to deviate from the presumptive schedule amount. RCW 26.19.075(1). For example, in *In re Marriage of Glass*, 67 Wn. App. 378, 387, 835 P.2d 1054 (1992), this Court upheld the trial court's upward deviation from the child support schedule. There, the father petitioned for modification based upon changed financial circumstances after filing for bankruptcy. The trial court found that he had earned significantly more money in the past and was capable of earning significantly more in the future, and ordered him to

pay support that exceeded 50% of his current net monthly earnings. On appeal, this Court held that the trial court did not err in ordering an upward deviation based upon substantial evidence that the father's earnings represented only a fraction of his economic resources, that his financial setbacks were temporary, his income would likely increase in the near future, and that he had maintained a relatively comfortable lifestyle. *Glass*, 67 Wn. App. at 386-88.

Here, the trial court specifically found that Chris was leaving the marriage with the ability to support himself in a very comfortable and luxurious lifestyle and that with his 25 years of experience, he will not only continue to earn a six figure income, but will likely increase his earnings substantially over the next eight years. CP 172. Moreover, the court recognized that Chris would receive substantial funds from the sale of the couple's home. RP 407, 410-11. Based on these findings, the trial court did not abuse its discretion in setting support above the advisory amount where good cause exists for the upward deviation.

(3) The Trial Court Properly Calculated Maintenance

Chris next contends the trial court's maintenance award is excessive and an abuse of discretion. Br. of Appellant at 28. Specifically, he argues the court erred in failing to consider the couple's needs and ability to pay where Patty had the financial resources at the time of the

divorce to allow her to meet her needs independently.<sup>8</sup> *Id.* at 31. But Patty's alleged capacity for self-support does not automatically preclude the court's maintenance award as Chris claims. On the contrary, her ability to independently meet her needs is only *one* factor to be considered. RCW 26.09.090(1).<sup>9</sup> The duration of their marriage and the standard of living they established during the marriage must also be considered, making it clear that maintenance is not just a means of providing bare necessities. *See In re Marriage of Washburn*, 101 Wn.2d 168, 178-79, 677 P.2d 152 (1984) (noting maintenance is a flexible tool by which the parties' standard of living may be equalized for an appropriate time).

Chris also contends the decree contains a typographical error extending maintenance an additional year. Br. of Appellant at 36. Patty

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<sup>8</sup> Chris contends the trial court failed to properly consider the disproportionate property award to Patty because it specifically omitted that factor in the findings. Br. of Appellant at 31. But nothing in RCW 26.09.090 requires the trial court to make specific factual findings on each of the factors listed in RCW 26.09.090(1). Instead, the statute merely requires the court to consider the listed factors. *See Mansour v. Mansour*, 126 Wn. App. 1, 16, 106 P.3d 768 (2004).

<sup>9</sup> Former RCW 26.09.090(1) provided, in part:

In a proceeding for dissolution of marriage, . . . , the court may grant a maintenance order for either spouse. The maintenance order shall be in such amounts and for such periods of time as the court deems just, without regard to marital misconduct, after considering all relevant factors[.]

The Legislature rewrote the subsection in 2008 to provide for maintenance in domestic partnership cases. Laws of 2008, ch. 6, § 1012. The section remains unchanged in all other respects.

agrees that the decree contains a scrivener's error. The decree states "[t]he first maintenance payment shall be due on March 1, 2009. Maintenance shall continue for a period of eight (8) years, until *February 2018*." CP 165 (emphasis added). Despite the court's clear intention to limit maintenance to eight years, CP 172; RP 401, the date as written in the decree extends maintenance an additional year. Patty has no objection if the Court chooses to remand to the trial court on this limited issue with instructions to correct the obvious scrivener's error.

It is within the trial court's discretion to grant a maintenance order in an amount and for a period of time the court deems just. RCW 26.09.090(1); *In re Marriage of Bulicek*, 59 Wn. App. 630, 800 P.2d 394 (1990). RCW 26.09.090(1) sets forth the non-exclusive factors the court should consider when granting a maintenance order, which include: the financial resources of the parties; their abilities to meet their needs independently; the duration of the marriage; the standard of living during the marriage; their ages, health and financial obligations; and the ability of one spouse to pay maintenance to the other. *Id.* The standard of living during the marriage and the couple's post-dissolution economic conditions are paramount concerns. *See In re Marriage of Sheffer*, 60 Wn. App. 51, 57, 802 P.2d 817 (1990); *In re Marriage of Morrow*, 53 Wn. App. 579, 586, 770 P.2d 197 (1989). Maintenance may serve to equalize the parties'

standard of living for an appropriate period of time. *See Washburn*, 101 Wn.2d at 179.

Like the *Washburn* court, the court here utilized maintenance as a flexible tool to more nearly equalize the parties' post-dissolution standard of living. The court's award of \$5,500 per month properly reflects the six factors listed in RCW 26.09.090. It also reflects Chris's agreement that maintenance be half of his income. Br. of Appellant at 11.

Patty is not likely to achieve the financial independence enjoyed by Chris. *See* RCW 26.09.090(1)(a). As the court found in Finding of Fact 2.12:

Maintenance should be ordered because: the parties have a long-term (21 year) traditional marriage. The wife dropped out of college when she was 20 years old in order to marry the husband. During the marriage, the wife's primary responsibilities were maintaining the parties' home and caring for the parties' three children. The husband was employed earning in excess of six figures and working in excess of 40 hours per week for the last ten years of the marriage, including some years during which the husband earned over \$500,000. The wife has a high school education and has returned to college in hopes of completing a business degree. The wife has taken substantial steps toward obtaining an education that will render her employable in the future, however, at present, and for the foreseeable future, the wife lacks the skills to earn more than a minimum wage while the husband retains the ability to earn a substantial six figure income. The wife sacrificed her career opportunities in order to stay home to raise the parties' children, two of whom are now in college themselves, and the youngest for whom the wife still

has primary responsibility, while the husband has been gainfully employed throughout the marriage and now leaves the marriage with the ability to support himself in a very comfortable and luxurious lifestyle. Given her age and the need for both further education and work experience, the wife will not likely ever be able to earn a six figure income, and certainly is not likely to do so within the next eight (8) years, whereas it is likely that with his 25 years of experience, the husband will not only continue to earn a six figure income, but will likely increase his earnings substantially over the next eight (8) years.

CP 172. The economic reality is that this marital community substantially benefited from Chris's career, which in turn was facilitated by Patty's caring for the home and the family while forfeiting her own economic opportunities. Through her efforts, Patty provided the services needed by the community to function as a family. She did so by sacrificing her own economic opportunities in the market place. That trade-off, clearly agreed to by Chris, now leaves Patty economically disadvantaged as compared to Chris.

At age 43, Patty is not yet ready to enter the workforce full-time because she lacks the education and/or experience to secure a job that will allow her to be self-supporting. See RCW 26.09.090(1)(b), (e). She enrolled in Bellevue Community College in 2008 and will eventually matriculate into a four-year college to earn a bachelor's degree. RP 91-92. Her vocational expert testified during trial that Patty would require five

years of schooling to acquire the education necessary to obtain a decent job with benefits. Ex. 7. The expert also testified that Patty would need another five years of work experience beyond her schooling to qualify for truly gainful employment. *Id.*; CP 70. In the meantime, Patty remains primarily responsible for the care and support of the couple's youngest daughter. When Patty finally qualifies for truly gainful employment, her youngest child will be in college. CP 72.

Patty and Chris enjoyed a high standard of living during their marriage. *See* RCW 26.09.090(1)(c). During their marriage, they enjoyed a significant after-tax annual income. CP 67, 69. They owned a lakefront home mortgage-free, boats, and other "water toys." RP 95. They drove new cars and took lavish vacations with first class accommodations. CP 65-66, 71. They had a housekeeper, a nanny, and a gardener. CP 71; RP 138. The children were enrolled in private schools and participated in travel abroad programs. CP 65-66. Today, Patty does not live on an income close to the income that supported the couple's standard of living during the marriage.

Patty and Chris were married for 21 years before separating, during which time Patty sacrificed her earning potential by becoming a homemaker. *See* RCW 26.09.090(1)(d). The court's award properly

reflects the fact that Patty forfeited economic opportunities while Chris capitalized on them.

Chris is capable of paying the maintenance award without sacrificing his own needs. *See* RCW 26.09.090(1)(f). He has the ability to earn a substantial income (*e.g.*, \$137,446 in 2008) and has a history of earning more than \$500,000 per year. In addition to his regular employment, Chris has maintained a side business. RP 277-78.

A final factor that may be considered is the dissipation and probable concealment of assets. *See Morrow*, 53 Wn. App. at 588. Chris took out an unsecured line of credit after the separation that he admittedly used for vacations and personal entertainment rather than bare necessities. RP 218, 324-25. He has also had side deals in the past that have provided him with additional income and he has hidden his employment in the past. RP 209, 262-63, 331. It would not be unreasonable to assume that he may have similar deals and additional income now. Chris has also received money from his father in the past. RP 265. Although he worked for his father's auto business, Auto Loan, in 2008, he failed to provide his 2008 W-2 stating his income from that job. RP 324. Chris appeared to be deliberately depressing his income in an attempt to avoid his financial responsibilities. RP 215.

Where the trial court thoughtfully considered the relevant statutory factors in RCW 26.09.090 and thus acted within its discretion when setting maintenance, this Court should affirm. *See Stacy v. Stacy*, 68 Wn.2d 573, 575-76, 414 P.2d 791 (1966) (awarding wife five years of maintenance plus 75% of assets following dissolution of 22-year marriage; wife had no degree or work experience and husband was young and had considerable long-term earning potential).

(4) The Trial Court Properly Distributed the Parties' Assets and Liabilities

Chris argues the trial court erred in disproportionately allocating the couple's property and liabilities because it failed to consider their economic circumstances at the time of the divorce. Br. of Appellant at 37-38. He insists the result is neither just nor equitable. *Id.* at 37. His contention is without merit. Like the trial court's earlier decisions, this decision was within the court's discretion and is supported by substantial evidence.

In a dissolution proceeding, the trial court must distribute the marital property in a manner that is "just and equitable after considering all relevant factors." RCW 26.09.080. The list of nonexclusive factors the court should consider includes:

- (1) The nature and extent of the community property;
- (2) The nature and extent of the separate property;
- (3) The duration of the marriage; and
- (4) The economic circumstances of each spouse at the time the division of property is to become effective.

*Id.*

These statutory factors are not limiting and the trial court may consider other factors such as the age, health, education, and employability of the couple. *See Tower*, 55 Wn. App. at 699. No single factor is conclusive or given greater weight than the others. *See In re Marriage of Konzen*, 103 Wn.2d 470, 478, 693 P.2d 97 (1985); *DeRuwe v. DeRuwe*, 72 Wn.2d 404, 408, 433 P.2d 209 (1967).

Washington courts have paid particular attention over the years to ensuring that the spouses continue to enjoy roughly the same style of life before and after the dissolution. In a long term marriage, the court's objective is to place the parties in roughly equal financial positions for the rest of their lives. *See In re Marriage of Rockwell*, 141 Wn. App. 235, 243, 248, 170 P.3d 572, *review denied*, 163 Wn.2d 1055, 187 P.3d 752 (2007) (citing Washington Family Law Deskbook, § 32.3(3) at 17 (2d. ed. 2000)). The ultimate and paramount concern is the parties' economic circumstances at divorce. *See In re Marriage of Crosetto*, 82 Wn. App.

545, 556, 918 P.2d 954 (1996); *In re Marriage of Mathews*, 70 Wn. App. 116, 121, 853 P.2d 462, *review denied*, 122 Wn.2d 1021 (1993).

A fair and equitable property division does not require mathematical precision, however. *See Crosetto*, 82 Wn. App. at 557. *See also, In re Marriage of Clark*, 13 Wn. App. 805, 810, 538 P.2d 145, *review denied*, 86 Wn.2d 1001 (1975) (noting the key to an equitable distribution is fairness). Nor does it require the court to divide the property equally. *See Rockwell*, 141 Wn. App. at 255 (affirming 60/40 property distribution). Instead, fairness is obtained by considering all circumstances of the marriage and by exercising discretion, not by utilizing inflexible rules. *See Tower*, 55 Wn. App. at 700.

Here, the trial court considered the statutory factors delineated in RCW 26.09.080 and rendered a comprehensive decision. The court specifically analyzed the respective economic positions Patty and Chris would be left in after the dissolution. In particular, the trial court noted that Patty was 43 years old, that her standard of living would be somewhat diminished, and that Chris's earning capacity would always be superior to hers. CP 171-72; RP 396-97. The court also found that Chris has the training and experience to continue earning a six figure income. CP 172. Except for the first few years of the marriage, Chris's income has never fallen below six figures. In short, the economic realities favor Chris. On

the other hand, as a result of the couple's decision that Patty stay home and care for their three children, she has minimal earning capacity and minimal skills. CP 172. The trial court's findings are supported by substantial evidence and should not be disturbed on appeal.

Chris next argues the trial court's awards have left him with little money to meet his financial obligations, including the support of an older daughter in college. Br. of Appellant at 14, 38. Chris's statement is misleading at best and untrue at worst. His older daughter just graduated from college, which means his financial obligation for her tuition has ended. In addition, despite claiming he has been left with little money to meet his financial obligations, he has been able to find money to travel to Mexico and to other undisclosed locations.

Finally, Chris complains the trial court's awards force him to consume his 40% share of the couple's assets to support himself, along with Patty and their younger daughter. This result is neither unjust nor inequitable, as Patty has likewise had to consume a portion of her 60% share of the couple's assets to support herself, their youngest daughter, and their older children who occasionally live with her.

It is apparent from the court's oral decision and the findings of fact that it adequately considered all the relevant statutory factors. The court recognized the disparity in job skills and income potential of Patty and

Chris, and gave great weight to the specific considerations set forth in RCW 26.09.080. Where the trial court carefully analyzed the respective positions of the parties, exercised its discretion and rendered a thoughtful decision, the distribution that this Court might have made collectively or individually is not relevant. *See Landry*, 103 Wn.2d at 811. The trial court did not abuse its discretion and its property division should be affirmed.

(5) The Trial Court Correctly Determined the Horse Expense

Chris asserts the trial court erred by ordering him to reimburse Patty for \$19,982 in horse-related expenses. Br. of Appellant at 39. He argues without citation to the record that he has already paid Patty a substantial portion of those expenses and that Patty admitted at trial that this was so. *Id.* On the contrary, the evidence confirms that Chris has failed to live up to the promises he made to Patty with respect to his financial obligations for his daughter's horse.

Patty admitted at trial that she used the \$5,500 per month she received in temporary maintenance from Chris to cover all of her expenses and her daughter's expenses to the best of her ability. RP 136. She acknowledged that it was not enough to cover everything. *Id.* But she *never* testified that Chris had satisfied his financial obligations with respect to the horse. *Id.* Instead, she consistently testified that Chris had

not repaid his half of the money taken from their joint savings account to purchase the horse as he originally promised to do. RP 105, 327-28. While he paid the initial veterinary bill and the sales commission, he had not paid any other horse-related expenses. RP 40, 144-46, 330-31. Instead, Patty's mother has assisted her with some of those expenses. RP 145-46, 330.

Patty has not been unjustly enriched by the trial court's order requiring Chris to reimburse her for their daughter's horse-related expenses where substantial evidence confirms he has not paid Patty for those expenses. The trial court was in the best position to judge the couple's credibility. *See In re Marriage of Farr*, 87 Wn. App. 177, 185, 940 P.2d 679 (1997). The trial court's order was not an abuse of discretion.

(6) The Trial Court's Attorney Fee Award Was Proper

On the basis of its findings and conclusions, the trial court awarded Patty \$21,500 in attorney fees and costs. CP 161, 172. Chris contends the trial court abused its discretion by requiring him to pay one-half of Patty's litigation expenses because he does not have the ability to pay and Patty failed to demonstrate his intransigence. Br. of Appellant at 39-40. The trial court's fee award was not an abuse of discretion.

In family law actions, RCW 26.09.140<sup>10</sup> permits a fee award as a matter of discretion. The award will not be disturbed absent proof that the discretion exercised was clearly untenable or manifestly unreasonable. *See Tower*, 55 Wn. App. at 697.

In making a fee award, the trial court must balance the needs of the spouse requesting the fees with the ability of the other spouse to pay. RCW 26.09.140. A spouse's receipt of substantial property or maintenance does not preclude the spouse from also receiving an award of attorney fees and costs when the other spouse remains in a much better position to pay. *See In re Marriage of Hadley*, 88 Wn.2d 649, 659, 565 P.2d 790 (1977); *Suther v. Suther*, 28 Wn. App. 838, 627 P.2d 110 (1981).

An important consideration apart from the relative financial abilities of the spouses is the extent to which one spouse's intransigence caused the spouse seeking fees to require additional legal services. *See, e.g., In re Marriage of Greenlee*, 65 Wn. App. 703, 708, 829 P.2d 1120, *review denied*, 120 Wn.2d 1002 (1992) (awarding fees where husband's

---

<sup>10</sup> RCW 26.09.140 provides:

The court from time to time after considering the financial resources of both parties may order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding under this chapter and for reasonable attorney's fees or other professional fees in connection therewith, including sums for legal services rendered and costs incurred prior to the commencement of the proceeding or enforcement or modification proceedings after the entry of judgment.

intransigence forced wife to an bring action for an order authorizing her to refinance her house to pay his IRS debt); *In re Marriage of Eide*, 1 Wn. App. 440, 445, 462 P.2d 562 (1969) (awarding fees where the husband's recalcitrant, foot-dragging, obstructionist attitude increased the cost of litigation to the wife). If intransigence is established, the financial resources of the spouse seeking the fees are irrelevant. *See In re Marriage of Morrow*, 53 Wn. App. 579, 591, 770 P.2d 197 (1989).

The record here indicates that the trial court considered Patty's need and Chris's ability to pay when making every discretionary determination it was required to make in this case. The record clearly reflects Patty's need for fees, which was highlighted in her financial declaration and again in her trial testimony. CP 88, 92; RP 136. The trial court did not abuse its discretion by awarding fees under RCW 26.09.140.

Chris's demonstrated and documented intransigence made this case needlessly expensive and contentious, substantiating the trial court's award of attorney fees regardless of Patty's financial status. For example, the court had previously noted a long history of discovery issues involving motions to compel. RP 4. Moreover, the record clearly reflects that Chris failed to appear prepared for trial when provided with notice and then failed to abide by the court's subsequent order to appear with counsel when the trial was renoted. By contrast, Patty came to court prepared to

resolve the case with her attorney. She submitted a trial brief, proposed orders, and exhibits. Chris was essentially unprepared when the trial started and did not retain counsel until much later. As the court stated: “[Chris’s] actions throughout this case have resulted in greatly increased attorney’s fee for [Patty] and frankly for himself.” RP 401.

Where the record documents Chris’s intransigence, the trial court exercised sound discretion in awarding reasonable attorney fees and costs to Patty on that basis.

(7) Patty Is Entitled To Her Attorney Fees and Costs on Appeal

Attorney fees are recoverable in dissolution proceedings upon a showing of financial need and ability to pay. RCW 26.09.140. Pursuant to RAP 18.1(b), a party seeking attorney fees on appeal must devote a section of the opening brief to a request for such fees. A party who fails to comply with this procedure is not entitled to an award of attorney fees. *See, e.g., Jacob’s Meadow Owners Ass’n v. Plateau 44 II, LLC*, 139 Wn. App. 743, 772 n.17, 162 P.3d 1153 (2007).

Patty is entitled to her reasonable attorney fees on appeal. RAP 18.1; RCW 26.09.140. This Court may award fees on appeal after considering the financial resources of the parties and balancing Patty’s need against Chris’s ability to pay. *In re Marriage of Wilson*, 117 Wn. App. 40, 51, 68 P.3d 1121 (2003). A careful assessment of Patty’s

financial need, as will be described in her forthcoming RAP 18.1(c) affidavit, balanced against Chris's ability to pay, firmly supports the conclusion that Patty should recover her fees on appeal.

In deciding attorney fees on appeal under RCW 26.09.140, this Court also examines the arguable merit of the issues on appeal and the financial resources of the respective parties. *In re Marriage of Booth*, 114 Wn.2d 772, 779, 791 P.2d 519 (1990). Given the thinness of the merits of Chris's appeal, and the continuing disparity of income between the couple, this Court should award Patty fees on appeal.

Unlike Patty, Chris did not request an award of attorney fees and costs in his brief. Thus, Chris is not entitled to an award of attorney fees and costs on appeal even if applicable law were to grant him the right to recover such fees because he failed to request them in his opening brief.

#### F. CONCLUSION

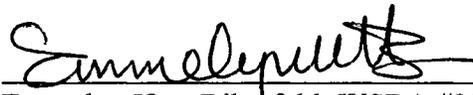
The trial court did not abuse its discretion in dividing the marital estate, setting child support, ordering maintenance, and entering the findings of fact and conclusions of law supporting the decree of dissolution. It cannot be said that the court's decisions rest on unreasonable or untenable grounds, or that no reasonable judge would have reached the same conclusions. Chris has not met his heavy burden of

showing the trial court manifestly abused its discretion. The court's orders were a proper exercise of its discretion.

This Court should affirm the trial court and award Patty fees and costs on appeal.

DATED this 15<sup>th</sup> day of January, 2010.

Respectfully submitted,



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Deborah A. Bianco, WSBA #19826  
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14535 Bel-Red Rd., Ste 201  
Bellevue, WA 98007-3907  
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Attorneys for Respondent Patricia Pappas  
(n/k/a Rawlings)

# Appendix

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FEB 27 2009  
KING COUNTY SUPERIOR COURT  
CLERK'S OFFICE



Superior Court of Washington  
County of King

In re the Marriage of:

PATTY PAPPAS,

Petitioner,

and

CHRISTOPHER PAPPAS,

Respondent.

No. 07-3-04002-5SEA

Decree of Dissolution (DCD)

Clerk's action required

I. Judgment/Order Summaries

1.1 Restraining Order Summary:

Does not apply.

1.2 Real Property Judgment Summary:

Real Property Judgment Summary does not apply.

1.3 Money Judgment Summary:

Judgment Summary is set forth below.

A. Judgment creditor

Patty Pappas

B. Judgment debtor

Christopher Pappas

C. Principal judgment amount

\$ N/A

D. Interest to date of judgment

\$ N/A

E. Attorney fees

\$ 21,500.00  
~~17,500.00~~

F. Costs

\$ N/A

Decree (DCD) (DCLGSP) (DCINMG)  
WPF DR 04.0400 (6/2006)  
RCW 26.09.030; .040; .070 (3)  
Page - 1

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- 1 G. Other recovery amount \$ 19,982.00  
2 H. Principal judgment shall bear interest at 12% per annum  
3 I. Attorney fees, costs and other recovery amounts shall bear interest at 12 % per annum  
4 J. Attorney for judgment creditor Deborah A. Bianco  
5 K. Attorney for judgment debtor  
6 L. Other:

7 *End of Summaries*

8 **II. Basis**

9 Findings of Fact and Conclusions of Law have been entered in this case.

10 **III. Decree**

11 *It Is Decreed that:*

12 **3.1 Status of the Marriage**

13 The marriage of the parties is dissolved.

14 **3.2 Property to be Awarded to the Petitioner**

15 The petitioner is awarded as her separate property the following property (list  
16 real estate, furniture, vehicles, pensions, insurance, bank accounts, etc.):  
17 60% of the proceeds of sale of the parties' home located at 4568 94<sup>th</sup> Avenue  
18 S.E., Issaquah, WA, after payment of costs of sale. The home shall  
19 immediately be listed with a real estate broker selected by the wife, at the  
20 price recommended by the real estate broker. The wife and the parties'  
21 children may continue to reside in the home, pending sale. The court retains  
22 jurisdiction to enter further orders as necessary to effectuate the sale of the  
23 home.

60% of the following financial accounts:

- 24 IRA with Morgan Stanley ending in 8242 with an approximate  
25 balance of \$195,939.01;  
26 AutoNation 401k ending in 2666 with an approximate balance of  
27 \$88,613.89;  
28 Edward Jones Account ending in 672-1 with an approximate balance  
of \$9,363.18;

1 Those accounts that are subject to a Qualified Domestic Relations  
2 Order shall be divided using a Qualified Domestic Relations Order;  
3 all other accounts shall be divided by the parties.

4 50% of the following financial accounts:

5 Bank of America Account ending in 5655 with an approximate  
6 balance of \$51,000;

7 50% of the cash surrender value of the life insurance policy on husband's  
8 life with cash surrender value of \$27,395 (approximately);

9 2004 Toyota Landcruiser;

10 2000 Jeep driven by Rawley, the parties' son

11 2002 Ford Escape driven by Alex, the parties' daughter;

12 60% of the Exxon Stock owned by the parties;

13 60% of the proceeds of sale of the following items of personal property:

14 A 2002 Yamaha jet ski;

15 A 2004 TLR Trailer;

16 A 2003 Supra Boat;

17 A 2003 Trailer;

18 The husband shall sell the personal property listed above, and shall  
19 deliver to the wife proof of sale and 60% of the net sale proceeds.

20 60% of the household furnishings and appliances in her possession.

### 21 3.3 Property to be Awarded to the Respondent

22 The respondent is awarded as his or her separate property the following  
23 property (list real estate, furniture, vehicles, pensions, insurance, bank  
24 accounts, etc.):

25 40% of the proceeds of sale of the parties' home located at 4568 94<sup>th</sup> Avenue  
26 S.E., Issaquah, WA, after payment of costs of sale. The home shall  
27 immediately be listed with a real estate broker selected by the wife, at the  
28 price recommended by the real estate broker. The wife and the parties'  
children may continue to reside in the home, pending sale. The court retains  
jurisdiction to enter further orders as necessary to effectuate the sale of the  
home.

50% of the following financial accounts:

Bank of America Account ending in 5655 with an approximate  
balance of \$51,000;

40% of the following financial accounts:

IRA with Morgan Stanley ending in 8242 with an approximate  
balance of \$195,939.01;

AutoNation 401k ending in 2666 with an approximate balance of  
\$88,613.89;

Edward Jones Account ending in 672-1 with an approximate balance  
of \$9,363.18;

*Decree (DCD) (DCLGSP) (DCINMG)*

*WPF DR 04.0400 (6/2006)*

*RCW 26.09.030; .040; .070 (3)*

*Page - 3*

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1 Those accounts that are subject to a Qualified Domestic Relations  
2 Order shall be divided using a Qualified Domestic Relations Order;  
3 all other accounts shall be divided by the parties.

4 A 1964 Chevrolet Corvette;

5 The parties' Frequent flyer miles;

6 40% of the Exxon Stock owned by the parties;

7 40% of the proceeds of sale of the following items of personal property:

8 A 2002 Yamaha jet ski;

9 A 2004 TLR Trailer;

10 A 2003 Supra Boat;

11 A 2003 Trailer;

12 The husband shall sell the personal property listed above, and shall  
13 deliver to the wife proof of sale and 60% of the net sale proceeds.

14 Glendale Golf Membership

15 Bellevue Athletic Club Membership

16 50% of the cash surrender value of the life insurance policy on husband's  
17 life with cash surrender value of \$27,395 (approximately);

18 All personal property in his possession plus 40% of the personal property in  
19 the family home.

#### 20 3.4 Liabilities to be Paid by the Petitioner

21 The petitioner shall pay the following community or separate liabilities:

22 The Visa credit card with an approximate balance of \$4,500;

23 The American Express card;

24 40% of the liability of \$68,500 owed to the husband's parents, which shall be  
25 paid from the wife's share of the proceeds of sale of the family home.

26 All liabilities associated with property awarded to the petitioner.

27 Unless otherwise provided herein, the petitioner shall pay all liabilities incurred by  
28 her since the date of separation.

#### 3.5 Liabilities to be Paid by the Respondent

The petitioner shall pay the following community or separate liabilities:

The Wells Fargo line of credit;

The Shell gasoline credit cards;

The remaining balance on the Rainier line of credit;

The balance of attorney's fees owed to Wolfgang Anderson;

60% of the liability of \$68,500 owed to the husband's parents, which shall be  
paid from the husband's share of the proceeds of sale of the family home;

All liabilities in his name or incurred by him since separation;

All liabilities associated with property awarded to him;

The following amounts owed to the wife:

*Decree (DCD) (DCLGSP) (DCINMG)*

*WPF DR 04.0400 (6/2006)*

*RCW 26.09.030; .040; .070 (3)*

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1 \$3,500 representing monies the wife paid for the Alia's horse shows,  
2 and which the husband promised to repay her, which shall be paid to the wife;  
3 \$13,800 representing amounts that the wife paid for the care of Alia's  
4 horse (which was given to Alia by the husband) which shall be paid to the  
5 wife;

6 \$2,682 representing the saddle for Alia's horse, that the wife's mother  
7 paid, and which shall be paid to the wife, who shall reimburse her mother.

8 Unless otherwise provided herein, the respondent shall pay all liabilities incurred by  
9 him since the date of separation.

### 10 3.6 Hold Harmless Provision

11 Each party shall hold the other party harmless from any collection action  
12 relating to separate or community liabilities set forth above, including  
13 reasonable attorney's fees and costs incurred in defending against any  
14 attempts to collect an obligation of the other party.

### 15 3.7 Spousal Maintenance

16 The respondent shall pay \$5,500 per month in maintenance for a period of eight  
17 years. Respondent shall provide proof of income annually, in the form of copies of  
18 all pay stubs and copies of his tax returns for each year that the wife is entitled to  
19 receive maintenance. Maintenance shall be paid monthly on the first day of each and  
20 every month.

21 The first maintenance payment shall be due on March 1, 2009. Maintenance shall  
22 continue for a period of eight (8) years, until February 2018.

23 Payments shall be made: to the Washington State Child Support Registry (only  
24 available if child support is ordered).

25 If a maintenance payment is more than 15 days past due and the total of such past  
26 due payments is equal to or greater than \$100, or if the obligor requests a withdrawal  
27 of accumulated contributions from the Department of Retirement Systems, the  
28 obligee may seek a mandatory benefits assignment order under Chapter 41.50 RCW  
without prior notice to the obligor.

The Department of Retirement Systems may make a direct payment of all or part of a  
withdrawal of accumulated contributions pursuant to RCW 41.50.550(3).

The respondent shall maintain life insurance sufficient to satisfy his maintenance  
obligation, and in the event that he fails to do so, his maintenance obligation shall  
survive his death and shall be a lien against his estate.

The obligation to pay future maintenance is terminated upon the death or remarriage  
of the party receiving maintenance.

1 **3.8 Continuing Restraining Order**

2 Does not apply.

3  
4 **3.9 Protection Order**

5 Does not apply.

6 **3.10 Jurisdiction Over the Children**

7  
8 The court has jurisdiction over the children as set forth in the Findings of Fact and  
9 Conclusions of Law.

10 **3.11 Parenting Plan**

11 The parties shall comply with the Parenting Plan signed by the court on  
12 February 24, 2009. The Parenting Plan signed by the court is approved and  
13 incorporated as part of this decree.

14 **3.12 Child Support**

15 Child support shall be paid in accordance with the order of child support  
16 signed by the court on February 24, 2009. This order is incorporated as part  
17 of this decree.

18 **3.13 Attorney Fees, Other Professional Fees and Costs**

19 Attorney fees, other professional fees and costs shall be paid as follows: the  
20 husband shall pay 50% to the wife's attorney's fees incurred in this matter.

21 **3.14 Name Changes**

22 The wife's name shall be changed to Patricia Jan Rawlings.

23  
24 **3.15 Other**

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Dated: 2/24/09

  
Judge/Commissioner

Petitioner's lawyer:

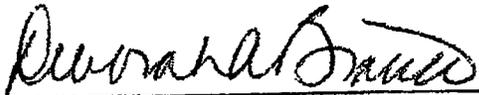
Respondent's lawyer:

A signature below is actual notice of this order.

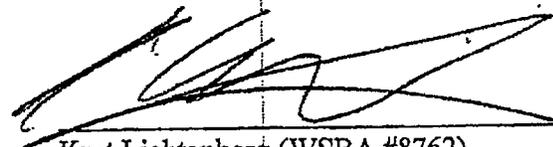
A signature below is actual notice of this order.

Approved for entry:  
Presented by:

Notice of presentation waived:



Deborah A. Bianco (WSBA #19826)  
Attorney for Petitioner



Kurt Lichtenberg (WSBA #8762)  
Attorney for Respondent



Superior Court of Washington  
County of King

In re the Marriage of:

PATTY PAPPAS,

Petitioner,

and

CHRISTOPHER PAPPAS,

Respondent.

No. 07-3-04002-5SEA

**FINDINGS OF FACT AND  
CONCLUSIONS OF LAW**

**I. Basis for Findings**

The findings are based on: trial. The following people attended:

Petitioner;

Petitioner's Lawyer, Deborah A. Bianco;

Respondent;

Respondent's Lawyer, Kurt Lichtenberg.

**II. Findings of Fact**

Upon the basis of the court records, the court  *Finds*:

**2.1 Residency of Petitioner**

The Petitioner is a resident of the state of Washington.

*Fndngs of Fact and Concl of Law (FNFCL)*  
WPF DR 04.0300 (6/2006) - CR 52; RCW  
26.09.030; .070(3)  
Page - 1

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1 **2.2 Notice to the Respondent**

2 The respondent appeared, responded or joined in the petition.

3 **2.3 Basis of Personal Jurisdiction Over the Respondent**

4 The facts below establish personal jurisdiction over the respondent.

5 The respondent is presently residing in Washington.

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

8 The parties may have conceived a child while within Washington.

9  
10 **2.4 Date and Place of Marriage**

11 The parties were married on January 19, 1986 at Seattle, King County, Washington.

12  
13 **2.5 Status of the Parties**

14 Husband and wife separated on June 6, 2007.

15  
16 **2.6 Status of Marriage**

17 The marriage is irretrievably broken and at least 90 days have elapsed since the date  
18 the petition was filed and since the date the summons was served or the respondent  
19 joined.

20 **2.7 Separation Contract or Prenuptial Agreement**

21 There is no written separation contract or prenuptial agreement.

22  
23 **2.8 Community Property**

24 The parties have the following real or personal community property:

25 A home located at 4568 94<sup>th</sup> Avenue S.E., Issaquah, WA and valued at approximately

26 \$1,600,000;

27 Two 2000 Jeeps (1 driven by Chris; 1 driven by Rawley)

28 A 2004 Toyota Landcruiser;



1	<u>Bank of America Visa</u>	<u>\$13,000<sup>1</sup></u>
2	<u>Property Taxes</u>	<u>\$21,000</u>

3 **2.11 Separate Liabilities**

4  
5 The husband has incurred the following separate liabilities:

	<u>Creditor</u>	<u>Amount</u>
6		
7	<u>Wells Fargo Line of Credit</u>	<u>\$50,000</u>
8	<u>Shell Gasoline Credit Cards</u>	<u>\$2,700</u>
9	<u>Saddle</u>	<u>\$2,682</u>
10	<u>Horse Shows (owed to Patty)</u>	<u>\$3,500</u>
11	<u>Horse Care (owed to Patty)</u>	<u>\$13,800</u>
12	<u>Rainier Line of Credit</u>	<u>\$3,000<sup>2</sup></u>

13 The wife has incurred the following separate liabilities:

	<u>Creditor</u>	<u>Amount</u>
14		
15	<u>Visa Credit Card</u>	<u>\$4,500</u>
16	<u>American Express Credit Card</u>	<u>paid in full each month</u>

17  
18 **2.12 Maintenance**

19  
20 Maintenance should be ordered because: the parties have a long-term (21 year)  
21 traditional marriage. The wife dropped out of college when she was 20 years old in  
22 order to marry the husband. During the marriage, the wife's primary responsibilities  
23 were maintaining the parties' home and caring for the parties' three children. The  
24 husband was employed earning in excess of six figures and working in excess of 40  
25 hours per week for the last ten years of the marriage, including some years during  
26 which the husband earned over \$500,000. The wife has a high school education and

27 <sup>1</sup> The Visa Card was paid in full by the wife after separation, so these funds are no longer owed to  
28 Visa

<sup>2</sup> This line of credit is a community line which the husband used for attorney's fees for his dissolution attorney, and which the wife has been making monthly payments.

1 has returned to college in hopes of completing a business degree. The wife has taken  
2 substantial steps toward obtaining education that will render her employable in the  
3 future, however, at present, and for the foreseeable future, the wife lacks the skills to  
4 earn more than a minimum wage while the husband retains the ability to earn a  
5 substantial six figure income. The wife sacrificed her career opportunities in order to  
6 stay home to raise the parties' three children, two of whom are now in college  
7 themselves, and the youngest for whom the wife still has primary responsibility,  
8 while the husband has been gainfully employed throughout the marriage and now  
9 leaves the marriage with the ability to support himself in a very comfortable and  
10 luxurious lifestyle. Given her age and the need for both further education and work  
11 experience, the wife will not likely ever be able to earn a six figure income, and  
12 certainly is not likely to do so within the next eight (8) years, whereas it is likely that  
13 with his 25 years of experience, the husband will not only continue to earn a six  
14 figure income, but will likely increase his earnings substantially over the next eight  
15 (8) years.

16 **2.13 Continuing Restraining Order**

17 Does not apply.

18  
19 **2.14 Protection Order**

20 Does not apply.

21 **2.15 Fees and Costs**

22  
23 The wife has the need for the payment of fees and costs and the other spouse has the  
24 ability to pay these fees and costs. The wife has incurred reasonable attorney fees and  
25 costs in the amount of \$35,000. The court finds that the husband's conduct in this  
26 matter was intransigent, and increased the expenditure of attorney's fees by the wife.

27 **2.16 Pregnancy**

28 The wife is not pregnant.

*Findings of Fact and Concl of Law (FNFCL)*  
*WPF DR 04.0300 (6/2006) - CR 52; RCW*  
*26.09.030; .070(3)*  
*Page - 5*

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1 **2.17 Dependent Children**

2 The children listed below are dependent upon either or both spouses.

3	4	5	6	7
	<u>Name of Child</u>	<u>Age</u>	<u>Mother's Name</u>	<u>Father's Name</u>
6	Alia N. Pappas	14	Patty	Christopher

8 **2.18 Jurisdiction Over the Children**

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

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

14 This state is the home state of the children because the child lived in  
15 Washington with a parent or a person acting as a parent for at least six  
16 consecutive months immediately proceeding the commencement of this  
17 proceeding.

18 The child and the parents or the child and at least one parent or person  
19 acting as a parent, have significant connection with the state other than  
20 mere physical presence; and substantial evidence is available in this state  
21 concerning the child's care, protection, training and personal  
22 relationships; and the child has no home state elsewhere.

23 No other state has jurisdiction.

24 **2.19 Parenting Plan**

25 The parenting plan signed by the court on this date or dated  
26 2/24/09, is approved and incorporated as part of these  
27 findings.

28 **2.20 Child Support**

There are children in need of support and child support should be set pursuant to the Washington State Child Support Schedule. The Order of Child Support

*Findings of Fact and Concl of Law (FNFL)*  
WPF DR 04.0300 (6/2006) - CR 52; RCW  
26.09.030; .070(3)  
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signed by the court on 2/24/09 [Date] and the child support worksheet, which has been approved by the court, are incorporated by reference in these findings.

2.21 Other

III. Conclusions of Law

The court makes the following conclusions of law from the foregoing findings of fact:

3.1 Jurisdiction

The court has jurisdiction to enter a decree in this matter.

3.2 Granting a Decree

The parties should be granted a decree.

3.3 Pregnancy

Does not apply.

3.4 Disposition

The court should determine the marital status of the parties, make provision for a parenting plan for any minor children of the marriage, make provision for the support of any minor child of the marriage entitled to support, consider or approve provision for maintenance of either spouse, make provision for the disposition of property and liabilities of the parties, make provision for the allocation of the children as federal tax exemptions, make provision for any necessary continuing restraining orders, and make provision for the change of name of any party. The distribution of property and liabilities as set forth in the decree is fair and equitable.

3.5 Continuing Restraining Order

Does not apply.

3.6 Protection Order

Does not apply.

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**3.7 Attorney Fees and Costs**

Attorney fees, other professional fees and costs should be paid.

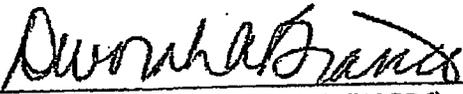
**3.8 Other**

Dated: 2/29/09

  
\_\_\_\_\_  
Judge/Commissioner

Presented by:

Approved for entry:  
Notice of presentation waived:

  
\_\_\_\_\_  
Deborah A. Bianco (WSBA #19826)  
Attorney for Petitioner

  
\_\_\_\_\_  
Kurt Lichtenberg (WSBA #8762)  
Attorney for Respondent

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Superior Court of Washington  
County KING

In re the Marriage of:

No. 07-3-04002-5 SEA

PATRICIA PAPPAS,

Parenting Plan

Petitioner,

and

Final Order (PP)

CHRISTOPHER PAPPAS,

Respondent.

This parenting plan is the final parenting plan signed by the court pursuant to a decree of dissolution, legal separation, or declaration concerning validity signed by the court on this date or dated 2/24/09

**It Is Ordered, Adjudged and Decreed:**

**I. General Information**

This parenting plan applies to the following child:

Name	Age
Alla Nicole Pappas	14

**II. Basis for Restrictions**

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

Parenting Plan (PPP, PPT, PP) Page 1 of 8  
WPF DR 01.0400 Mandatory (6/2008) - RCW 26.09.181; .187; .194

KURT LICHTENBERG  
Attorney at Law  
10900 NE 4th Street, #2230  
Bellevue, WA 98004  
(425) 455-3787

ORIGINAL

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

3 Does not apply.

4 **2.2 Other Factors (RCW 26.09.191(3))**

5 Does not apply.

6 **III. Residential Schedule**

7 *The residential schedule must set forth where the child shall reside each day of the year, including provisions for holidays, birthdays of family members, vacations, and other special occasions, and what contact the child shall have with each parent. Parents are encouraged to create a residential schedule that meets the developmental needs of the child 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.*

10 **3.1 Schedule for Children Under School Age**

11 There are no children under school age.

12 **3.2 School Schedule**

13 Upon enrollment in school, the child shall reside with the petitioner, except for the following days and times when the child will reside with or be with the other parent:

14 From Friday 6:00 p.m. to Monday at school every other week and from Wednesday 6:00 p.m. to Thursday at school every week

16 **3.3 Schedule for Winter Vacation**

17 The child shall reside with the petitioner during winter vacation, except for the following days and times when the child will reside with or be with the other parent:

18 Alternate each year -- first half to be with mother on odd years with father on even years. First half is defined as the day school lets out until 10:00 a.m. Christmas morning.

20 **3.4 Schedule for Other School Breaks**

21 The child shall reside with the petitioner during other school breaks, except for the following days and times when the child will reside with or be with the other parent:

22 Alternate each year -- father to have mid-winter break in even years, Spring break in odd years.

1  
2 **3.5 Summer Schedule**

Upon completion of the school year, the child shall reside with the except for the following days and times when the child will reside with or be with the other parent:

4 Same as school year schedule.

5 **3.6 Vacation With Parents**

6 The schedule for vacation with parents is as follows:

7 Each parent shall be entitled to up to four (4) weeks (2 week segments) of vacation with  
8 Alia each year. The parents shall exchange vacation requests by April 15 each year,  
9 and provide the destination(s), and the complete details of all travel arrangements  
10 including, but not limited to, flight numbers, dates and times of flights, accomodations  
11 (address, phone numbers, etc.). If a parent fails to give notice by April 15, that person  
loses his/her priority for that year. However, the vacation request will not be  
unreasonably denied. In the event of a conflict in the parents' chosen dates, the  
12 mother's dates prevail in even numbered years, and the father's in odd numbered years.

13 Vacation Notification: When and if either party chooses to take the child out of  
14 Washington State for vacation purposes, that parent shall provide the other parent with  
15 the address and phone number where the child may be reached in case of an  
16 emergency.

17 For International travel (other than to British Columbia, Canada), the traveling parent  
18 shall obtain written permission from the non-traveling parent prior to departure. The  
19 traveling parent must request permission at least 30 days in advance of the planned  
20 travel and shall provide the non-traveling parent with destination, travel itinerary,  
21 accommodations, and contact information related to the trip. If the non-traveling parent  
22 objects to the international travel, that parent must object in writing within five (5) days of  
23 the parent's written request for permission. In the event of a dispute, the parents will  
24 follow Section V.

**3.7 Schedule for Holidays**

The residential schedule for the child for the holidays listed below is as follows:

	With Petitioner (Specify Year Odd/Even/Every)	With Respondent (Specify Year Odd/Even/Every)
Easter	Even	Odd
July 4th	Every	
Thanksgiving Day	Odd	Even
Christmas Eve	3-3-2 every to noon 12/25	3-3
Christmas Day	3-3	3-3 every noon 12/25 to noon 12/26

Parenting Plan (PPP, PPT, PP) Page 3 of 8  
WPF DR 01.0400 Mandatory (6/2008) - RCW 26.09.181; .187; .194

KURT LICHTENBERG  
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10900 NE 4th Street, #2230  
Bellevue, WA 98004  
(425) 455-3787

For purposes of this parenting plan, a holiday shall begin at 9:00 a.m. and end at 7:00 p.m. except as otherwise set forth herein;

Easter shall be from 9:00 a.m. until 9:00 p.m.

July 4 shall be from 9:00 a.m. until 9:00 a.m. on July 5.

Thanksgiving shall be from after school on the Wednesday preceding Thanksgiving until school begins on Monday following Thanksgiving.

### 3.8 Schedule for Special Occasions

The residential schedule for the child for the following special occasions (for example, birthdays) is as follows:

	With Petitioner (Specify Year Odd/Even/Every)	With Respondent (Specify Year Odd/Even/Every)
Mother's Day	Every	
Father's Day		Every
Mother's Day	Every	
Father's Day		Every
Alia's Birthday	Odd	Even

Special occasions shall begin at 9:00 a.m. and end at 9:00 p.m. if the occasion falls during the residential time of the parent not scheduled to have the child on the normal rotation under paragraph 3.1. The child shall celebrate her birthday with the designated parent from after school until 9:00 p.m. if the birthday falls on a school day, and from 9:00 a.m. until 9:00 p.m. if it falls on a weekend day.

### 3.9 Priorities Under the Residential Schedule

Paragraphs 3.3 - 3.8, have priority over paragraphs 3.1 and 3.2, in the following order:

Rank the order of priority, with 1 being given the highest priority:

- 1 winter vacation (3.3)
- 3 school breaks (3.4)
- 6 summer schedule (3.5)
- 4 holidays (3.7)
- 2 special occasions (3.8)
- 5 vacation with parents (3.6)

### 3.10 Restrictions

Does not apply because there are no limiting factors in paragraphs 2.1 or 2.2.

1  
2 **3.11 Transportation Arrangements**

Transportation costs are included in the Child Support Worksheets and/or the Order of Child Support and should not be included here.

4 Transportation arrangements for the child between parents shall be as follows: The  
5 father shall provide transportation of the child between the parties.

6 **3.12 Designation of Custodian**

7 The child named in this parenting plan is scheduled to reside the majority of the time  
8 with the petitioner. This parent is designated the custodian of the child solely for  
9 purposes of all other state and federal statutes which require a designation or  
10 determination of custody. This designation shall not affect either parent's rights and  
11 responsibilities under this parenting plan.

12 **3.13 Other** *Judge Clark will retain jurisdiction for 1 year  
to make adjustments to all aspects of this plan w/o a substantial change  
of circumstances*  
Neither party will provide alcohol to the child while this parenting plan is in effect.

13 **3.14 Summary of RCW 26.09.430 - .480, Regarding Relocation of a Child**

14 This is a summary only. For the full text, please see RCW 26.09.430 through 26.09.480.

15 If the person with whom the child resides a majority of the time plans to move, that  
16 person shall give notice to every person entitled to court ordered time with the child.

17 If the move is outside the child's school district, the relocating person must give notice by  
18 personal service or by mail requiring a return receipt. This notice must be at least 60  
19 days before the intended move. If the relocating person could not have known about  
20 the move in time to give 60 days' notice, that person must give notice within 5 days after  
21 learning of the move. The notice must contain the information required in RCW  
22 26.09.440. See also form DRPSCU 07.0500; (Notice of Intended Relocation of A  
23 Child).

24 If the move is within the same school district, the relocating person must provide actual  
notice by any reasonable means. A person entitled to time with the child may not object  
to the move but may ask for modification under RCW 26.09.260.

Notice may be delayed for 21 days if the relocating person is entering a domestic  
violence shelter or is moving to avoid a clear, immediate and unreasonable risk to health  
and safety.

If information is protected under a court order or the address confidentiality program, it  
may be withheld from the notice.

A relocating person may ask the court to waive any notice requirements that may put the

1 health and safety of a person or a child at risk.

2 Failure to give the required notice may be grounds for sanctions, including contempt.

4 **If no objection is filed within 30 days after service of the notice of intended relocation, the relocation will be permitted and the proposed revised residential schedule may be confirmed.**

6 A person entitled to time with a child under a court order can file an objection to the child's relocation whether or not he or she received proper notice.

8 An objection may be filed by using the mandatory pattern form WPF DRPSCU 07.0700, (Objection to Relocation/Petition for Modification of Custody Decree/Parenting Plan/Residential Schedule). The objection must be served on all persons entitled to time with the child.

10 The relocating person shall not move the child during the time for objection unless: (a) the delayed notice provisions apply; or (b) a court order allows the move.

12 If the objecting person schedules a hearing for a date within 15 days of timely service of the objection, the relocating person shall not move the child before the hearing unless there is a clear, immediate and unreasonable risk to the health or safety of a person or a child.

#### 14 IV. Decision Making

##### 15 4.1 Day-to-Day Decisions

16 Each parent shall make decisions regarding the day-to-day care and control of each child while the child is residing with that parent. Regardless of the allocation of decision making in this parenting plan, either parent may make emergency decisions affecting the health or safety of the child.

##### 18 4.2 Major Decisions

19 Major decisions regarding each child shall be made as follows:

20 Education decisions:	joint
21 Non-emergency health care:	joint
22 Religious upbringing:	joint
23 Extracurricular activities	joint

##### 23 4.3 Restrictions in Decision Making

24 Does not apply because there are no limiting factors in paragraphs 2.1 and 2.2 above.

1  
2 **V. Dispute Resolution**

3 *The purpose of this dispute resolution process is to resolve disagreements about carrying out*  
4 *this parenting plan. This dispute resolution process may, and under some local court rules or*  
5 *the provisions of this plan must, be used before filing a petition to modify the plan or a motion for*  
6 *contempt for failing to follow the plan.*

7 Disputes between the parties, other than child support disputes, shall be submitted to  
8 (list person or agency):

9 mediation by Cheryl Russell, or other agreed upon mediator.

10 The cost of this process shall be allocated between the parties as follows:

11 Based on each party's proportional share of income from line 6 of the child  
12 support worksheets.

13 The dispute resolution process shall be commenced by notifying the other party by  
14 written request.

15 In the dispute resolution process:

- 16 (a) Preference shall be given to carrying out this Parenting Plan.
- 17 (b) Unless an emergency exists, the parents shall use the designated process to  
18 resolve disputes relating to implementation of the plan, except those related to  
19 financial support.
- 20 (c) A written record shall be prepared of any agreement reached in counseling or  
21 mediation and of each arbitration award and shall be provided to each party.
- 22 (d) If the court finds that a parent has used or frustrated the dispute resolution  
23 process without good reason, the court shall award attorneys' fees and financial  
24 sanctions to the other parent.
- (e) The parties have the right of review from the dispute resolution process to the  
superior court.

**VI. Other Provisions**

There are the following other provisions:

See attached.

**VII. Declaration for Proposed Parenting Plan**

Parenting Plan (PPP, PPT, PP) Page 7 of 8  
WPF DR 01.0400 Mandatory (6/2008) - RCW 26.09.181; 187; 194

KURT LICHTENBERG  
Attorney at Law  
10900 NE 4th Street, #2230  
Bellevue, WA 98004  
(425) 455-3787

1  
2 Does not apply.

3 **VIII. Order by the Court**

4 It is ordered, adjudged and decreed that the parenting plan set forth above is adopted and approved as an order of this court.

5 **WARNING:** Violation of residential provisions of this order with actual knowledge of its terms is punishable by contempt of court and may be a criminal offense under RCW 9A.40.060(2) or 9A.40.070(2). Violation of this order may subject a violator to arrest.

7 When mutual decision making is designated but cannot be achieved, the parties shall make a good faith effort to resolve the issue through the dispute resolution process.

9 If a parent fails to comply with a provision of this plan, the other parent's obligations under the plan are not affected.

10  
11 Dated: 7/29/09

*[Signature]*  
Judge/Commissioner

12  
13 Presented by: *[Signature]*

Approved for entry:

14  
15 8762  
Kurt Lichtenberg  
Attorney for Respondent

19826  
Deborah A. Bianco  
Attorney for Petitioner

## VI OTHER:

6.1 The residential arrangements defined above are provided for in the best interests of the children. The children's interests are best served by a full and regular pattern of contact with both parents, responsiveness and cooperation by both parents, involvement by both parents in all aspects of the children's needs and a reasonably consistent routine of activities, values and discipline throughout both homes. Absence, inconsistency and conflict are opposed to the best interests of the children.

6.2 When a child of the parties isn't residing with a given parent, that parent shall be permitted unimpeded and unmonitored telephone access with the child at reasonable times and for reasonable durations. Mail access between parents and child shall not be restricted.

6.3 Any residential periods which are made by election of one of the parties shall be reasonable and proposed in good faith. In the event a parent elects a residential schedule which the other parent asserts is unreasonable, the disputed schedule shall be subject to the dispute resolution process provided in this Parenting Plan.

6.4 Each parent shall have the right and responsibility to ensure that the children attend school and other scheduled activities while in that parent's care. Activities shall not be scheduled to unreasonably interfere with the other parent's residential time with the children.

6.5 Each parent shall provide the other with the address and phone number of their residence and update such information promptly whenever it changes.

6.6 Each parent agrees to exert reasonable effort to maintain free access and unhampered contact and communication between the children, and the other parent, and to promote the emotions of affection, love and respect between the children and the other parent. Each parent agrees to refrain from words or conduct, and further agrees to discourage other persons from uttering words or engaging in conduct, which would have a tendency to estrange the children from the other parent, to damage the opinion of the children as to the other parent, or which would impair the natural development of the children's love and respect for the other parent.

6.7 Each parent shall be responsible for keeping themselves advised of athletic and social events in which the children participate. Both parents

may participate in school activities for the children regardless of the residential schedule.

6.8 Each parent shall provide the other parent promptly with receipt of any significant information regarding the welfare of the children, including physical and mental health, performance in school.

6.9 Each parent shall inform the other when that parent plans to be away from his or her residence with any child for more than two nights. The information to be provided shall include duration of the period, the destinations and destination telephone numbers.

6.10 Neither parent shall ask the children to make decisions or requests involving the residential schedule. Neither parent shall discuss the residential schedule with the children except for plans which have already been agreed to by both parents in advance. Neither parent will ask the child to take verbal messages to the other parent.

6.11 Neither parent shall encourage the children to change their primary residence or encourage the children to believe it is their choice to do so. It is a choice that will be made by the parents or, if they cannot agree, the courts.

6.12 Neither parent shall make derogatory comments about the other parent or allow anyone else to do the same in the children's presence. Neither parent shall allow or encourage the children to make derogatory comments about the other parent.

6.13 Neither parent shall advise the child of the status of support payments of other legal matters regarding the parents' relationship or this proceeding.

6.14 Items belonging to the child (such as sporting equipment, uniforms, backpacks etc.) shall be deemed the property of the child and shall be permitted to travel with the child between the parents' homes as the child requires.

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Superior Court of Washington  
County of King

In re the Marriage of:

PATTY PAPPAS,

Petitioner,

and

CHRISTOPHER PAPPAS,

Respondent.

No. 07-3-04002-5SEA

Order of Child Support

Final Order (ORS)

Clerk's Action Required

**I. Judgment Summary**

Does not apply because no attorney's fees or back child support has been ordered.

**II. Basis**

**2.1 Type of Proceeding**

This order is entered under a petition for dissolution of marriage, legal separation, or declaration concerning validity: decree of dissolution, legal separation or a declaration concerning validity.

**2.2 Child Support Worksheet**

The child support worksheet which has been approved by the court is attached to this order and is incorporated by reference or has been initialed and filed separately and is incorporated by reference.

*Order of Child Support (TMORS, ORS) -  
Page 1 of 7  
WPF DR 01.0500 Mandatory (7/2007) -  
RCW 26.09.175; 26.26.132*

DEBORAH A. BIANCO, P.S.  
14535 Bel-Red Road, Suite 201  
Bellevue, Washington 98007  
Telephone: (425) 747-4500  
Facsimile: (425) 747-8400

1 2.3 Other

2 III. Findings and Order

3 *It is Ordered:*

4 3.1 Children for Whom Support is Required

5 Name (first/last) Age  
6 Alia Pappas 14

7 3.2 Person Paying Support (Obligor)

8 Name (first/last): Christopher Pappas  
9 Birth date: January 17, 1963  
10 Service Address: [You may list an address that is not your residential address where you  
11 agree to accept legal documents.] 14202 S. E. 44<sup>th</sup>, Bellevue, WA 98006

12 ***The Obligor Parent Must Immediately File With the Court and the  
13 Washington State Child Support Registry, and Update as Necessary,  
14 the Confidential Information Form Required by RCW 26.23.050.***

15 ***The Obligor Parent Shall Update the Information Required by  
16 Paragraph 3.2 Promptly After any Change in the Information. The  
17 Duty to Update the Information Continues as long as any Support  
18 Debt Remains due Under This Order.***

19 Monthly Net Income: \$ 4,346.58

20 3.3 Person Receiving Support [Obligee]

21 Name (first/last): Patty Pappas  
22 Birth date: June 6, 1965  
23 Service Address: [You may list an address that is not your residential address where you  
24 agree to accept legal documents.] 4568 194<sup>th</sup> Ave. S.E., Issaquah, WA 98027

25 ***The Obligee Must Immediately File With the Court and the  
26 Washington State Child Support Registry and Update as Necessary  
27 the Confidential Information Form Required by RCW 26.23.050.***

28 ***The Obligee Shall Update the Information Required by Paragraph 3.3  
Promptly After any Change in the Information. The Duty to Update  
the Information Continues as Long as any Monthly Support Remains  
Due or any Unpaid Support Debt Remains Due Under This Order.***

*Order of Child Support (TMORS, ORS) -  
Page 2 of 7  
WPF DR 01.0500 Mandatory (7/2007) -  
RCW 26.09.175; 26.26.132*

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Bellevue, Washington 98007  
Telephone: (425) 747-4500  
Facsimile: (425) 747-8400

1  
2 Monthly Net Income: \$4,915.62

3 The obligor may be able to seek reimbursement for day care or special child rearing  
4 expenses not actually incurred. RCW 26.19.080.

5 **3.4 Service of Process**

6 ***Service of Process on the Obligor at the Address Required by***  
7 ***Paragraph 3.2 or any Updated Address, or on the Obligee at the***  
8 ***Address Required by Paragraph 3.3 or any Updated Address, may Be***  
9 ***Allowed or Accepted as Adequate in any Proceeding to Establish,***  
10 ***Enforce or Modify a Child Support Order Between the Parties by***  
11 ***Delivery of Written Notice to the Obligor or Obligee at the Last***  
12 ***Address Provided.***

13 **3.5 Transfer Payment**

14 The obligor parent shall pay the following amounts per month for the following children:

<u>Name</u>	<u>Amount</u>
Alia Pappas	\$2,234.15 through 8/09
including horseback riding and private school;	23,533.44
	<del>\$2,849.15</del> from 9/09
forward, including horseback riding and private school;	
<b>Total Monthly Transfer Amount</b>	\$2,234.15 through 8/09;
	<del>\$2,849.15</del> from 9/09 forward
	2353.44

15  
16  
17  
18 The parents' combined monthly net income exceeds \$7,000 and the court sets  
19 child support in excess of the advisory amount because: the child support transfer  
20 payment includes the child's private school tuition and the cost of the child's  
21 competitive horse back riding program.

22 ***The Obligor Parent's Privileges to Obtain or Maintain a License,***  
23 ***Certificate, Registration, Permit, Approval, or Other Similar***  
24 ***Document Issued by a Licensing Entity Evidencing Admission to or***  
25 ***Granting Authority to Engage in a Profession, Occupation, Business,***  
26 ***Industry, Recreational Pursuit, or the Operation of a Motor Vehicle***  
27 ***may Be Denied or may Be Suspended if the Obligor Parent is not in***  
28 ***Compliance With This Support Order as Provided in Chapter 74.20A***  
***Revised Code of Washington.***

**3.6 Standard Calculation**

\$ 2,234.15 per month through August, 2009, including horseback riding (\$2300/mo) and

*Order of Child Support (TMORS, ORS) -*  
*Page 3 of 7*  
*WPF DR 01.0500 Mandatory (7/2007) -*  
*RCW 26.09.175; 26.26.132*

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1 private school at St. Louise Parish School; \$2,849.15 beginning September, 2009,  
2 including horseback riding (\$2,300/mo) and Eastside Catholic High School (\$1,500/mo)  
(See Worksheet line 15.)

3 **3.7 Reasons for Deviation From Standard Calculation**

4 The child support amount ordered in paragraph 3.5 does not deviate from the standard  
5 calculation.

6 **3.8 Reasons why Request for Deviation Was Denied**

7 Does not apply. A deviation was not requested.

8 **3.9 Starting Date and Day to Be Paid**

9 Starting Date: February 1, 2009  
10 Day(s) of the month support is due: First day of each month

11 **3.10 Incremental Payments**

12 Does not apply.

13 **3.11 How Support Payments Shall Be Made**

14 Select Enforcement and Collection, Payment Services Only, or Direct Payment:

15 Enforcement and collection: The Division of Child Support (DCS) provides  
16 support enforcement services for this case because: this is a case in which a  
17 parent has requested services from DCS, a parent has signed the application for  
18 services from DCS on the last page of this support order. Support payments shall  
19 be made to:

20 Washington State Support Registry  
21 P. O. Box 45868  
22 Olympia, WA 98504  
23 Phone: 1-800-922-4306 or  
1-800-442-5437

24 A party required to make payments to the Washington State Support Registry will not  
25 receive credit for a payment made to any other party or entity. The obligor parent shall  
26 keep the registry informed whether he or she has access to health insurance coverage at  
reasonable cost and, if so, to provide the health insurance policy information.

27 **3.12 Wage Withholding Action**

28 Withholding action may be taken against wages, earnings, assets, or benefits, and liens

*Order of Child Support (TMORS, ORS) -  
Page 4 of 7  
WPF DR 01.0500 Mandatory (7/2007) -  
RCW 26.09.175; 26.26.132*

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enforced against real and personal property under the child support statutes of this or any other state, without further notice to the obligor parent at any time after entry of this order unless an alternative provision is made below:

[If the court orders immediate wage withholding in a case where Division of Child Support does not provide support enforcement services, a mandatory wage assignment under Chapter 26.18 RCW must be entered and support payments must be made to the Support Registry.]

**3.13 Termination of Support**

Support shall be paid: until September, after the child graduates from high school, except as otherwise provided below in Paragraph 3.14.

**3.14 Post Secondary Educational Support**

The right to petition for post secondary support is reserved, provided that the right is exercised before support terminates as set forth in paragraph 3.13.

**3.15 Payment for Expenses not Included in the Transfer Payment**

Does not apply because all payments, except medical, are included in the transfer payment.

~~The petitioner shall pay \_\_\_\_\_ % and the respondent \_\_\_\_\_ % (each parent's proportional share of income from the Child Support Schedule Worksheet, line 6) of the following expenses incurred on behalf of the children listed in Paragraph 3.1:~~

*mas*

- ~~educational expenses.~~
- ~~horseback riding expenses, including maintaining the horse at the barn where Alia rides;~~

~~Payments shall be made to  the provider of the service  the parent receiving the transfer payment.~~

~~The obligor shall pay the following amounts each month the expense is incurred on behalf of the children listed in Paragraph 3.1:~~

*Order of Child Support (TMORS, ORS) -  
Page 5 of 7  
WPF DR 01.0500 Mandatory (7/2007) -  
RCW 26.09.175; 26.26.132*

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Telephone: (425) 747-4500  
Facsimile: (425) 747-8400

*MS*

~~educational expenses: \$ \_\_\_\_\_ payable to the  educational provider  other parent;  
 horseback riding including maintaining the horse at the barn where Alia rides; \$ \_\_\_\_\_ payable to \_\_\_\_\_.~~

**3.16 Periodic Adjustment**

Child support shall be adjusted periodically as follows: pursuant to statute.

**3.17 Income Tax Exemptions**

Tax exemptions for the children shall be allocated as follows: To the father until the mother is employed full time, and once the mother is employed full time, then the mother shall claim the child as an exemption in even numbered years and the father shall claim the child as an exemption in odd numbered years, provided that the father is current in his support obligation by December 31 of the year for which he seeks to claim the child. The parents shall sign the federal income tax dependency exemption waiver.

**3.18 Medical Insurance for the Children Listed in Paragraph 3.1**

Unless one or more of the alternatives below are checked, each parent shall maintain or provide health insurance coverage if:

- (a) Coverage that can be extended to cover the child(ren) is or becomes available to each parent through employment or is union-related; and
- (b) The cost of such coverage for the mother does not exceed \$101.25 (25 percent of mother's basic child support obligation on Worksheet line 7), and the cost of such coverage for the father does not exceed \$282.25 (25 percent of father's basic child support obligation on Worksheet Line ).

**Alternative 1:** The parent below shall maintain or provide health insurance coverage if coverage that can be extended to cover the child(ren) is or becomes available to that parent through employment or is union-related and the cost of such coverage does not exceed \$282.25 (25 percent of that parent's basic child support obligation on Worksheet line 7).

Father

**Alternative 2:** The parent below shall maintain or provide health insurance coverage if coverage that can be extended to cover the child(ren) is or becomes available to that parent through employment or is union-related even if such coverage exceeds \$ \_\_\_\_\_ (25 percent of that parent's basic child support obligation on Worksheet line 7).

Mother

*Order of Child Support (TMORS, ORS) -  
Page 6 of 7  
WPF DR 01.0500 Mandatory (7/2007) -  
RCW 26.09.175; 26.26.132*

DEBORAH A. BIANCO, P.S.  
14535 Bel-Red Road, Suite 201  
Bellevue, Washington 98007  
Telephone: (425) 747-4500  
Facsimile: (425) 747-8400

1                     Father

2                     **Alternative 3:** The parent below is not obligated to provide health insurance  
3 coverage because the other parent provides insurance coverage:

4                     Mother

5                     Father

6                    The parent(s) shall maintain health insurance coverage, if available for the children listed  
7 in paragraph 3.1, until further order of the court or until health insurance is no longer  
8 available through the parents' employer or union and no conversion privileges exist to  
9 continue coverage following termination of employment.

10                    A parent who is required under this order to provide health insurance coverage is liable  
11 for any covered health care costs for which that parent receives direct payment from an  
12 insurer.

13                    A parent who is required under this order to provide health insurance coverage shall  
14 provide proof that such coverage is available or not available within 20 days of the entry  
15 of this order to the physical custodian or the Washington State Support Registry if the  
16 parent has been notified or ordered to make payments to the Washington State Support  
17 Registry.

18                    If proof that health insurance coverage is available or not available is not provided within  
19 20 days, the parent seeking enforcement or the Department of Social and Health Services  
20 may seek direct enforcement of the coverage through the other parent's employer or  
21 union without further notice to the other parent as provided under Chapter 26.18 RCW.

### 17                    **3.19 Extraordinary Health Care Expenses**

18                    Unless specifically ordered otherwise, the person receiving support is responsible  
19 for ordinary health care expenses of the children. However, both parents have an  
20 obligation to pay their share of extraordinary health care expenses.

21                    Extraordinary health care expenses mean those monthly medical expenses that  
22 exceed 5% of the basic support obligation from the Child Support Schedule  
23 Worksheet, Line 5.

24                    The father shall pay 53.9% of extraordinary health care expenses (unless stated  
25 otherwise, the father's proportional share of income from the Worksheet, line 6)  
26 and the mother shall pay 46.1% of extraordinary health care expenses (unless  
27 stated otherwise, the mother's proportional share of income from the Worksheet,  
28 line 6).

### 26                    **3.20 Back Child Support**

27                    No back child support is owed at this time.

28                    *Order of Child Support (TMORS, ORS) -*  
*Page 7 of 7*  
*WPF DR 01.0500 Mandatory (7/2007) -*  
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**3.21 Back Interest**

No back interest is owed at this time.

**3.22 Other**

The father shall maintain life insurance sufficient to satisfy his support obligation, and in the event that he fails to do so, his support obligation shall be a lien against his estate.

Dated: 2/24/09

[Signature]  
Judge/Commissioner

Presented by:  
[Signature]  
Deborah A. Bianco (WSBA #19826)  
Attorney for Petitioner Patty Pappas

Approved for entry:  
Notice of presentation waived:  
[Signature]  
Kurt Lichtenberg (WSBA #8762)  
Attorney for Respondent, Christopher Pappas

I apply for full support enforcement services from the DSHS' Division of Child Support (DCS).  
(Note: If you never received TANF, tribal TANF, or AFDC, an annual \$25 fee applies if over \$500 is disbursed on a case, unless the fee is waived by DCS.)

[Signature] 2/24 2009  
Patty Pappas

*Both  
spouse support  
and  
Arise*

## Washington State Child Support Schedule Worksheets (CSW)

**Mother: Patty**  
**County: KING**

**Father: Christopher**  
**Superior Court Number: 07-3-04002-5SEA**

**Children and Ages: Alia N Pappas, 14**

**Part I: Basic Child Support Obligation (See Instructions, Page 5)**

1. Gross Monthly Income	Father	Mother
a. Wages and Salaries	\$11550.00	-
b. Interest and Dividend Income	-	-
c. Business Income	-	-
d. Spousal Maintenance Received	-	\$5,500.00
e. Other Income	-	-
f. Total Gross Monthly Income (add lines 1a through 1e)	\$11550.00	\$5,500.00
<b>2. Monthly Deductions from Gross Income</b>		
a. Income Taxes (Federal and State) Tax Year: 2007	\$1,032.19	\$584.38
b. FICA (Soc.Sec.+Medicare)/Self-Employment Taxes	\$671.23	-
c. State Industrial Insurance Deductions	-	-
d. Mandatory Union/Professional Dues	-	-
e. Pension Plan Payments	-	-
f. Spousal Maintenance Paid	\$5,500.00	-
g. Normal Business Expenses	-	-
h. Total Deductions from Gross Income (add lines 2a through 2g)	\$7,203.42	\$584.38
<b>3. Monthly Net Income</b> (line 1f minus 2h)	\$4,346.58	\$4,915.62
<b>4. Combined Monthly Net Income</b> (Line 3 amounts combined) (If line 4 is less than \$600, skip to line 7.)		\$9,262.20
<b>5. BASIC CHILD SUPPORT OBLIGATION: Combined →</b> Alia N Pappas \$1218.00		\$1218.00
-		
-		
-		

	Father	Mother
6. Proportional Share of Income (Each parent's net income from line 3 divided by line 4)	.469	.531
7. Each Parent's Basic Child Support Obligation (Multiply each number on line 6 by line 5) (If line 4 is less than \$600, enter each parent's support obligation of \$25 per child. Number of children: 1 (Skip to line 15a and enter this amount.)	\$571.24	\$646.76
<b>Part II: Health Care, Day Care, and Special Child Rearing Expenses (See instructions, Page 7)</b>		
<b>8. Health Care Expenses</b>		
a. Children's Monthly Health Insurance	-	-
b. Children's Uninsured Monthly Health Care	-	-
c. Total Monthly Health Care Expenses (line 8a plus line 8b)	-	-
d. Combined Monthly Health Care Expenses (add father's and mother's totals from line 8c)	-	-
e. Maximum Ordinary Monthly Health Care (multiply line 5 times .05)	\$60.90	
f. Extraordinary Monthly Health Care Expenses (line 8d minus line 8e., if "0" or negative, enter "0")	-	-
<b>9. Day Care and Special Child Rearing Expenses</b>		
a. Day Care Expenses	-	-
b. Education Expenses	-	\$1,500.00
c. Long Distance Transportation Expenses	-	-
d. Other Special Expenses (describe) Horseback riding	-	\$2,300.00
	-	-
	-	-
e. Total Day Care and Special Expenses (Add lines 9a through 9d)	-	\$3,800.00
10. Combined Monthly Total Day Care and Special Expenses (Combine amounts on line 9e)	\$3,800.00	
11. Total Extraordinary Health Care, Day Care, and Special Expenses (line 8f plus line 10)	\$3800.00	
12. Each Parent's Obligation for Extraordinary Health Care, Day Care, and Special Expenses (Multiply each number on line 6 by line 11)	\$1782.20	\$2017.80
<b>Part III: Gross Child Support Obligation</b>		
13. Gross Child Support Obligation (line 7 plus line 12)	\$2353.44	\$2664.56
<b>Part IV: Child Support Credits (See instructions, Page 7).</b>		
<b>14. Child Support Credits</b>		
a. Monthly Health Care Expenses Credit	-	-
b. Day Care and Special Expenses Credit	-	\$3,800.00
c. Other Ordinary Expenses Credit (describe)	-	-
	-	-
d. Total Support Credits (add lines 14a through 14c)	-	\$3800.00

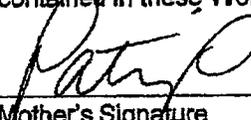
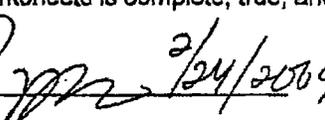
<b>Part V: Standard Calculation/Presumptive Transfer Payment (See Instructions, Page 8)</b>		
<b>15. Standard Calculation</b>	<b>Father</b>	<b>Mother</b>
a. Amount from line 7 if line 4 is below \$600. Skip to Part VI.	-	-
b. Line 13 minus line 14d, if line 4 is over \$600 (see below if appl.)	\$2353.44	-1135.44
<b>Limitation standards adjustments</b>		
c. Amount on line 15b adjusted to meet 45% net income limitation	\$1955.96	-
d. Amount on line 15b adjusted to meet need standard limitation <small>Need Standard Year: 2007</small>	-	-
e. Enter the lowest amount of lines 15b, 15c or 15d:	\$1955.96	-1135.44
<b>Part VI: Additional Factors for Consideration (See Instructions, Page 8)</b>		
<b>16. Household Assets</b> (Present estimated value of all major assets.)	<b>Father's Household</b>	<b>Mother's Household</b>
a. Real Estate	-	-
b. Stocks and Bonds	-	-
c. Vehicles	-	-
d. Boats	-	-
e. Pensions/IRAs/Bank Accounts	-	-
f. Cash	-	-
g. Insurance Plans	-	-
h. Other:	-	-
	-	-
	-	-
<b>17. Household Debt</b> (List liens against household assets, extraordinary debt.)		
a.	-	-
b.	-	-
c.	-	-
d.	-	-
e.	-	-
f.	-	-
<b>18. Other Household Income</b>		
a. Income Of Current Spouse (if not the other parent of this action)		
Name	-	-
Name	-	-
b. Income of Other Adults in Household		
Name	-	-
Name	-	-
c. Income of Children (if considered extraordinary)		
Name	-	-
Name	-	-
d. Income from Child Support		
Name	-	-
Name	-	-

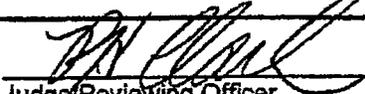
Other Household Income (continued)	Father's Household	Mother's Household
e. Income From Assistance Programs		
Program	-	-
Program	-	-
f. Other Income (describe)		
	-	-
	-	-
19. Non-Recurring Income (describe)		
	-	-
	-	-
20. Child Support Paid For Other Children		
Name/age:	-	-
Name/age:	-	-
21. Other Children Living In Each Household (First names and ages)		
22. Other Factors For Consideration		

Other factors for consideration (continued)

**Signature and Dates**

I declare, under penalty of perjury under the laws of the State of Washington, the information contained in these Worksheets is complete, true, and correct.

			
Mother's Signature		Father's Signature	
<u>2/24/09</u>	<u>Seattle</u>		
Date	City	Date	City

  
\_\_\_\_\_  
Judge/Reviewing Officer

2/24/09  
\_\_\_\_\_  
Date

Worksheet certified by the State of Washington Administrator for the Courts.  
Photocopying of the worksheet is permitted.

DECLARATION OF SERVICE

On said day below I emailed and deposited in the US Postal Service a true and accurate copy of Brief of Respondent in Court of Appeals Cause No. 63414-3-I to the following parties:

Deborah A. Bianco  
Deborah A. Bianco, PS  
14535 Bel-Red Rd., Ste 201  
Bellevue, WA 98007-3907

Ed Hirsch  
Law Offices of Edward J. Hirsch, PLLC  
93 South Jackson St. Ste. 33995  
Seattle, WA 98104

Patricia Novotny  
3418 NE 65<sup>th</sup> Street, Suite A  
Seattle, WA 98115

Original sent by ABC Legal Messengers for filing with:  
Court of Appeals, Division I  
Clerk's Office  
600 University Street  
Seattle, WA 98101-1176

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

DATED: January 15, 2010, at Tukwila, Washington.

  
Paula Chapler, Legal Assistant  
Talmadge/Fitzpatrick

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STATE OF WASHINGTON  
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