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STATE OF WASHINGTON

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COURT OF APPEALS
DIVISION ONE
OF THE STATE OF WASHINGTON

JAMES R. ESTEP, Appellant,

Vs.

SANDRA BURLINGAME—ESTEP, Respondent

BRIEF OF APPELLANT

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A. IDENTITY OF APPELLANT

James R. Estep IV is the Appellant/husband and was the Respondent in this dissolution case filed in King County Superior Court by his ex-wife Sandra Burlingame Estep. C.P. 1 (4/9/10)

B. DECISION APPEALED FROM

Mr. Estep appeals the following Order, by the King County Superior Court:

1. Order of Dissolution entered on April 22, 2011 (C.P. 84) (“Decree”);
2. Findings of Fact and Conclusions of Law entered on April 22, 2011 (C.P. 86 (“Findings”))
3. Order Granting Motion to Compel Production of Documents and Awarding Terms entered on February 2, 2011 (C.P. 57) (“Order Compelling”).

C. ISSUES PRESENTED FOR REVIEW

1. Whether the Superior Court erred in ordering Mr. Estep, in his individual capacity, to produce financial records of a non-party financial trust (“James R. Estep Sr. Trust”, hereafter “Estep Sr.

Family Trust”) where it is undisputed that neither Mr. Estep nor his co-trustee Robert E. Luckey were named as a party Respondent in this dissolution action nor were they served with discovery in their representative capacity as co-trustees.

2. Whether the Superior Court erred by considering Mr. Estep’s unvested, contingent and inchoate interest as a remaindermen of the Estep Sr. Family Trust and awarding such interest in its Decree of Dissolution. (C.P. 84, 90).
3. Whether the Superior Court abused its discretion by awarding Petitioner the vast majority of the community property.
4. Whether the Superior Court abused its discretion by ordering Mr. Estep to pay Petitioner \$3000 a month in maintenance for the first three years and \$2500 per month maintenance for a period of an additional ten years. (C.P. 86, 88).

D. STATEMENT OF FACTS

The parties were married on August 9, 1986 in King County and were separated on April 9, 2010. C.P. 86. There was no written separation contract or prenuptial agreement. Id. The parties’ real and personal community property is set forth in Section 2.8 of the Findings

(C.P. 86). The community liabilities are set forth in Section 2.10 of the Findings. The evidence is uncontradicted that Respondent Mr. Estep is the co-trustee and a remainderman of the Estep Sr. Family Trust that provides financial assistance for higher education tuition and expenses to the Settlor/Grantor's grandchildren. C.P. 38 (Declaration of James R. Estep). Mr. Estep's half brother, Robert Luckey, serves as the other co-trustee for this trust. C.P. 39 and 99 (Declarations of Robert Luckey). Mr. Estep is one of the contingent beneficiaries to an invested interest in funds remaining after the primary purpose of the trust has been exhausted, assuming there are funds remaining and he is alive when the last grandchild completes college. Id. and R.P. Vol. III, P 56, L 8-12. This date was agreed by the parties to occur, at the earliest in 2019. Id.

On February 2, 2011, the Superior Court granted Petitioner's Motion to Compel Production of Documents and Awarding Terms requiring Respondent James R. Estep, in his individual capacity, to produce financial and banking documents and other records related to the Estep Sr. Family Trust. (C.P. 57). The Court ordered Mr. Estep to fully answer Interrogatories and Request for Production of Documents, including an order to produce bank statements dating back to the inception

of the trust, which predated the death of the Grantor. The Court found that Mr. Estep had not acted in good faith by not producing those Estep Sr. Family Trust documents and ordered him to pay attorneys fees and costs of \$600 as a sanction for this failure. *Id.* The court denied Mr. Estep's Motion for Reconsideration. C.P. 72.

It is uncontested that this Trust was not sued in this proceeding. Neither was James R. Estep or Robert Luckey named as parties nor served with process in their capacity as co-trustees of the Estep Sr. Family Trust. An attorney for the Trust, Gary Gill filed a notice of appearance herein as attorney for Mr. Estep in his capacity as a co-trustee (See. Ex. 3 to Motion to Amend Petitioner's Petition for Discretionary Review on file herein) wherein he challenges the authority of any court to compel disclosure of trust records without first gaining in personam jurisdiction over the co-trustees.

After a four day trial, which included extensive testimony about the Estep Sr. Family Trust from both Mr. Estep and Robert Luckey, including testimony about the documents produced by Mr. Estep, the Superior Court entered an Decree, over Mr. Estep's objections (See C.P. 74, Trial Brief of Respondent) which took into consideration in awarding

community and separate property the provisions of this trust, the documents of the Trust produced. It also awarded the interest in the Estep Sr. Family Trust to Mr. Estep. See C.P.; 86 Decree at p. 7.

E. LEGAL ARGUMENT

1. The Court Erred in Compelling Production of Trust Financial Records.

The law in this state is clear that the Estep Sr. Family Trust is a separate legal entity, the trust res is the property of the settler and neither the co-trustees nor its beneficiaries have any present property interest in it. According to the court in Edwards v. Edwards, 1 Wn. App. 67, 70, 459 P.2d 422 (1969), trusts like this testamentary trust, that look to the future do not “divest the trustor of his property or any interest therein or vest a present property interest in the beneficiaries.” (citing Johnson v. Weldy, 79 N.D. 80, 54 N.W.2d 829 (1952)).

Mr. Estep is only one co-trustee of the trust and therefore cannot make any decisions about the trust in a unilateral manner. He was not sued in his representative capacity as a co-trustee. The co-trustees, Jim Estep and Robert Luckey have the obligation to manage and use the

property for the grandchildren's benefit. According to In re Marriage of McKean, 110 Wn. App. 191, 195, 38 P.3d 1053 (2002), to be a party to a lawsuit, a trustee must be served in his or her representative capacity as trustee in order to be a party to the suit. Here, this was not the case. Mr. Estep was not served in his capacity as a co-trustee. According to In re Marriage of McKean, if there is no in personam jurisdiction over an individual in his trustee capacity, the trial court cannot adjudicate any matters regarding the trust. Id. at 196. Hence the Superior Court's order to compel Mr. Estep, in his individual capacity, to produce trust financial records, without first perfecting service on Mr. Estep and Mr. Luckey, as co-trustees, was clear and reversible error. Petitioner had the option to name the Trust as a party or serve the co-Trustees in their official capacity as such. Petitioner failed to do so. The trial court compounded this error by ordering Mr. Estep to provide documents of an entity that was never sued nor properly served.

2. The Superior Court Erred in Characterizing Mr. Estep's Unvested and Inchoate Interest in the Estep Sr. Family Trust as "Property" to Award in the Decree.

Originally, the trial court correctly recognized the Estep Sr. Family Trust was not Mr. Estep's current property, and recognized a number of

potential events that could result in Mr. Estep receiving no property as a remainderman. (“Now again, things could go to hell, pardon me, in all kinds of ways.”) See RP Vol. III (pages 51-52, 54 to 56).

Estep v. Estep, IV - Vol. III, (Pages 51:14 to 52:1)

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14 It is certainly possible that
15 Mr. Luckey or even this Mr. Estep could have another
16 child. I mean, that's not far-fetched. But
17 Mr. Luckey has a daughter who, I think, is thirteen or
18 so. I don't know that that is a high predictability
19 for having another child, and I have no idea whether
20 Mr. Estep is interested in having other children, but
21 that's still a relatively small change, given the size
22 of the estate and that is a remainder to him.

And

Estep v. Estep, IV - Vol. III, (Page 56:7 to 56:12)

56

7 Again,
8 I'm not saying he owns that property currently (Emphasis
added), but
9 assuming that he lives it is likely that he would
10 receive that. That's not something he can will to his
11 children but that that's the kind of two-thirds of
12 what we understand –

And

Estep v. Estep, IV - Vol. III, (Pages 60:23 to 61:3)

60

23 So, for the time being -- and again,
24 this is someplace between an expectancy and an asset
25 to happen in the future. (Emphasis added.)

However, in its Decree the trial court found that this trust was property and awarded it to Mr. Estep, thus taking it into consideration in the property division and maintenance award. The court ruled: "I certainly awarded the lion's share of the assets to her and I hope a decent amount of maintenance for her to be able to, again, make some good choices...RP Vol. III, at p. 67. In its Decree Ex. H "Property Awarded to the Husband" the trial court lists the "Trust Estate" and awards it to him. The trial court also considered this property interest in awarding the vast bulk of the community property to Petitioner and in setting the amount of maintenance to award to her. These rulings were clearly erroneous.

In Baltrusis v. Baltrusis, 113, Wash. App. 1037, (2002) the court found that assets held by one party in trust, to be considered property of one spouse, "must be something to which there is a right, not just an expectation." citing Marriage of Harrington, 85 Wn. App. 613, 935 P.2d 1357 (1997). Harrington held:

"Although RCW 26.09.080 requires the court to dispose of all of the property of the parties, it does not define the term "property." For purposes of Washington dissolution actions, property can be

tangible or intangible, but it must be something to which there is a right. *A mere expectancy is not a right and as such is not property.* WASH. STATE BAR ASS'N, WASHINGTON FAMILY LAW DESKBOOK § 38.2 (1989) (emphasis added.)

Under this controlling case law, the Estep Sr. Family Trust is not the property of the community nor of Mr. Estep separately. It is a rank expectancy at best. Mr. Estep may never receive a penny from this Trust. Additionally, the trust was not sued in this proceeding and any interest that any party has in the trust cannot be affected by this proceeding. See Edwards v. Edwards, supra and In Re Marriage of McKean, supra.

Petitioner contended below that the testamentary trust created by Respondent's father James Estep Sr. should be considered community property or, alternatively, the separate property of Mr. Estep which should be taken into consideration in allocated community assets and liabilities and setting the amount of maintenance. Mr. Estep provided to the trial court the declaration of Respondent (C.P. 38), which explained the trust. For the reasons stated below, Petitioner's argument was completely misguided, contrary to basic trust law and mislead the trial court into "awarding" an interest in trust assets that it had no power to adjudicate and was a rank expectancy. The loans that the community took from the trust to which Petitioner attaches so much significance are simply that:

community obligations which need to be paid back. The Court ordered Mr. Estep to pay them back. That ruling is not in error because once the loans were made from the Trust to the community, those funds became the property of the community and a liability to repay. But any consideration of Mr. Estep's contingent interest in the trust res is error. The loans are not evidence that Mr. Estep owns the trust, has control over trust assets, has any property interest in the trust res and has anything other than an inchoate and contingent interest that may, but will not necessarily result in an inheritance to him in 2019 at the earliest. The evidence is uncontradicted that both co-trustees must approve any loans to any party. Mr. Estep himself has no power or authority, unilaterally, to procure such a loan. In fact, Mr. Luckey testified that he has refused two separate requests from his co-trustee for loans. C.P. 33.

Any inheritance from this Trust that Mr. Estep might get is a mere expectancy and not a right to property. It is speculative, inchoate and would be paid, at the earliest, if at all, in the year 2019.

The community did benefit from appropriately taking loans from the Trust property. Such loans were specifically authorized by the co-trustees father, James Estep, Sr. before he died. But those loans, totaling

over \$41,000, were secured by promissory notes, and must be paid back. Under Mr. Estep's proposal to the trial court he assumed the responsibility for paying these community loans back. The Court so ordered. But there is absolutely no evidence that either Mr. Estep or the community had effectively converted the trust res into their own property or used the trust in a way which was inconsistent with the intent of the settler, Mr. Estep's father.

3. The Court Erred in Considering Trust Assets As Property of Mr. Estep in Dividing Community Property Or in Its Maintenance Award.
 - a. An Unequal Division in the Community Assets, Although Allowed in Unusual Situations, Cannot be Based upon "Assets" Which are Not the Property of Either Party and Should Not be Grossly Disproportionate, as here.

Washington case law, cited below, establishes that an unequal division of community property may be awarded in unusual circumstances. Here the trial court awarded the vast majority of the 98% by Appellant's estimate below community property to Petitioner. See Respondent's Trial Brief, C.P. 74 and Decree. There is no law which supports the trial court's consideration, in dividing community assets or in setting the amount of maintenance, of a rank expectancy that Mr. Estep

might have in receiving trust assets in the future. The court erred in doing so.

Here the trial court, by considering the assets of the trust as property of Mr. Estep, devised a division of community property that was grossly unfair and improper. The usual unequal division involves percentages in the 60-40 or 70-30 range. For instance, in Stachofsky v. Stachofsky, 90 Wn. App. 135, 147, 951 P.2d 346 (1998), the Division III Court of Appeals rejected the husband's argument that the trial court's decision, which granted his former spouse 58% of the community property, was unfair and inequitable. The court granted the wife 58% of the property in part because she was *not* granted any maintenance. Id.

Also, the court in In re Marriage of Nicholson, 17 Wn. App. 110, 118, 561 P.2d 1116 (1977), held that it was not unfair to grant the wife \$37,000 in property value (or 68%), and the husband \$17,000 of the property value (or rather, 32%). This was a fair distribution because, not only did the court also grant the husband all the shares of stock they had in a closed corporation, but the trial record indicated that he also failed to disclose other assets. Id. at 118-19. Utilizing its right to take that factor into consideration, the court held that it was not improper to grant such

awards. Id. at 118. In fact, the court even stated that had the husband complied with his duty to make honest disclosures, he may have received a greater share: “[t]he trial court might well have given the husband a lien on the residence for half of its value but chose not to do so.” Id. at 119.

Furthermore, the court in In re Marriage of Tower, 55 Wn. App. 697, 701, 780 P.2d 863 (1989) *review denied*, 114 Wn.2d 1002, 788 P.2d 1077 (1990) upheld a community property division granting the husband, who was the only spouse with significant earning capacity, 63% of the property, and the wife, who had multiple sclerosis (which substantially limited her activities) only 37% of the property.¹ The court stated that this would have been an abuse of discretion of the trial court to grant such disproportionate percentages if it had not also granted long-term maintenance.

These cases demonstrate that the Petitioner was not entitled to receive a very high percentage of the community property in light of all the circumstances. This amount is excessive, and left Mr. Estep unable to meet his financial obligations after his monthly payments of maintenance

¹ In particular, the court granted the husband the retirement plan and \$5,976 in personal property; while the wife was awarded the house and \$8,091 in personal property; however, the maintenance was permanent, “but shall terminate by [her] remarriage or cohabitation or by her death.” Id. at 698.

\$3000 a month for the first three years, reduced to \$2500 for the remaining ten years to the Petitioner. Instead of her proposed 98.1%, Mr. Estep was willing to have the court award her 81% of the community property. This amount was more than fair. For instance, in Stachofsky, the court recognized 58% of the community property was a very large award, but it deemed it fair because the wife was not receiving any maintenance. 90 Wn. App. at 147. In contrast, under Mr. Estep's proposal in the trial court, not only would the Petitioner still receive a majority of the assets, but she would receive maintenance as well.

- b. The Court's maintenance award erroneously took into consideration the Estep Sr. Family Trust assets and rendered Mr. Estep unable to pay his monthly financial obligations.

The trial court also improperly considered Mr. Estep's supposed "property interest" in the Estep Sr. Family Trust in its award of maintenance. Mr. Estep's proposal of paying the Petitioner \$2,100 a month (See C.P. 74), was both fair and equitable, given the need for the Petitioner to pursue gainful employment in her chosen field as a child care worker. Both the award of \$3000 a month and the thirteen year duration of maintenance payments underscored the central reality of this case: It provides Petitioner with little or no incentive to find gainful employment

in order to make ends meet. She now can continue to live off Mr. Estep for the thirteen years as the court ordered. This award provided her with a virtually perpetual lien on her husband's future income. It has left Mr. Estep with nothing to live on.

Washington courts have consistently and clearly held that maintenance is not a matter of right. In re Marriage of Mueller, 140 Wn. App. 498, 510, 167 P.3d 568 (2007). "When the wife has the ability to earn a living, it is not the policy of the law of this state to give her a perpetual lien on her divorced husband's future income." In Re Marriage of Bulicek, 59 Wn.App. 630, 633, 800 P.2d 394 (1990). Rather, maintenance serves to provide each should a standard of living for an *appropriate* period of time. In re Marriage of Estes, 84 Wn. App. 586, 593, 929 P.2d 500 (1997). For instance, the purpose of spousal maintenance is to provide support to a spouse until he or she is able to make a living and become self-supporting. In re Marriage of Luckey, 73 Wn. App. 201, 195, 868 P.2d 189 (1994).

Additionally, the post-dissolution economic situation of the parties remains the paramount concern in determining a maintenance award. Bulicek, 59 Wn. App. at 635. For example, in In re Marriage of Mathews,

70 Wn. App. 116, 125, 853 P.2d 462 (1993), the Division III Court of Appeals reversed the trial court's decree that awarded one spouse indefinite maintenance that rendered the husband's inability to meet his financial obligations. Specifically, the husband argued that he did not have the financial ability to pay the monthly maintenance amount and his former spouse's health insurance and school tuition. Id. at 123. The Court of Appeals agreed that the award was unfair, regardless of the wife's substantial health problems, because this left him with about \$1,000 a month, and her with about \$1,855 per month.² Id. The decree did not mandate any reduction in the amount of maintenance that he would have to provide over time. Id. Additionally, not only did the wife have part-time employment, but she was awarded a majority of the equity in the house. Id. Accordingly, the trial court had abused its discretion. Id. at 125.

Likewise, in Endres v. Endres, 62 Wn. App. 55, 56-58, 380 P.2d 873 (1963), the court reversed the trial court decree on the grounds that maintenance award was excessive. The wife was awarded \$200 a month

² There was no evidence that the husband had any other salary, and the personal property he was awarded was not significant. Id.

in maintenance.³ However, she was also awarded the residence, its furniture, a vehicle, and life insurance policies. *Id.* at 56. While she had no employment or training, the court nonetheless stated that, in light of all the factors, the maintenance was excessive, and required the payments be reduced to \$100 a month three years from the date of filing. *Id.* at 58.

Here, the amount that Mr. Estep could have afforded – \$2100 a month for the first year, followed by \$1850 the second year and \$1600 the third, fourth and fifth years, was reasonable and fair. This award would have served an important purpose of a fair maintenance amount: it would have allowed him to fulfill his financial obligations (although he would have had to shrink his already streamlined budget by another \$800 a month to stay even) without going bankrupt.

The reason for the slight reduction of maintenance in the first two years is simple: Petitioner is making \$1000 a month as a child care worker now. But she only works about 20 hours a week. She should be able to double the amount that she makes by working substantially full time, resulting in an income that is close to \$2000 a month. Earning higher income should partially relieve Mr. Estep from the obligation to pay the

³ Her maintenance award applied until she remarried, the youngest child reached the age of majority or became emancipated. *Id.* at 56.

full amount of maintenance. But the reduction proposed was gradual and gave Petitioner the time and funding needed to seek vocational training which would allow her greater employment opportunities going forward. After five years, that training can be realized and the maintenance obligations should cease. Mr. Estep agreed to help fund that training, if Petitioner elected to do so, to the tune of \$2500 which he would pay out of his share of the community assets (principally the sale of the family home). Respondent's research has shown that an excellent course of vocational training in child care has been established at Renton Vocational College and costs on an average of \$4500 for a one year program. Mr. Estep had agreed to pay half of this amount. See C.P. 74, Respondent's Trial Brief.

c. The Court Failed to Consider Mr. Estep's Ability to Pay Maintenance as Required by RCW 26.09.090(1)(f)

The trial court is required to consider all relevant factors set out in RCW 26.09.090 before ordering maintenance. The court failed to consider the "*The ability of the spouse or domestic partner from whom maintenance is sought to meet his or her needs and financial obligations while meeting those of the spouse or domestic partner seeking maintenance.*" RCW 26.09.090(1)(f) (emphasis added).

It was shown at trial that Mr. Estep did not have the ability to pay the maintenance ordered. His monthly net income was insufficient to meet the mortgage and the maintenance.

Estep v. Estep, IV - Vol. III, (Pages 68:18 to 70:16)

[Bosserman]

68

18 With the mortgage payment that's
19 required of the house and the \$3,000 maintenance
20 payment -- we're not talking about any food, any gas,
21 any electricity, nothing, just making the mortgage
22 payment and maintenance payment -- he's got to come
up
23 with \$7,690 a month.
24 His current take home is \$6400 a
25 month. He's -- with just those two obligations he's

69

1 operating at a \$1200 loss. It is not possible for him
2 to meet these obligations. And I just -- I'm
3 perplexed as to what the Court's belief is as to how
4 he can manage these two.

...

[Schapira:]

70

12 I just wish that -- There are lots of
13 people who have debts every month, and they use
credit
14 cards, they borrow from friends, they borrow from a
15 trust, they do all kinds of things, and that's how
16 they get along.

Estep v. Estep, IV - Vol. III, (Pages 65:23 to 65:25)

23 I'm hoping and the reason I'm
24 doing the higher amount -- and I know that this is a
25 hardship relatively for Mr. Estep – (Emphasis added.)

Not only does Mr. Estep not have the ability to make the maintenance payments as ordered and support himself, the amount of maintenance exceeds the actual needs of the wife.

Estep v. Estep, IV - Vol. III, (Pages 66:18 to 67:8)

66

18 I certainly awarded the lion's share
19 of the assets to her and I hope a decent amount of
20 maintenance for her to be able to, again, make some
21 good choices, find a place to live, live within her
22 means. At this point she doesn't have children that
23 she has to support, but I think this does allow her to
24 enjoy, you know, visiting with her children, having
25 them come and visit her, to find a rental or a house.
(Emphasis added.)

67

1 The health care expense is dramatic
2 and high. But again, I think this will permit her to
3 have considerable assets beyond those that are needed.
(Emphasis added.)
4 and I am hoping that again, in the next few years, she
5 will find a way when she isn't consumed by the loss of
6 the marriage, when she's thinking about the world in a
7 future way, that she will find a way to take care of
8 this.

The court erred by failing to properly consider this factor and ordering an amount of maintenance that would render Mr. Estep unable to support himself in a modest fashion.

Under the maintenance award, Mr. Estep would have to pay so much maintenance that he would be underwater in rapid fashion: he would be losing at least \$1000 each and every month. This accounts for the fact that Petitioner has already gone to court to require Mr. Estep to be held in contempt for failing to pay his maintenance obligations.

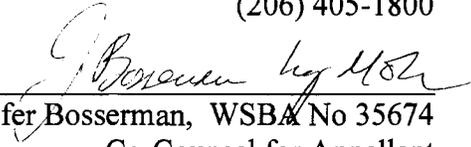
F. CONCLUSION

For all the foregoing reasons, the trial court erred in considering assets of a non party family trust in ordering discovery, in characterizing these assets as “property”, in awarding such “rank expectancy” to Mr. Estep, in taking into consideration such “assets” in making its community property and maintenance awards. The gross disparity in the community property award and a maintenance award that has bankrupted Mr. Estep are both clear indications that the court erred and abused its discretion. These rulings should be reversed.

Respectfully Submitted this 14th day of October, 2011.



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APPENDIX

Estep v. Estep, IV - Vol. III, (Pages 51:14 to 52:1)

51

14 It is certainly possible that
15 Mr. Luckey or even this Mr. Estep could have another
16 child. I mean, that's not far-fetched. But
17 Mr. Luckey has a daughter who, I think, is thirteen or
18 so. I don't know that that is a high predictability
19 for having another child, and I have no idea whether
20 Mr. Estep is interested in having other children, but
21 that's still a relatively small change, given the size
22 of the estate and that is a remainder to him.
23 Now, again, things can go to hell,
24 pardon me, in all kinds of ways. I won't say we can
25 calculate down to the nickel what's going to happen.

52

1 Things could improve.

Estep v. Estep, IV - Vol. III, (Pages 60:23 to 61:3)

60

23 So, for the time being -- and again,
24 this is someplace between an expectancy and an asset
25 to happen in the future. We know he does not have the

61

1 ability -- I don't think he or Mr. Luckey have the
2 clear ability to just liquidate the trust at this
3 point.

Estep v. Estep, IV - Vol. III, (Page 56:7 to 56:12)

56

7 Again,
8 I'm not saying he owns that property currently, but
9 assuming that he lives it is likely that he would
10 receive that. That's not something he can will to his
11 children but that that's the kind of two-thirds of
12 what we understand --

23 I'm hoping and the reason I'm
24 doing the higher amount -- and I know that this is a
25 hardship relatively for Mr. Estep -- is that I think

1 it will give her time to either get a surgery if she
2 needs it, get some education if she needs it, and
3 figure out what perhaps a better job is.
4 People do telecommute. You don't have
5 to be at a workplace every day. Lots of people work
6 on computers. She's an intelligent woman. I'm not
7 saying she has the skill tomorrow to go out and earn
8 lots more, but I think she can earn more. I think she
9 perhaps could have a job that, in fact, would provide
10 some level of health benefits, some level of pension,
11 and be working in her pajamas from home if that's what
12 she needed.

13 So I don't want to be overly rosy, but
14 I don't know why that can't happen. And she does need
15 a few years to get that sorted out, get better health
16 and get a better idea of what is realistically
17 available for her.

18 I certainly awarded the lion's share
19 of the assets to her and I hope a decent amount of
20 maintenance for her to be able to, again, make some
21 good choices, find a place to live, live within her
22 means. At this point she doesn't have children that
23 she has to support, but I think this does allow her to
24 enjoy, you know, visiting with her children, having
25 them come and visit her, to find a rental or a house.

1 The health care expense is dramatic
2 and high. But again, I think this will permit her to
3 have considerable assets beyond those that are needed,
4 and I am hoping that again, in the next few years, she
5 will find a way when she isn't consumed by the loss of
6 the marriage, when she's thinking about the world in a
7 future way, that she will find a way to take care of
8 this.

CERTIFICATE OF SERVICE

I hereby certify that on October 14, 2011, I caused the BRIEF OF APPELLANT on the following parties via email:

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

Dated this 14th day of October, 2011 in Seattle, Washington.

LAW OFFICE OF MICHAEL
WITHEY, PLLC

By 

Tricia Russell

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STATE OF WASHINGTON
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