No. 31426-0-III

WASHINGTON COURT OF APPEALS
DIVISION III

In re the Marriage of:

ELIZABETH KIM,

Respondent.

v.

ANATOLE KIM,

Appellant,

ON APPEAL FROM YAKIMA COUNTY SUPERIOR COURT

ANATOLE KIM'S REPY BRIEF

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TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Washington Cases **Page**

Constitutional Provisions, Laws, Statutes and Court Rules

I. INTRODUCTION & GENERAL REPLY

The amended Brief of Respondent ("Response") filed November 27, 2013, takes a typical tack for a respondent in a family law appeal, citing out-of-context quotes and principles which, if slavishly followed as suggested by the Response, mean family law cases would ***never*** be reversed on appeal. This Court knows that is not true. ***First***, it is aware of the many cases in which reversals were required and imposed, many of which are cited in the Opening Brief. ***Second***, the Response's approach would, among other things, make the appellate process a hollow sham that would subvert, rather than maintain, the legitimacy of the legal system.

Of course family law cases get reversed: property division, parenting plan, and relocation decisions. Abuse of discretion and legal error must be shown, as the Opening Brief did in detail. Unfortunately, the Response seems to have forgotten that an appeal is not a forum for demonizing the other party but focuses on the law and evidence – especially "inconvenient" evidence erroneously ignored by the trial court, like the multiple opinions and other evidence of harm to the kids of the relocation here, or the express refusal to consider the highly material statutory factor of the family's cultural background.

Central to most family law appeals is whether the trial court abused its discretion: showing it did not apply the correct legal standard, misapplied the correct standard, proceeded on the wrong facts, or disregarded material facts, all of which were demonstrated to

have occurred in the Opening Brief. The Response failed to show the trial court here applied the correct legal tests to the actual facts because, in fact, it did not. Where, as here, the trial court has abused its discretion, its decisions must be vacated.

The Response points out the obvious fact that these are difficult cases, as if to say even more deference should be given the trial court. In fact, that is all the more reason why the applicable law must be followed and applied to the actual facts, and trial courts reversed when they do not.

For example, while the Response focuses on and applauds the initial recommendations by the Guardian Ad Litem ("GAL") to place the children with Betsy, it completely failed to mention the GAL's final recommendation for joint residential placement and that it was critical for both parents to be and remain regularly involved, close by, with the children. Nor does the Response acknowledge that the trial court failed to incorporate these important facts into the required statutory analysis. Nothing is said about either that strong recommendation made at trial, nor about how the GAL became irrelevant and of no importance on the ultimate recommendation when he was important and relevant on the initial recommendation.

This is also a case in which even the Response quotes the trial court as saying relocation was "bad". And then it also quotes the trial court as saying that the reports of the trio of experts who recommended against relocation because it would be harmful to the

children was mere "coffee table talk." This is a case in which three experts all state that relocation is not appropriate and it appears that the whole of the Response argument is that each expert did not address the 11 factors under the relocation statute and therefore should be ignored. But what cannot be ignored is that those recommendations provide information for the trial court to plug into the 11 factors in order to do the weighing that is required by the statute and case law, and which it did not do. Because if it had, it would have had to deny relocation given the lack of benefits to the children and the harms they would suffer which outweigh any potential benefits to their mother.

Finally, the Court should consider whether the mistakes made below are of such a nature that the case cannot properly go back before the same judge, as part of its normal supervisory function. Can this trial court maintain the necessary appearance of fairness required to keep confidence in the legal system in this case? With all due respect, given the credibility determinations, disregard for the proper legal standards, and ignoring material facts, remanding to a different judge should be considered to insure the appearance of fairness.[1]

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[1] *See, e.g., In re Custody of R.*, 88 Wn. App. 746, 754, 947 P.2d 745 (1997) (remanding to a different judge to insure appearance of fairness based on trial judge's personal comments as to litigant); *Sherman v. State,* 128 Wn.2d 164, 204-206, 905 P.2d 355 (1995) (new judge required following improper *ex parte* contacts to insure "the safest course" is followed on remand); *In re Marriage of Muhammad,* 153 Wn.2d 795, 807, 103 P.3d 779 (2005) (trial court considered improper factors in dividing marital assets); *Tatham v. Rogers,* 170 Wn. App. 76, 283 P.3d 583 (2012) (vacation of property division and remand to new judge required for failure to disclose extent of personal relationship with one party's trial attorney).

Finally, to the extent any argument in the Response is not specifically addressed in this Reply, it is not conceded. Rather, it is either sufficiently addressed by the tenor of the other arguments in this Reply or is adequately answered by the original arguments in the Opening Brief which need not be repeated. Because the Response fails to shake the core arguments in the Opening Brief, the relocation and associated orders must be reversed.

II. REPLY ARGUMENT

A. General Reply as to the Response's Procedural Arguments, Which Must Fail.

The Response raises a host of procedural arguments in the apparent hope that the substance of the Anatole's arguments in the Opening Brief will not be reached because all of the "gotcha" defenses will hold back the flood waters, like the proverbial finger in the dike. These arguments all fail. The Court really needs to grapple with the claimed errors raised by Anatole.

First, the procedural assertions ignore the underlying premise of the appellate rules and, indeed, the entire appellate process, which is to decide cases on their merits, not on the compliance or failure to comply with the appellate rules. Thus the rules state from the outset that they are to be "***liberally interpreted*** to promote justice ***and facilitate the decision of cases on the merits.***" RAP 1.2(a), emphases added. So, for example, if an assignment of error or issue arguably is not sufficiently precise, or even is missing altogether, the appellate

courts will still address the claimed errors and issues where they are clear from the briefing so that there is no arguable surprise or prejudice to the opposing party and no justifiable reason for the court to avoid reaching the merits.[2]

Second, there is a sound reason for this underlying policy that guides the appellate process. The appellate courts are the guardians of the legitimacy of the legal system as a whole. They insure the ***law*** is applied in each case, for litigants large and small, wealthy and poor, weak and strong alike, and in the same way throughout the state. It is the ***state*** law that is being applied, not merely local rules of decision. It is only by insuring this proper decision-making, fixing mistakes as they arise in the trial courts, that the public can have and maintain faith that the legal system is just that: a legal system, not just a system of individual judicial whims at the trial level. Without such careful supervision, there is no state-wide legal system. Thus the appellate process is by design a deliberate process that intentionally focuses on whether errors were made by the trial judge, and, if so, whether they made a difference; and not on the personalities, who is more or less "likeable" or sympathetic.[3]

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[2] *See, e.g., Eller v. East Sprague Motors & R.V.'s, Inc.*, 159 Wn. App. 180, 188, 244 P.3d 447 (2010), citing RAP 1.2(a) and *State v. Olson*, 126 Wn.2d 315, 320–21, 893 P.2d 629 (1995); *Viereck v. Fibreboard Corp.*, 81 Wn.App. 579, 583, 915 P.2d 581 (1996) (if appellant's argument is clear to the extent respondent understood and was able to respond, court may chose to review on the merits).

[3] The fight over how is to blame in family law cases was abandoned long ago under the 1973 Dissolution Act. It should not be allowed to creep back in through the "back door" of parenting plan cases, the focus of which is to be the best interests of the children, not the likeability of the parents.

Among many procedural arguments it raises, the Response contends that Anatole did not challenge the parenting plan determinations of the trial court so that, like a trump, denial of the relocation appeal becomes a fait accompli. It also asserts that Anatole failed to challenge findings related to her role as parenting such that they are verities on appeal and require affirming the trial court, seeking to undo the heart of the appeal that way. These arguments fail.

Anatole challenged the parenting plan in both general and specific terms which was adequate to inform the opposing party and the Court of what he had placed in issue. Anatole appealed the relocation and all orders that underlie or prejudicially affect that ruling, necessarily including the parenting plan. Second, the Opening Brief assigns error to the findings in the parenting plan "to the eextent they provided for relocation and denied shared parenting." AE 1, Opening Brief, p. 4. Given the detail and arguments in the Response on these precise points, there is no reasonable argument that Betsy failed to understand what was at issue or that Anatole waived any such challenges and made the kind of critical admissions the Response would like. Everyone knew what the appeal is about, as does the Court.

B. The Response's Efforts to Avoid Evidence the Trial Court Did Not Reject or Find Un-credible Illustrates the Lack of Substantial Evidence to Support the Trial Court's Decision.

1. The explicit refusal to address the cultural background of the children and parents requires reversal.

The Response takes a very selective view to what it deems is the trial evidence this Court can and should look at. For instance, regarding the cultural issues, it is interesting that early in the Response those issues are ignored. Later, they are only briefly discussed where it is asserted that, since the trial court decided such considerations were "irrelevant", they must be irrelevant. But this circular argument ignores the fact that the trial court specifically refused to consider, the cultural issues, despite a statute that requires their consideration, RCW 26.09.184(3),[4] particularly given the Supreme Court's gloss on the statute which resonates with particular force in the circumstances of this case: "parenting plans are individualized decisions that ***depend upon a wide variety of factors,***

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[4] The Response's argument that the provision of RCW 26.09.184(3) is merely permissive because it uses the word "may" is not determinative. Our supreme Court seems to feel otherwise, in particular, that the context of the provision readily indicates trial courts must take cultural factors into account: "Moreover, parenting plans are individualized decisions that ***depend upon a wide variety of factors, including 'culture,*** family history, the emotional stability of the parents and children, finances, and any of the other factors that could bear upon the best interests of the child.' *In re Parentage of Jannot,* 149 Wn.2d 123, 127, 65 P.3d 664 (2003) (emphasis added) (quoting *In re Parentage of Jannot,* 110 Wn.App. 16, 19–20, 37 P.3d 1265 (2002)).

Moreover, the use of the word "may" does not necessarily preclude its mandatory nature. *See, e.g., Nw. Ecosystem Alliance v. Washington Forest Practices Bd.,* 149 Wn. 2d 67, 77, 66 P.3d 614 (2003) ("this court has determined that the use of the term "may" is mandatory. *See Muije v. Dep't of Soc. & Health Servs.,* 97 Wn.2d 451, 453, 645 P.2d 1086 (1982)").

including 'culture, family history, . . ." *In re Parentage of Jannot*, 149 Wn.2d 123, 127, 65 P.3d 664 (2003) (emphases added).

For the trial court to ignore the family's Asian heritage and culture, both Japanese and Korean, and the family history (3rd generation Japanese-American mother; 1st generation Korean-American father), is more than just ignoring the statutory and case requirements (and common sense) of what to take into account when making such an important decision. It also ignores the reality of the children and the parents and denies who they are. The mother is just "from California", and the father just "from New Jersey"? Really? Does this mean the court should ignore the fact the parents succeeded brilliantly in high school, went to top Ivy League colleges, from there to medical schools, both succeeding all along the way? Can it be supposed that the trial judge would have treated Anatole the "same" as just a "New Jersey guy" had his last name been Corleone and his heritage Italian from Sicily? Would those facts be ignored too?

A decision that ignores material facts is an abuse of discretion no less than it would arbitrary and capricious for being in disregard of the facts and circumstances if made by an administrative agency or governmental actor.[5] The trial court's failure to consider cultural

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[5] "The purpose of requiring an agency to provide reasons for rejecting a rulemaking request is to give notice to interested parties and enable a reviewing court to determine whether challenged agency action is arbitrary, capricious, an abuse of discretion, or otherwise contrary to law." *Squaxin Island Tribe v. Washington State Dep't of Ecology*, ___ Wn. App. ___, ___, 312 P.3d 766, ¶13 (2013). A decision that is contrary to law would necessarily be an abuse of discretion. *See* Opening Brief, pp. 17-19 & fn. 8.

factors, in the context of ***this*** case, was a gross abuse of discretion and reversible error on its own.

2. The Response supports consideration of Drs. Adler's and Hartman's reports which reinforce that the trial court's disregard of the experts' and GAL's testimony about Betsy and the harm to the children of relocating constitutes ignoring material evidence that requires reversal.

The Response places great emphasis on Dr. Adler's and Dr. Hartman's reports, and what these two experts allegedly said. But absent a trial court finding that either Dr. Adler or Dr. Hartman and their reports were not credible, or that specific parts of their reports or testimony were not credible, the whole of their testimony must be taken into account. Not surprisingly, the Response fails to point out the negative findings each of them had as to Betsy and her parenting. This included Dr. Adler hinting at Betsy engaging in alienation (which the GAL later concluded had in fact occurred), and Dr. Hartman's findings that Anatole was much more concerned about and involved in EK's treatment than was Betsy. Even less surprisingly, the Response did not address the fact a major issue arose about the premature ending of the counseling for EK with Dr. Hartman, which appeared attributable to Betsy.

C. The Response's Discussion of *Marriage of Horner* and effort to Have the Court Ignore *Marriage of Combs* Does Not Change The Fact The Trial Court Failed to Apply the Correct Legal Test Under the Relocation Statute, Which is an Abuse of Discretion That Requires Reversal.

The Response argues that Anatole unjustifiably relies on a supposedly now-outdated case from this Court that reversed a relocation decision, *Marriage of Combs*, 105 Wn. App. 168, 19 P.3d 469 (2001), as though the Opening Brief is trying to pull a fast one given the passage of the Relocation Act. That is hardly the case. The discussion in the Opening Brief at pp. 19-32 of the history of relocation cases and the Relocation Act and their proper application clearly states the operative law and how *Combs* "anticipated" the Act. The point of *Combs,* and the discussion of *Marriage of Horner,* 151 Wn.2d 884, 93 P.3d 124 (2004), is precisely the opposite of what the Response argues and how the trial court ruled in this case: A primary custodial has no "entitlement" to relocate with the children as the trial court erroneously asserted; that parent does ***not*** get an "automatic pass" to relocate with the children. Relocation is always stressful to children, and in some cases it is harmful to them and so should not be allowed, per the statute and the cases, including *Combs,* which used an analysis similar to that adopted by the Legislature in the Act. The harms flowing from relocation are hardly "coffee table talk", as the trial court seemed to think.

Rather, whether the children would be harmed by such a move and how that harm is balanced by any benefits they may receive, as

well as any benefits that may accrue to the primary custodial parent, are precisely what must be balanced under the statute and the cases.

The core argument in the Opening Brief is that under that analysis when the actual facts are reviewed, the evidence is overwhelming here that there is no benefit to the children and many, many harms from such a move, particularly since it is not a necessary move. *See* Opening Brief, pp. 19-32. The Response has not refuted this core argument.

The central question the Opening Brief asks is: How do these children conceivably benefit by going from being plugged in to their friends, family, schools, and myriad activities in Yakima with two immediately present parents – including a full-time at-home parent in Betsy – to now live in a new, huge, strange city, alone, without their friends or activities or schoolmates, and with only one very part-time and distracted parent who is no longer home-based but re-starting a demanding career,[6] and the other kept at bay, 1,000 miles away with limited visitation? As the evidence shows, including the opinions of the GAL, experts, and even the trial judge's comments, this is harmful to the children. So how can this harmful result to the children be necessary or acceptable under our statues and case law?

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[6] A newly-resumed career where Betsy has only a one-year position and will likely have to move after that fellowship is completed. This was not a move to a job with open-ended employment but one that could require continued moves the next couple of years as the medical career resumes, another factor that gives no benefit to the children.

It also is, frankly, amazing that the Response quotes the trial court as saying relocation was "bad" as though it did not matter, and that the reports of the experts appointed by the trial court were mere "coffee table talk." In this case, there are three experts all stating that relocation is not appropriate and it appears that the whole of their argument is each expert did not address the 11 factors under the relocation statute and therefore should be ignored. That makes no sense. It is the trial court that has to not only "address" the 11 factors, but then go through the weighing that the statute and cases require and which means there are some cases – and Anatole believes this is one of them – where relocation is denied, even to the primary custodial parent, because of the harm to the kids. And yes, *Combs* is an example that informs this case and can be followed even if it technically is not controlling. It's analysis and rationale are sound.

D. The Property Division Should Be Vacated.

The Response does little to challenge Anatole's arguments that the property division should be vacated. His only genuine argument seems to be that Betsy's parents paid for her medical school training so that, therefore, *Marriage of Washburn,* 101 Wn.2d 168, 677 P.2d 152 (1984), does not apply. Response, pp. 38-41. Whatever may have been the payment by Betsy's parents for her medical school tuition, that is not the only cost for medical school, as one still has to eat, have a place to live, and buy the books and other equipment. But even more important, especially for purposes of determining future income

for physicians, is the post-MD training and attainment of credentials in a medical specialty, which was five years for Betsy, from 1989 – 1994. *See* Opening Brief, p. 9.

While general practitioners who leave medical school and have a year of general residency may earn in the high five figures, a pathologist in the Western United States in 2009 would make over $335,000 according to the data provided at trial. *See* Opening Brief, pp. 40 – 43 & fn. 28, citing to Ex. RE 7.27. Whatever contribution Betsy received from her parents for the tuition for medical school, it does not eliminate the *Washburn* analysis for the support from Anatole she received in both the four years of medical school and the five years of residency. It is not merely a matter of tuition, but the various forms of financial and emotional support and that allows the spouse to pursue the career path dream. Moreover, since the trial court did not address *Washburn* in its oral decision, there is no indication this evidence played any role it its analysis. Rather, there was no *Washburn* analysis and in the circumstances here, the trial court abused its discretion by failing to engage in that analysis which applied and was requested.

Moreover, the Response fails completely to address the core of Anatole's argument made in conjunction with *Washburn*, that Betsy's education, age, and gender affect her earning capacity into the future, particularly as measured against Anatole's diminishing future earnings given his age, gender, and specialty. While arguing that

disproportionate property divisions are common, that there is nothing outside the norm in the 60-40 split in Betsy's favor, and that Anatole was given the "freedom" to pursue his cardiology career with great abandon since Betsy stayed at home, the Response conveniently forgets that Betsy got 60 per cent of what Anatole got out of his career to date and that he future does not look as bright or as long as hers given the demographic and practice factors.

The Response also conveniently forgets that Anatole only turned to the pure clinical practice from his more heart-felt but less lucrative work in academic medicine in order to make sufficient money to raise and educate the family once she made her unilateral decision to stop practicing. Indeed, Anatole got directed to his clinical work of long hours on Betsy's direction, then when she decided to divorce and resume her medical career out of town (though she could have resumed it in the area), she took the lion's share of the assets Anatole had worked to accumulate, on top of taking the kids.

As to the $100,000 loaned from Anatole's parents, the Response completely ignores the fact that the letter involved a completely different home than the home that was actually purchased, as pointed out in the Opening Brief. It therefore cannot be controlling. The Response seems to create a fiction that this loan was for the home the parties ultimately purchased – but this fiction is not what the evidence showed. What the only evidence in the record showed is what is set out in the Opening Brief at p 46: the funds were

a loan from Anatole's parents to the young couple and only were documented as a gift for purposes of the lender.

E. Betsy's Fee Request Should be Denied. Each Party Should Bear Their Own Fees on Appeal, as They Did at Trial.

The Response brief requests an award of fees for Betsy at page 47-48, based on her financial declaration filed November 18, some ten days before the brief was filed on November 27. The Response, which seems to temper the request made in her financial declaration, asserts she should be awarded her fees "[g]iven the disparity in the incomes of the parties," Response, p. 47, while studiously avoiding any mention of the disproportionate award of overall assets to her from the substantial community assets which were divided. Rather, the Response hints that, even though it asserts the appeal is not frivolous (none of the case law on frivolous appeals is even raised), Betsy still should be awarded her fees since the appeal is claimed to be "without merit" and brought with "little regard for the standards of appellate review" or evidence actually in the record. It appears to argue that, even though the appeal is not frivolous, it is and therefore she should be awarded fees because, even though she received half-again as much of the community assets as did Anatole, he should pay her fees. In other words, the court should punish him for exercising his right to appeal which is causing her to spend some of her assets.

Her request should be denied because she has ample resources given the 60-40 split of the substantial community resources in her

favor, the appeal is not frivolous (which the Response recognized even if her Financial Declaration did not), and Anatole is not being intransigent with the appeal. Rather, it is a carefully thought-out appeal based on the applicable law and the best interests of the children in these very important years of their development.

Betsy served her "Declaration of Financial Need" and a "Financial Declaration of Respondent" by mail on November 18, presumably pursuant to RAP 18.1(c), and presumably in anticipation of her amended response brief filed on November 27. The rule requires filing affidavits of financial need "where applicable law ***mandates*** consideration of the financial resources of one or more parties regarding an award of attorney fees and expenses. . . ." RAP 18.1(c) (emphases added).

In family law appeals, although it is often the custom to file a financial affidavit as a matter of course when a fee request has been made in the briefing,[7] the statute does not, in fact, ***mandate*** consideration of financial resources on appeal. The statute's first paragraph, which requires consideration of the parties' financial resources, applies to trial court proceedings, as made clear in the second paragraph. The part of RCW 26.09.140 relevant to appeals is paragraph two, which states: "Upon any appeal, the appellate court may, in its discretion, order a party to pay for the cost to the other

[7] That was not the case here, as no such request had been made in the operative response brief as of November 18. The amended response brief filed November 27, 2013, does contain a fee request.

party of maintaining the appeal and attorneys' fees in addition to statutory costs."

Under the plain terms of the statute, on an appeal, consideration of the parties' financial resources is not "mandatory", which is the requirement of the rule, RAP 18.1(c).

But in any event, Betsy's submission omits to mention her other available assets, which are more than Anatole's. While Anatole may be earning more (as indicated by the child support work schedule at the close of the case, App. D to the Opening Brief and attached hereto), Betsy was awarded 60 per cent of the community assets and, since there were few separate assets, these were virtually all the assets of the parties. *See* Opening Brief pp. 4, 6-7 (issue 8), 8, and FOF 2.8.1, CP 174; Opening Brief, pp. 40-46 (arguing error in the disproportionate division of community property). The assets which were divided 60-40 in Betsy's favor included the family home, which was valued at $480,000 (and no encumbrances were listed), and which was ordered to be sold. *See* CP 174.

Under these circumstances, Betsy has ample resources to pay her own attorney fees, as confirmed by the trial court's denial of her request for fees below. *See* CP 176, FOF 2.15 (denying fee request).

The real basis Betsy asserts for fees is a frivolous or baseless appeal. She argues in her declaration that Anatole's appeal "ignores the fact the trial court based all of its decisions on substantial evidence, and he has not shown any abuse of discretion as to any

factor" and that he refused to accept a "reasonable result" of the trial. Financial Declaration, p. 3. Included in her complaint that the appeal is "unnecessary" (*id.*) is that her appellate attorney had "to respond to pre-hearing motions", which should be taken into account. However, it must be noted that the pre-hearing motions in the appeal which had both briefing and oral argument (to accelerate review; to strike unnecessary and inappropriate supplements to the record and associated portions of the response brief) were both resolved favorably to Anatole. They can hardly be considered improper or frivolous or a basis for awarding fees to Betsy.

As for the merits of the overall appeal and the claim at page 3 of the financial declaration that there was no showing of abuse of discretion on any factor, Anatole stands on his briefing and the record before the court which establish multiple abuses of discretion by the trial court. They include, among other things, employing incorrect legal standards and ignoring applicable standards, as discussed at length in the Opening Brief. It is not a frivolous appeal. Any possible doubt was dispelled by Betsy's counsel in the argument over whether to accelerate review. When the Commissioner asked if oral argument was needed, Betsy's counsel responded immediately that it was, given the seriousness of the issues and the size and depth of the briefing. This underscored the strength of Anatole's appeal. Experienced appellate counsel like Betsy's know that most cases do not get oral

argument, and especially not family law cases. Cases which are close and present serious issues do get precious argument time.

This appeal is not, in fact, about what is being "done" financially to Respondent Betsy Kim, even though that may be her myopic view of it. It is, first and foremost, about what is best for the two children for whom these parents remain legally responsible as they grow into adulthood and until they reach 18: What is, in fact, in their best interests? How can they best receive the genuine, but very different, benefits that each parent can give them, and each of which they need is ample measure?

Anatole Kim respectfully asks the Court to deny Betsy's fee request. The appeal is not frivolous, he is not intransigent, and she has the ability to pay her own legal expenses, particularly given the disproportionate award of the substantial community assets to her.

III. CONCLUSION

Anatole Kim respectfully asks the Court to vacate the orders permitting relocation in any of its manifestations (findings and conclusions, parenting plan, etc.) and remand with directions for entry of orders, including a revised parenting plan, which provide for the best interests of the two minor children in Yakima or such other location as both parents agree and are able to jointly locate, so that the requisite and unique parenting from each parent is continuously available to the children. So there is no doubt, he requests revision of the erroneously entered parenting plan which denied the shared

parenting necessary for the children's best interests and proper development via the strengths of ***both*** parents, as identified in his assignment of error no. 1 and the error in determining residential placement under the parenting plan by use of the incorrect legal standard, as stated at p. 29 fn. 19 of the Opening Brief.

Anatole Kim also respectfully asks the Court to vacate the support order and property division for the reasons given above and in the Opening Brief, and to remand with instructions on the range of discretion under these circumstances, and to deny Betsy's request for fees on appeal.

Dated this 2nd day of December, 2013.

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NO. 31426-0-III

WASHINGTON STATE COURT OF APPEALS, DIVISION III

In re Marriage of: ELIZABETH KIM, Respondent, vs. ANATOLE KIM, Appellant.	CERTIFICATE OF SERVICE

I declare under penalty of perjury that I caused copies of *ANATOLE KIM'S REPLY BRIEF* and this Certificate of Service to be filed and served upon counsel of record on the 2nd day of December, 2013 as follows:

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Dated this 2nd day of December, 2013.

Cathy Norgaard

Cathy Norgaard, legal assistant