

09747-1

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No. 69747-1-I

COURT OF APPEALS OF
THE STATE OF WASHINGTON
DIVISION ONE

ANH-THU THI VU,

Appellant

v.

VINH QUOC DANG,

Respondent

ON APPEAL FROM
KING COUNTY SUPERIOR COURT
(The Honorable John Erlick)

ANH-THU THI VU'S REPLY BRIEF

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ORIGINAL

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I. INTRODUCTION

I am seeking what is fair. This case is about emotional and physical abuse from my husband for five years. It is about the pre-nuptial agreement that I never understood. This case is about protection of my rights from 2006 to 2011. It is about medical expenses for years of doctor visits from abuse from my husband. I need medical treatment because I am still not well. I would like five years of maintenance.

II. ARGUMENT IN REPLY

A. Service of process was not proper.

I do not see where any law or Civil Rule says that family members can have a key to our house, open the door, come inside, turn on the light and wait for me to come home to serve me with the summons and petition, as Mr. Dang's brother and sister did on November 11, 2011.¹ That frightened me. When they did that, it was improper service. They should have waited outside for me to return. They came into the home with the paperwork and demanded that I sign it, but I refused. Then my husband proposed that this case be handled collaboratively,² but that was not feasible.

A trespasser is one who enters the premises of another without invitation or permission, express or implied, but goes, rather, for his own

¹ CP 52.

² CP 73.

purposes or convenience, and not in the performance of a duty to the owner or one in possession of the premises.³ That is exactly what they did.

I did not raise this at trial because my attorney did not raise it and the judge would not let me talk. I cannot say anything when I have an attorney representing me and the judge will not let me talk. I have to listen and be directed by the court. I did not understand what I was supposed to do.

B. The prenuptial agreement should not be enforced.

1. The prenuptial agreement was invalid per California law.

I did not execute the prenuptial agreement voluntarily. Vinh said if I did not sign, there would be no marriage.⁴ I was not represented by independent counsel. Mr. Shahon was paid only \$500.⁵ It could not be possible for me to hire an attorney with just \$500. This is not enough money for independent counsel to draft, review, explain, and advise regarding a prenuptial agreement. I signed the agreement the same day that I saw it;⁶ I did not have the required seven days for review.⁷ The agreement is therefore invalid under Calif. Family Code § 1615(a)(1).

³ *Witner v. Mackner*, 68 Wn.2d 943, 945, 416 P.2d 453 (1966).

⁴ RP 323:2-325:14 (Anh-Thu Thi Vu, November 14, 2012); RP 259:3-262:5 (Anh-Thu Thi Vu, November 14, 2012); CP 71, Declaration of Vinh Dang dated Dec. 6, 2011.

⁵ CP 302.

⁶ RP 323:2-325:14 (Anh-Thu Thi Vu, November 14, 2012); RP 259:3-262:5 (Anh-Thu Thi Vu, November 14, 2012).

⁷ RP 323:2-325:14 (Anh-Thu Thi Vu, November 14, 2012); RP 259:3-262:5 (Anh-Thu Thi Vu, November 14, 2012).

It is also invalid under California Family Code § 1615(a)(2), because:

a. Mr. Dang did not provide me a fair, reasonable and full disclosure of his property and financial obligations; I was not provided with documents to verify his assertions about his assets and their value; I was not allowed to know what his income was—he became angry if I asked about his income; I did not see any of his tax returns or pay stubs until after the divorce was filed;⁸ b. I did not expressly waive, in writing, my right to disclosure of the property or financial obligations of the other party beyond disclosure provided; and c. I did not have, and could not reasonably have had, adequate knowledge of Mr. Dang’s property and financial obligations.⁹

There was no discussion whether the agreement should be prepared in Washington or California.¹⁰ Vinh says that he e-mailed me a draft, but the e-mail exhibit does not show an attachment with the e-mail.¹¹ We did not review the agreement during the evening; we did not negotiate anything.¹² I received the agreement the day that I signed it.¹³

Also, the prenuptial agreement should have been translated into Vietnamese for me. At work, I do speak English, but I use basic, simple

⁸ RP 323:2-325:14 (Anh-Thu Thi Vu, November 14, 2012); RP 259:3-262:5 (Anh-Thu Thi Vu, November 14, 2012); CP 52.

⁹ RP 323:2-325:14 (Anh-Thu Thi Vu, November 14, 2012); RP 259:3-262:5 (Anh-Thu Thi Vu, November 14, 2012).

¹⁰ CP 119.

¹¹ Id.

¹² Id.

¹³ Id.

terms, related to Social Security benefits.¹⁴ I speak with people who have disabilities and come to claim benefits; I use the same forms all the time.¹⁵ That does not mean that I am able to read and understand a complex legal document in English such as a prenuptial agreement.

Also, one of the witnesses at trial, Khanh Nguyen, testified that I asked her what a prenuptial agreement was, because I had no idea what it was.¹⁶ If I had an independent attorney who was advising me, as Vinh says, I would have had no reason to ask Khanh Nguyen what a prenuptial agreement is. Also, if I had independent counsel, I would not have been asking Vinh questions about the prenuptial agreement, for example about the effect on social security benefits, which he testified that he then relayed to his attorney Elayne, and then he relayed the answer to me.¹⁷

2. The stipulation should be set aside.

When at trial I stipulated to the property division in the prenuptial agreement, my attorney controlled me. I was sick. How can a judge make a sick person sit in court and expect her to understand clearly? During the trial, I was in and out of the hospital.¹⁸ I could not eat or sleep. I was exhausted. Even at my deposition I was so sick, I was shaking

¹⁴ RP 212:2-17 (Anh-Thu Thi Vu, October 16, 2012).

¹⁵ *Id.*

¹⁶ RP 136:11-18; 139:1-18 (October 16, 2012, Khanh Nguyen).

¹⁷ RP 56:9-16 (October 15, 2012, Vinh Dang).

¹⁸ RP 223:18-20; 224:4-21; 225:13-19; 226:10-14 (October 17, 2012).

uncontrollably.¹⁹ But they made me go to the deposition. I was in the hospital during the trial. I could not pay attention to what was going on. Additionally, I was worried about having to move after Judge Erlick entered an order saying I had to leave the house in 45 days.²⁰ He entered this ruling after he said court would be in recess and I had left the courtroom.²¹ I had to find a new place. I had nobody helping me move. I had to find storage. I had a lot of anxiety; I had panic attacks; I was under a lot of stress.²² The neighbors were watching me and spying on me, by my husband's direction.²³ As I said, my attorney controlled me, and the court is very structured. You cannot raise questions any time you want. I agreed to the prenuptial agreement at trial because I was so sick and controlled; I should not be held to the prenuptial agreement terms on appeal. I was scared of my attorney; I did exactly what she told me to do. She would not take direction from me. I had no control over how she conducted my case. On the morning of November 15, 2012, at 9:39am, she asked me to pay her \$6,214.29. I paid her \$1,000 to explain the prenuptial agreement to me, and she did not do it. And Judge Erlick would

¹⁹ CP 239-40.

²⁰ *Id.*

²¹ RP 224:7-16 (October 17, 2012) (“THE COURT: All right. Let’s take a brief recess. Ms. Friedrich, why don’t you advise the Court whether we can proceed. Take a recess.”)

²² CP 117, Declaration of Anh-Thu Thi Vu dated September 24, 2012.

²³ CP 122.

not let me speak. He said I was not qualified.²⁴ My attorney did not arrange for a medical witness.²⁵

Judge Erlick was very upset on November 15, 2012. He frightened me. He questioned about the two checks I had.²⁶ I was scared of Judge Erlick and my attorney. That is why I agreed to the stipulation about the pre-nuptial agreement. I trusted my attorney, and I agreed under undue influence because I was so scared.²⁷ Judge Erlick even had my attorney take me to another room with opposing counsel, Emily Tsai, saying that he wanted a specific answer as to whether there were \$166,000 in assets as of October 2011 and where that money is.²⁸ When we came back into the court room, he was still upset. He said, “I don’t care about...” and “I want a direct answer as to whether as of the date of separation Ms. Vu had \$166,000 in assets.”²⁹ My attorney explained to him again. Finally, Judge Erlick said that I could have less money if I did not stipulate, but more money if I did stipulate, and which was it going to be?³⁰ At that point, court was recessed, and I went into the jury room with my attorney and the

²⁴ RP 333:14-24 (November 14, 2012).

²⁵ RP 250:4-6 (November 14, 2012).

²⁶ RP 373-83 (November 15, 2012).

²⁷ When persuasion overcomes the will of another such that her own free agency is destroyed, rescission of a contract executed by the dominated person is appropriate. *Ferguson v. Jeanes*, 27 Wn. App. 558, 562, 619 P.2d 369 (1980).

²⁸ RP 383:22-25 (November 15, 2012)

²⁹ RP 384:6-16 (Nov. 15, 2012).

³⁰ RP 386-87 (Nov. 15, 2012).

interpreter.³¹ When we came back, Judge Erlick said that I had no choice, that it wasn't a choice.³² He then talked more about the division.³³ Finally, Judge Erlick asked whether we were stipulating, he was so upset, and he asked "So what are we doing?"³⁴ Under his authority, I was directed by him as to what I wanted to do.³⁵

Judge Erlick's math was incorrect. He said that I was receiving \$260,000, plus about \$9,500, "for a total of 275."³⁶ However, \$260,000 plus \$9,500 is actually \$269,500. Also, Judge Erlick said that my requested community property award was \$118,000.³⁷ But Ex. A to my trial brief shows a requested community property award of only \$109,532.

3. It would be fair to distribute half of Dang's assets to me.

My car is a broken down 2000 Honda Acura.³⁸ I live in an apartment where I eat and sleep on the floor. When I use the computer, I don't have a desk, so again I sit on the floor and it hurts my back. Mr. Dang made me give up all my furniture and household goods when I moved from California.³⁹ My health is not good and I cannot see a doctor because it

³¹ RP 387:13-21 (Nov. 15, 2012).

³² RP 388:6 (Nov. 15, 2012).

³³ RP 388-89 (Nov. 15, 2012).

³⁴ RP 389:17 (Nov. 15, 2012).

³⁵ RP 389:20--391:21 (Nov. 15, 2012).

³⁶ RP 388:12-18 (Nov. 15, 2012).

³⁷ RP 386:13-15 (Nov. 15, 2012).

³⁸ CP 21.

³⁹ RP 329:9-21 (Anh-Thu Thi Vu, November 14, 2012).

costs money. I have only one account right now, and one TSP (defined benefit) and one other PER (defined benefit) with no value.

Per the prenuptial, Vinh has multiple retirement pensions.⁴⁰ I have one; the court said I have to reduce my \$950 monthly contribution to it.⁴¹ But he is supporting his son to become a doctor.⁴² In the court's findings, Judge Erlick took Mr. Dang's projected fair rental value for his house of \$1200 at face value.⁴³ There was no substantial evidence, only his word.

The court said that one of his debts, the HELOC, was \$62,386.⁴⁴ However, he said in his declaration that this debt was only \$53,000.⁴⁵ How did it come up almost \$10,000? The finding of \$62,386 is not supported by substantial evidence. Because he has lots of money and I have nothing, it would be fair to distribute half of his assets to me.

C. I was not intransigent, and I am entitled to attorney fees.

1. Mr. Dang should not have been awarded attorney fees.

I was not intransigent. This was a highly contested case, and my conduct does not justify an award of fees to Mr. Dang.⁴⁶ The award of \$8,000 in fees to him should be reversed. I was forthcoming as to the value of my assets when we separated because my husband and his

⁴⁰ CP 300.

⁴¹ CP 16.

⁴² RP 110:7-23 (Vinh Dang, Oct. 16, 2012).

⁴³ CP 16.

⁴⁴ CP 25.

⁴⁵ CP 73.

⁴⁶ See *In re Marriage of Wright*, 78 Wn. App. 230, 238-39, 896 P.2d 735 (1995).

attorney had my bank statements in December 2011 which showed the consolidation of all of my accounts to the U.S. Bank accounts and the total amount of cash in my accounts.⁴⁷ I did not conceal assets.

In my Reply Declaration filed on December 7, 2011, I addressed Vinh's allegations that I was not truthful on my Financial Declaration regarding my bank accounts and referencing the statements filed in one of my Sealed Financial Source Documents.⁴⁸ As I said in my declaration, there was an honest mistake and there was miscommunication as I was trying to get paperwork ready for the court; I thought my attorney was asking me how much assets and money I wanted deposited into my bank accounts and I told him \$1,000—obviously I don't have just \$1,000 as can be seen from my tax and income records disclosed to the court.⁴⁹

There was a delay providing bank statements, due to my illness, the short time, and requesting several ex parte restraining orders; when my attorney e-mailed Vinh's attorney to request more time for the bank statements, the attorney replied that I had submitted sufficient records.⁵⁰ As I said in my declaration, I did withdraw \$14,000 from our joint savings that was all my separate money; I never withdrew community funds.⁵¹ I

⁴⁷ CP 428-31.

⁴⁸ CP 105-11. *See also* CP 459-90.

⁴⁹ CP 107.

⁵⁰ CP 107.

⁵¹ CP 108.

did not try to make it look like I was writing checks to my husband and putting them in the joint account; my husband's sister told me I was a "freeloader" and that I should put more in the joint account than I had been; I did this at first but then my relationship with Vinh deteriorated more and I removed the funds.⁵² My documents were all subpoenaed. I don't know why the court needed two days extra to understand everything.⁵³ I did not conceal. I am not intransigent. There was no filing repeated motions or being obstructive; information that was available to me, I provided, even when it cost me money.⁵⁴

Mr. Dang is the one who was intransigent. He hid from me the \$8000 wedding gift.⁵⁵ He transferred money to his sister, \$9000 and \$45,000.⁵⁶ He received money that he did not put on his financial declaration.⁵⁷ He sent money to his son and did not report it.⁵⁸

Judge Erlick is supposed to make his own determination, analyzing the financial evidence presented. Why did he take the information from opposing counsel that I was intransigent, when it was incorrect? Judge Erlick is supposed to make a determination by himself, from all the

⁵² CP 122.

⁵³ RP 467:2-15 (Nov. 30, 2012).

⁵⁴ RP 466:13-18 (Nov. 30, 2012).

⁵⁵ RP 152:11-12 (Vinh Dang, Oct. 16, 2012).

⁵⁶ RP 182 (Vinh Dang, Oct. 16, 2012).

⁵⁷ RP 186:9-18 (Vinh Dang, October 16, 2012).

⁵⁸ RP 186:12-18 (Vinh Dang, Oct. 16, 2012).

evidence presented. Instead, he relied only on evidence presented by Vinh Dang's counsel and opinion of Vinh Dang's counsel.⁵⁹ Of course opposing counsel is going to cast doubt on my credibility.

2. I should have been awarded attorney fees below.

I was forthcoming on the value of my assets and providing bank statements. I provided copies of my statements from May to September 2012 which show depletion of account funds for living expenses, attorney fees and costs, health care expenses, home repairs, car repairs, etc.⁶⁰

This Court can also review my Sealed Personal Health Care Records.⁶¹ Trial had to be recessed so I could be taken to the emergency room.⁶² My health issues were known from the beginning of the case and these circumstances did add a layer of complexity to the litigation.

My attorney fees and costs and my personal costs are approximately \$62,100.⁶³ In addition, I was responsible to pay personally the expenses for the interpreter that I needed during trial, over \$2,000. An estimated cost for my attorney's fees and costs for trial, including trial preparation, is approximately \$25,190 additional.

⁵⁹ RP 434:19-24 (Nov. 15, 2012).

⁶⁰ CP 389-404.

⁶¹ CP 339-53.

⁶² RP 223:18-20; 224:4-21; 225:13-19; 226:10-14 (October 17, 2012).

⁶³ CP 309.

Vinh Dang is not trustworthy; he conceals information. On October 15, 2007, after we were married, he executed a deed of trust saying in it that he was an unmarried individual.⁶⁴ He admitted that he never discussed this with me, either.⁶⁵ He concealed this from me and he concealed from BECU that he was a married man.⁶⁶ The litigation is so expensive. I need this Court to award me my attorney fees below.

3. I should be awarded attorney fees on appeal.

I should be awarded attorney fees for this appeal and for the trial court proceeding. All my money has gone to litigation. I am essentially broke. Is it fair for Vinh to give so much money to his son so that he can become a doctor and enrich their family?⁶⁷

In a dissolution, a trial court has discretion to require one party to pay the other party's attorney fees and costs. 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 attorneys' 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 entry of judgment.

⁶⁴ RP 177:3-22 (Vinh Dang, Oct 16, 2012).

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ RP 110:7-23 (Vinh Dang, Oct. 16, 2012).

There has been a lot of litigation, most of which Vinh initiated. He moved to revise the Temporary Order issued on December 21, 2011 and I had to defend that motion. I had to file a motion for a protective order related to my medical records because he would not agree to the proposed terms of my protective order, which restricted him from having copies of my medical records. The court adopted my proposed order. I also had to defend against his motion to compel me to attend a deposition which had not taken place yet and the court denied his motion. I also had to defend against a summary judgment motion and a motion to have me removed from the home ten days before trial, both of which were denied. I also incurred significant expenses for copies of documents requested in discovery by him and in research fees charged by banks to locate and provide the requested statements. I have a need for an attorney fee award. There are lots of costs in litigation. He just wanted me out of his house.

D. I should be reimbursed for my expenses.

I disagree that the separation date was properly determined to be April 30, 2011. It was November 10, 2011. Vinh and I were not living separate and apart during those months, and therefore Vinh's argument about bills between April 30, 2011 and November 10, 2011, being our separate expenses fails. However, even if we were living separate and apart during that time, I should still be reimbursed for the following:

1. I should be reimbursed for the hotel bill.

Vinh came back to the house in November and turned off the power to harass me, knowing I did not know how to turn it on. Because it was cold, I had to spend two nights in a hotel.⁶⁸ But for Vinh, it would not have happened, and Vinh should reimburse me \$278.75⁶⁹ for the hotel.

2. I should be reimbursed for the alarm bill.

It was important to have an alarm to protect Mr. Dang's house. It was my responsibility to keep his house safe while I was living there. The restraining order says that I was to pay all "general upkeep/repair."⁷⁰ I asked my attorney to ask his attorney for the alarm code, but Vinh and his attorney would not tell us the code,⁷¹ and so I had no choice but to install another to protect his house. This was not just for my security, as Mr. Dang argues, but also for his benefit to keep his house and his property safe, and therefore I should be reimbursed the \$1,887.66⁷² for the alarm.

3. I should be reimbursed the cost of changing the locks.

It was my responsibility to keep his house safe while living there by myself. The restraining order says I was to pay all "general upkeep/

⁶⁸ See RP 410:11-12 (November 15, 2012).

⁶⁹ CP 18.

⁷⁰ CP 115.

⁷¹ RP 411:8-22 (November 15, 2012).

⁷² CP 18.

repair.”⁷³ Although I had a restraining order against Vinh, I did not have one against his family. They had keys.⁷⁴ They came in and harassed me.⁷⁵ His brother and sister came in and told me to go back to California.⁷⁶ They could have damaged or taken something. To keep his house and property safe, and avoid my having to pay repairs, I paid \$208.05 to change the locks.⁷⁷ I should be reimbursed. It was not just for my personal security, as he argues. It was a benefit to him to keep his property safe. Also, before I changed the locks, Vinh came back to the house in violation of the restraining order.⁷⁸ This was another reason I had to change the locks.

4. I should be reimbursed for my medical expenses.

During 2012, Vinh Dang’s years of abuse continued to affect me. This was the cause of my anxiety and panic, and why I needed treatment. He threatened and harassed me often until I obtained an *ex parte* restraining order.⁷⁹ From October, 2010, until November, 2011, I was essentially homeless after work. I had to stay out on the street until midnight to avoid him so that he would not attack me and abuse me.⁸⁰ I had to pay for my gas and my food. When I did come home, he would attack me and abuse

⁷³ CP 115.

⁷⁴ CP 123.

⁷⁵ CP 108-09.

⁷⁶ CP 108-09.

⁷⁷ CP 18.

⁷⁸ CP 319.

⁷⁹ CP 121.

⁸⁰ CP 51.

me, so I had to leave again.⁸¹ I had to keep driving on the road every night to avoid strangers approaching me, from October, 2010 until November of 2011 when he served me the papers. As he testified, he was always at the house after work, every day.⁸² In the months after, I was still experiencing stress from what he did during the marriage. This is how I ended up in the emergency room. I could not eat and I could not sleep,⁸³ and he was responsible for causing my stress. Also, he violated the restraining order when he came to the house on Wednesday, November 30, 2011.⁸⁴ And, while the restraining order was in effect, he told his neighbors to watch me and spy on me constantly, and this caused me great anxiety and stress.⁸⁵ The neighbors were watching me all day. The neighbors knew my schedule, and were there to watch me whenever I left and whenever I came home. I could not sleep. Therefore Vinh Dang is responsible for the medical bills, and I should be reimbursed \$4,681.09.⁸⁶

E. I should be awarded \$833 monthly maintenance for 5 years.

My car is 13 years old, a 2000 Honda Acura.⁸⁷ I live in an apartment without furniture and sleep on the floor. This is not the standard of living

⁸¹ CP 51.

⁸² RP 187:7 (Vinh Dang, October 16, 2012) “Came home every day, take care of whatever needed,” and *id.* at lines 13-14, “After work, I stop at home after work.”

⁸³ RP 336:12-15 (Anh-Thu Thi Vu, Nov. 14, 2012).

⁸⁴ CP 319.

⁸⁵ CP 122.

⁸⁶ *See* CP 18.

⁸⁷ CP 21.

that I had during the marriage. The court is supposed to consider the standard of living established during the marriage, under RCW 26.09.090(c). When we got married, he pressured me to move to his house. I had to ask my job for permission to transfer to Washington. Also, Mr. Dang's counsel Ms. Tsai says that I "did not forgo any career opportunities while married."⁸⁸ She provides no citation to the record. How can she say I have no ambition to move up my career ladder? This is insulting and not warranted.

His family gave him \$8000 for a wedding gift.⁸⁹ He didn't tell me. He lied about that and told his attorney that he had it, but he didn't report anything on the financial declaration and concealed it until my attorney asked him. He wanted everything. My financial resources therefore weigh in favor of a maintenance award under RCW 26.09.090(a).

It is incorrect that I was awarded \$275,000.⁹⁰ This includes defined benefits. I don't have cash in hand. The approximately \$165,500⁹¹ was withdrawn and spent on litigation and living expense, including transportation, car repair, insurance, and medical. I had to pay for lots of litigation from Vinh for defense for me. He tried to get back to the house

⁸⁸ Resp. at 21.

⁸⁹ RP 152:11-16 (Vinh Dang, October 16, 2012).

⁹⁰ CP 16-17.

⁹¹ CP 21.

right away, almost every motion that he requesting. He kept trying to kick me out of the house and I had to pay for lots of defense, every time.⁹²

As I said above, from late October 2010, until November, 2011, about twelve months, I was essentially homeless after work because I had to stay on the street until midnight to avoid him so that he would not attack me and abuse me.⁹³ The legal fees and costs included long distance expense, photocopies, interpreter, and investigations. Regarding half of the sums from the two BECU accounts, I continue to pay for clerk's papers, reports of proceedings, parking when I go to the court, and filing fees. The SSA Thrift Savings Account of approximately \$95,467 and the FERS⁹⁴ are just defined benefits. I don't have cash in hand. I did not receive all the money that the trial court says I was awarded. I received only \$9,730.47. This has all been spent on the litigation and document copies. This amount is not enough for me to continue to pursue this appeal, which has included costs for verbatim trial transcript and to copy the clerk's papers. The Honda Acura is a 2000 model in poor condition with little value, only \$1,150.⁹⁵

Mr. Dang has several benefit pensions.⁹⁶ Look at all the property he was awarded;⁹⁷ he is a millionaire. He has four parcels of real property, a

⁹² CP 428-31.

⁹³ CP 51.

⁹⁴ CP 21.

⁹⁵ See RP 358:1-8 (November 15, 2012, Anh-Thu Vu).

⁹⁶ CP 300.

truck, half interest in an airplane, IRA and retirement benefits, and cash from bank accounts.⁹⁸ He has the ability to pay me maintenance while still meeting his own needs, as contemplated under RCW 26.09.090(f).

My health is another reason I need maintenance. I took off three days every week to be treated for anxiety and to see the doctor. I had a medical witness to testify, but my attorney told the judge there was no witness. Judge Erlick told me I was not qualified to testify myself.⁹⁹ Whether I am working full time now is irrelevant. I did not work full time during 2012. This will affect my future income. When I cash out sick leave, I will have less because of the time I had to miss for poor health. During late October 2010, and early 2011, Vinh wanted to talk about a divorce.¹⁰⁰ Problems escalated. I could not pick a vegetable from the garden without his permission.¹⁰¹ I could only cook what he told me to cook; I could not change anything in the home; he began drinking heavily; he struck me on several occasions; he threw hot coffee at me, he spit at me and threw a computer at me and cursed when I asked him to stop viewing pornography; he locked me out of the house twice during our marriage.¹⁰²

⁹⁷ CP 24-25.

⁹⁸ CP 24-25.

⁹⁹ RP 333:14-24 (November 14, 2012).

¹⁰⁰ RP 142:13-18 (Vinh Dang, Oct. 16, 2012); RP 146:22-25 (Oct. 16, 2012).

¹⁰¹ CP 120.

¹⁰² Id.

I was not prepared for such treatment; my health deteriorated; in about April 2011, my husband told me that he wanted a divorce; not long after, he asked me to go with him to show me something.¹⁰³ He drove to a two-story vacant building in disrepair and told me this was where I deserved to live.¹⁰⁴ In my fear I slipped on the stairs and fell bruising my head and back.¹⁰⁵ He did not help me up.¹⁰⁶ Vinh lied about this incident in a declaration.¹⁰⁷ He threatened and harassed me until I obtained an ex parte order.¹⁰⁸ There were several restraining orders.

He invaded my personal information—more abuse.¹⁰⁹

He began drinking heavily and he physically struck at me more than once.¹¹⁰ Because of the stress and trauma from the marriage I am unwell and fragile. No spousal maintenance has serious future consequences and I have severe anxiety and panic attacks. My income is far less than Vinh's, and his assets far greater than mine. It would be inequitable not to award spousal maintenance.

Also, it affects my work. My manager warned me that I need to start looking for a part-time job. A part-time job would affect my income. But

¹⁰³ Id.

¹⁰⁴ CP 120-21.

¹⁰⁵ CP 121.

¹⁰⁶ Id.

¹⁰⁷ CP 432-58.

¹⁰⁸ Id.

¹⁰⁹ *For example* RP 164:10-25 and 156:5-25 (Vinh Dang, Oct. 16, 2013).

¹¹⁰ CP 120.

Judge Erlick wouldn't accept my statement because it was a third party. If I continue to take sick leave, I could lose my job.¹¹¹

Our marriage lasted more than five years. We were married on September 2, 2006. He did not serve me with the petition for dissolution of marriage until November of 2011,¹¹² which is over five years later.

Vinh can afford maintenance. He testified that his gross wages in 2010 totaled \$87,745.¹¹³ For 2011, it was \$89,616.50.¹¹⁴ He opened a joint account per section 32 of our prenuptial agreement and he made me contribute ~ \$700 to \$1000/mo. to the account (later \$500 to checking and \$200 to savings); but he made more than I did, and so I was contributing an unfair ration of money to the community and he was keeping additional money of his separate, unjustly enriching himself.¹¹⁵ He testified that he took out a loan on the house (HELOC), of \$100,000, and put it in his savings.¹¹⁶ So he has lots of money. He controlled all the bills, finances, and banking information—he had these documents mailed directly to him and then asked me to write him checks for half of the amount of the bill.¹¹⁷ He testified that only his name was on the bank account.¹¹⁸

¹¹¹ RP 355:6-10 (Nov. 15, 2012, Anh-Thu Thi Vu).

¹¹² CP 1-4.

¹¹³ RP 110:2-6 (Vinh Dang, October 16, 2012).

¹¹⁴ CP 491-502.

¹¹⁵ CP 417-21.

¹¹⁶ RP 153:2-4 (Vinh Dang, October 16, 2012).

¹¹⁷ CP 417-21.

¹¹⁸ RP 96:22-23 (Vinh Dang, Oct. 16, 2012).

I contributed community funds and labor toward the Seattle house. We pooled our incomes to maintain the home. Repairs, upkeep, and improvements were paid by community funds.

“Free rent” does not apply. What about other tasks in the marriage? Free wash, fold, and put away Vinh’s laundry, free cleaning toilet bowl, free sex with Vinh, free cleaning kitchen stove and sink, free mopping floor, free gardening, free shopping and carrying groceries, free traveling with Vinh to his meeting, free housekeeping with his family, free taking picture for his family events, free putting up with his abuse.

His family members say he is not angry, violent, or abusive.¹¹⁹ But he abused me only in private.¹²⁰ He behaves himself in front of family and friends.¹²¹ Behind closed doors, he harassed and abused me.¹²² Even though we had a wedding, and a marriage certificate, he treated me not as his wife, but as his maid or housekeeper or slave, not like a human being, but as just a convenience for his needs.¹²³ If he had to hire an actual maid, he would have to pay her a salary, and treat her with more respect than he treated me. I would cook and clean, 365 days a year for five years. I could have spent some of that time updating my skills, going back to school.

¹¹⁹ CP 102-04.

¹²⁰ CP 108-09.

¹²¹ CP 102-04, CP 108-09.

¹²² CP 108-09.

¹²³ CP 108.

Regarding age, physical and emotional condition, the factor under RCW 26.09.090(e), I am still not sleeping and eating well. There was no expert who testified about my health because my attorney did not call a witness. My attorney moved to exclude witnesses who are nonparties.¹²⁴ She did not present mental health records, but only medical bills, emergency room records, and doctor's notes.¹²⁵

The restraining order did not require me to pay rent.¹²⁶ The restraining order required me to pay house repairs.¹²⁷ Judge Erlick is incorrect that I was staying there free, and I was not staying there 18 months. Vinh is incorrect that I am raising for the first time on appeal that his abuse affected my health. This was raised below.¹²⁸

What I spend monthly is not the point. Vinh gave his sister gifts of \$9,000 and \$45,000; he didn't pay gift tax.¹²⁹ He admitted to items he did not include on his financial declaration.¹³⁰ He admitted he had another \$15,000 from before marriage.¹³¹ He therefore has lots of money, can pay maintenance while meeting his needs,¹³² and should pay me maintenance.

¹²⁴ RP 12:24-13:7 (October 15, 2012).

¹²⁵ RP 14:13-15:23 (October 15, 2012).

¹²⁶ CP 67.

¹²⁷ Id.

¹²⁸ See for example CP 120 at line 20 ("I was not prepared for such treatment in my marriage. My health began to deteriorate.")

¹²⁹ RP 182:5-24 (Vinh Dang, October 16, 2012).

¹³⁰ RP 186:9-18 (Vinh Dang, October 16, 2012).

¹³¹ RP 186:9-11 (Vinh Dang, October 16, 2012).

¹³² See RCW 26.09.090(1)(f).

F. We did not begin living separate and apart until Nov. 2011.

The trial court found that we separated on April 30, 2011.¹³³ But we were not separated. Vinh states in a declaration that still, he tried to fix our marriage.¹³⁴ He stated at trial that he tried “many time” to sit down with me to discuss our relationship.¹³⁵ He ordered me to sit down and listen to what he wanted me to do. He testified that we tried to reconcile.¹³⁶

After April 30, 2011, he was constantly at the house. He testified he was there *every day*, and referred to the house as “home.”¹³⁷ If I didn’t do as he wanted he would harass and abuse me and try to get me out of the house. Not until November, 2011 when he had me served (improperly) with the dissolution petition and summons was the marriage finally over.

G. Judge Erlick was biased against me and in favor of Mr. Dang.

On October 17, 2012, I had to leave court to go to the hospital.¹³⁸ The last thing I heard was that the court was taking a recess.¹³⁹ The Judge said “we need to call a recess.”¹⁴⁰ Still, Vinh’s counsel got the judge to rule that I had to move out of the house by December 1.¹⁴¹ My attorney argued

¹³³ CP 14, Finding ¶ 2.5.

¹³⁴ CP 80, ln. 19-27.

¹³⁵ RP 187:13-19 (Vinh Dang, October 16, 2012).

¹³⁶ RP 142:13-16 (Vinh Dang, October 16, 2012).

¹³⁷ RP 187:7 (Vinh Dang, October 16, 2012) “Came home every day, take care of whatever needed,” and *id.* at lines 13-14, “After work, I stop at home after work.”

¹³⁸ RP 224 (Oct. 17, 2012).

¹³⁹ *Id.* at line 11.

¹⁴⁰ *Id.* at line 21.

¹⁴¹ RP 232 (Oct. 17, 2012).

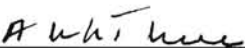
against it,¹⁴² but once again the Judge Erlick took the side of Vinh. He was living at his sister and brother's house with three bedrooms; they have no children.¹⁴³ There was no rush for him to move. Even if he could not stay with his sister, he had enough income to rent housing. Vinh's attorney objected to the valuation I gave the house, and once again, Judge Erlick took his side.¹⁴⁴ Every time Vinh's attorney objected to something, Judge Erlick took her side.¹⁴⁵ Every time she objected, the Judge favored her.¹⁴⁶

III. CONCLUSION

When I requested my attorney file a motion concerning the order for me to leave the house, she became angry and said she would ask Judge Erlick to appoint a representative to take responsibility over my finances because in her eyes I was unfit. This was unprofessional and wrong.

There are many misconceptions and errors regarding my case. My counsel did not represent me well. My side of the story was not fairly presented. I have to leave my job for this case without pay.

DATED this 9 day of December, 2013.



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¹⁴² RP 229:6-7 (Oct. 17, 2012).

¹⁴³ CP 106.

¹⁴⁴ RP 366:3-15 (Nov. 15, 2012).

¹⁴⁵ RP 366-67 (Nov. 15, 2012).

¹⁴⁶ See for example RP 355:17-25 (Nov. 15, 2012).

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington that on the below written date, I caused delivery of a true copy of Anh-Thu Thi Vu's Reply Brief to the following individuals:

Office of the Clerk Court of Appeals – Division I One Union Square 600 University Street Seattle, WA 98101	<input checked="" type="checkbox"/> Hand Delivery <input type="checkbox"/> Messenger <input type="checkbox"/> Certified Mail <input type="checkbox"/> Email
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Signed this 9 day of December, 2013 Seattle, Washington.

Anh Thi Vu
Anh-Thu Thi Vu, *pro se* Appellant

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