70249-1

70249-1

No. 70249-1

COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON

In re the Marriage of:

KARLA MAIA-HANSON,

Appellant,

vs.

BRADLEY HANSON,

Respondent.

APPEAL FROM THE SUPERIOR COURT
FOR KING COUNTY
THE HONORABLE CATHERINE SHAFFER

BRIEF OF RESPONDENT

SMITH GOODFRIEND, P.S.

By: Valerie A. Villacin
WSBA No. 34515
Catherine W. Smith
WSBA No. 9542

1619 8th Avenue North
Seattle, WA 98109
(206) 624-0974

THE LAW OFFICE OF
TERESA C. McNALLY, PLLC

By: Teresa C. McNally
WSBA No. 17566

1424 4th Avenue, Suite 1002
Seattle, WA 98101
(206) 374-8558

Attorneys for Respondent

TABLE OF CONTENTS

TABLE OF AUTHORITIES

STATE CASES

STATUTES

RULES AND REGULATIONS

I. INTRODUCTION

This appeal is both frivolous and moot. Appellant can gain no relief from this appeal because the only timely issue she raises is whether she had purged her previous contemptuous behavior in generating false claims of abuse that compelled multiple mandatory reporters to contact CPS. The trial court found appellant had purged her contempt - the precise relief she sought below - and she is not aggrieved by the trial court's order.

Hence, this appeal is a sham. It was brought, and is being misused, solely to raise an untimely challenge to judgments that were final nearly two years before appellant filed her Notice of Appeal in April 2013. Appellant cannot now complain of a June 2011 order, entered in conjunction with the parties' final parenting plan, that required her to direct any abuse allegations against the father through a court-appointed case manager after the trial court found that her history of making false allegations, triggering CPS investigations, was "detrimental" and had "damaged" the parties' sons. Nor can appellant complain of a November 2011 contempt order finding that she knowingly and willfully violated the trial court's rulings by failing to report an abuse allegation to the case manager, instead setting up the parties' son to report the allegation

to a mandatory reporter at his school, resulting in yet another CPS investigation of an unfounded allegation.

Even had these orders been timely appealed, appellant's challenge to these wholly discretionary decisions is utterly without merit. This appeal is frivolous, and a transparent misuse of the appellate rules. This court should affirm and award RAP 18.9(a) fees to the father for having to respond to this appeal.

II. RESTATEMENT OF FACTS

A. In June 2011, because of appellant's history of making false allegations to CPS, the trial court ordered her to direct any abuse allegations to a case manager. This order was never appealed.

1. Appellant commenced a dissolution action in October 2009 by making false domestic violence allegations.

Respondent Brad Hanson, age 52, and appellant Karla Maia-Hanson, age 54, were married on August 29, 1999. (CP 1-2) They have twin sons, AH and PH, age 13 (DOB 6/14/2000). (CP 1, 948)

Karla filed a petition to dissolve the parties' marriage on October 30, 2009 (CP 1), and obtained an *ex parte* restraining order against Brad based on fabricated domestic violence charges that briefly limited his contact with the parties' sons. (CP 1438) Less than three weeks later, however, the parties agreed to a

temporary parenting plan giving Brad one mid-week visit and alternating weekends, with no RCW 26.09.191 restrictions. (CP 6-7)

Karla continued to make domestic violence allegations throughout the dissolution action, apparently for purposes of obtaining RCW 26.09.191 limitations against Brad in the final parenting plan. (*See* CP 875-76) King County Superior Court Judge Catherine Shaffer ("the trial court"), who presided over the parties' May 2011 "month long dissolution trial," rejected Karla's request for RCW 26.09.191 limitations on Brad's residential time after finding no "evidentiary basis" for her allegations. (CP 875, 1519) The trial court stated that it "takes allegations of domestic violence so seriously" and "never take[s] lightly or dismissively a claim of domestic violence," but simply did not "share" Karla's perception that Brad was domestically violent. (CP 879)

2. The court-appointed parenting evaluator reported in June 2010 that appellant's false allegations against the father were detrimental to the sons, and caused them psychological harm.

The agreed court-appointed parenting evaluator, Dr. Jennifer Wheeler, Ph.D., issued her report on June 6, 2010 after a 5-month evaluation process. (CP 948-49, 1443) Dr. Wheeler

rejected Karla's claims of physical abuse by Brad. (CP 949) After Dr. Wheeler issued her report, Karla's behavior "escalated." (CP 949, 1439) She became involved in six reports to Child Protective Service (CPS) against Brad. (CP 949, 1439) In each instance, CPS either declined to investigate because the information provided did not warrant an investigation or investigated and issued a report finding the allegations to be unfounded. (CP 942-43, 949, 951-60, 1304-05)

The parenting evaluator expressed concern that Karla was manufacturing situations in which the children, under Karla's influence, would make allegations to a mandatory reporter who had no choice but to disclose the allegation to CPS. (*See* CP 949) As just one example, a "disclosure" by one of the sons to their psychologist resulted in a sexual assault investigation against Brad, causing both sons to be interviewed by CPS and police officers. (CP 949) The initial "disclosure" was that one son told Karla that, while sharing a bed with Brad, the bed "had shaken." (CP 880) From that, Karla convinced the boys that Brad had been masturbating while in bed with them, even though "the boys did not interpret Brad's behavior as sexual/masturbation until their mother characterized it this way." (CP 949) The parenting evaluator

believed that the son's "disclosure" was "influenced" by Karla. (CP 949) Both CPS and the Mercer Island police department concluded that the allegations were unfounded and closed their case. (CP 949) The trial court described the sexual abuse allegations as "some of the most toxic events in the proceeding." (3/29/13 RP 31; *See also* CP 866)

The parenting evaluator expressed concern that Karla's purported "strong" belief that Brad is abusive caused her to influence the sons' perception of Brad. (CP 949) The parenting evaluator reported that Karla's influence over the sons is "likely to cause significant psychological harm to the boys if left unmitigated." (CP 949) The parenting evaluator believed "the boys' relationship with their father may be seriously harmed if they are led to believe that he has abused them and that they should fear him." (CP 949) The parenting evaluator expressed concern "that new allegations of abuse or mistreatment of the boys by Brad will be raised by Karla to CPS (or through a mandatory reporter to CPS), and that Brad's residential contact might be further disrupted. More importantly, I am concerned that the boys will be exposed to further psychological harm by becoming increasingly influenced to adopt Karla's negative perception of their father." (CP 949)

3. To avoid further baseless CPS investigations, an August 2010 temporary order required both parents to report any abuse allegations first to the case manager.

As a result of the parenting evaluator's recommendations, the court "immediately" modified the temporary parenting plan to give Brad equal residential time with the sons pending trial. (CP 1564-65) An order entered August 19, 2010 also required that "if either parent has a concern that the other parent is abusing the boys, it shall be reported only to the case manager who shall determine if it rises to the level that should be reported to CPS." (CP 1066) The court appointed Jennifer Keilin as case manager. (CP 1066)

4. After trial in June 2011, the trial court found that appellant was "driving the conflict," ordered a shared residential schedule, and again required appellant to report any abuse allegations to the case manager first.

The trial court agreed with the parenting evaluator that Karla's strong feelings against Brad created conflict that was harming the sons. The trial court described the divorce as "extremely expensive and nasty," because of "a lot of inappropriate behavior and a lot of inappropriate reactions and a lot of unfounded beliefs" on the part of Karla. (CP 888) The trial court found that

Karla was "really, really angry" at Brad, and that she had been "sitting on such a big amount of anger that it's really informed a lot of her perception and her behavior in this case." (CP 885) The trial court believed Karla had failed to do "a good job of insulating the boys from her anger" or "establishing a barrier between her own feelings and what the boys are experiencing." (CP 885) The trial court stated that Karla "has seen herself as being very much victimized over time and not supported, and the boys have picked up that sense of victimization and have tried to support it." (CP 885)

The trial court found in particular that Karla's involvement of CPS and her influence over the sons was detrimental, the sons have been "damaged" as a result, and it was "bad" for them to be interviewed by "outsiders" and "professionals" based on false claims against their father:

> I cannot say clearly enough that I'm convinced that it has been detrimental to these boys to have the series of allegations that have been made in this case... [T]he boys have been damaged I am convinced. It is bad for boys to be interviewed during school hours by professionals. It is bad for boys to have to talk to outsiders. And it's bad for boys to have their parents, moms and dads, and gossiping about CPS's

> involvement with the family. It's all bad. And it needs to stop.

(CP 896)

Despite its expressed concern that Karla was "driving the conflict" between the parties, the trial court declined to find any basis under RCW 26.09.191 to limit her residential time or decision-making for the children. (CP 889) The trial court entered a final parenting plan on June 24, 2011, giving the parents equal time on a week on/week off basis, which would transition to a two-week on/two-week off basis after two years. (CP 99-100, 891) Despite some reservation, the trial court gave the parents a "shot" at joint-decision making, on the "condition that you are both working with a parenting professional to assist [ ] with decision making." (CP 894; *see also* CP 110) The court appointed Margo Waldroup as a "parenting communication coach" for this purpose. (CP 43)

In light of the trial court's concerns about Karla's history of involving CPS in her claims against Brad and its negative effect on the sons, the trial court re-affirmed the appointment of Jennifer Keilin as case manager "to assist the parties in addressing and resolving ongoing parenting issues of conflict, specifically a claim that could result in a referral to Children's Protective Services." (CP

37) The trial court's June 24, 2011 order directed that if Karla "should become aware of information related to new allegations of abuse by the father, she should immediately report this information to the Case Manager." (CP 37) The order prohibited Karla from making any "independent referrals to CPS or law enforcement, either directly or through mandated reporters, independent of the parenting coach and Case Manager." (CP 37) The case manager was intended "to avoid false allegations being reported to CPS or law enforcement and the children being interviewed unnecessarily by the above agencies." (CP 39)

Karla did not appeal this order. In this appeal, Karla does not challenge any of the trial court's findings of fact, including its post-trial May 31, 2011 oral ruling, which the trial court adopted as support for its parenting plan and its related orders. (CP 17)

B. In November 2011, the trial court found appellant in contempt for reporting a new allegation against the father to a mandatory reporter at the sons' school instead of the case manager. This order too was never appealed.

On September 27, 2011, Brad moved for contempt after learning that Karla had caused yet another CPS report against him, and had done so without first reporting her abuse allegations to the

case manager. (CP 1085) The incident had occurred on June 8, 2011 – after the August 19, 2010 was entered (CP 1066) and after the trial court issued its May 31, 2011 post-trial oral ruling (CP 896-97), but before final orders were entered on June 24, 2011. (CP 36-42, 98-115)

On the morning of June 8, 2011, the parties' son AH had complained of a sore neck after his overnight residential time with Brad. (CP 1107) Brad brought AH to school after AH declined Brad's offer to take him to the doctor. (CP 1107) Brad suggested that AH go to the school nurse if the pain persisted, AH did so that morning. (CP 1107) According to the school nurse's notes, AH described his injury as a "creak from sleeping." (CP 1109)

Later that day, Karla showed up at the school and had lunch with AH. (CP 1109) After his contact with Karla, AH returned to the school nurse and for the first time claimed that the soreness in his neck was because Brad had shoved him onto his bed. (CP 1109) Karla followed up with the school nurse, asking if AH "had told her what happened." (CP 1109) As a result of Karla's "prompt," the school nurse, a mandatory reporter, reported the allegation to CPS. (CP 1110)

On June 29, 2011, CPS determined that this allegation was unfounded. (CP 1110) On November 4, 2011, the parties appeared before the trial court, who had retained jurisdiction over parenting issues. (CP 21) The trial court found that Karla "intentionally" violated the August 19, 2010 order, and the May 31, 2011 oral ruling, both of which required Karla to report any new allegations to the case manager before involving a mandatory reporter. (CP 117) The trial court found that Karla was aware that AH was going to allege abuse by Brad, that she had an obligation to report it to the case manager first, but instead presented AH to mandatory reporters at the school. (CP 122) The trial court found that Karla "knew when she asked the school nurse 'Did [AH] tell you what happened' she was speaking to a mandatory reporter and had not contacted the case manager." (CP 122) The trial court found that Karla "knowingly violated this court's order by going intentionally to mandatory reporters," and that doing so was a "serious event." (CP 123)

Jennifer Keilin, who had been appointed as the case manager in August 2010, had apparently not been officially retained by the time of the June 2011 incident. (CP 1578) Karla argued that meant there was no case manager to whom she could report the alleged

"abuse." (*See* 11/4/11 RP 14) The trial court rejected this as a defense to the contempt because Karla believed that Keilin had been retained, but still failed to report the allegation to her first:

> Only – if your client had known that, it would look a lot better for her. Frankly, this whole thing would look better for me if she had called up, you know, the case manager and said, "I heard something disturbing from [AH]. Before I talk to a mandatory reporter or before he does, you know, can I talk to you?" And she'd said "Well, I haven't been paid yet, so no." Or "I don't know what you're talking about because I haven't been retained yet." That would be a real different situation.... But by her own admission she didn't make any effort to the case manager till after the whole encounter at the school.

(11/4/11 RP 14-15)

The trial court again stated that it did not believe that "the father was abusive" (CP 122), and "caution[ed] the mother to follow court orders or it will impair her ability to parent her children. [The mother] has figured out our legal system and knows how it works." (CP 123) The trial court repeated its concern that as a result of Karla's influence, "the boys' way of showing loyalty to the mother may be causing these reports [and] it needs to stop." (CP 123)

Although it found Karla's violation "serious," the trial court imposed only a "minor" sanction, ordering her to pay Brad's

attorney fees of $3,000 and to comply with the court's order. (CP 123) To purge her contempt, the trial court ordered Karla to comply with the terms of the court's orders and to report any allegations to the case manager before taking the child to a mandatory reporter. (CP 119) The trial court set a review hearing to determine the status of Karla's compliance for May 2012. (CP 119)

Karla did not appeal this November 2011 order either.

C. The trial court found that appellant had not yet purged her contempt by the May 2012 review hearing, but that she had purged her contempt by the time a written order was entered in March 2013.

The parties appeared for a review hearing on May 31, 2012 to determine whether Karla had purged her contempt. By that time, there was another CPS investigation still pending, based on another allegation first made in September 2011, prior to the earlier contempt hearing. (*See* CP 1442) Brad had not raised the September 2011 allegation as a basis for contempt because he had not yet been contacted by CPS and the investigation was not complete.[1] (*See* 1658) However, new information had arisen by the time of the May 2012 review hearing making it clear that Karla had

[1] By June 14, 2012, Brad had learned that CPS "screened out" the report and declined to investigate further. (CP 942-43)

once again had been directly involved in a mandatory reporter reporting abuse allegations to CPS. (CP 1442) The trial court declined to find that the mother had purged her contempt, apparently because of this outstanding report and its concern that the boys, under the negative influence of Karla, continued to make false allegations of abuse by the father. (*See* CP 866)

No written order from this hearing was entered until March 29, 2013. (CP 862) At the March 2013 presentation hearing, the trial court again expressed concern that Karla "will not and cannot let go of her grudge against [Brad]." (3/29/13 RP 6) The trial court stated that it was "really unhappy with some of the things I see from" Karla, including the "same old, same old," where issues "get inflated" when she is involved "and next thing you know, [Brad]'s a bad, abusive, neglectful dad." (3/29/13 RP 7, 8) The trial court pointed out that Karla "has had a history of taking fairly innocent reports to herself and blowing them into something that is much bigger than what happened." (3/29/13 RP 9) The trial court stated that one of the "central issues" is the "tendency of things [ ] to escalate into official reports that paint [Brad] in a false light as a bad or abusive father." (3/29/13 RP 13) The trial court pointed out

that none of Karla's allegations "have ever proved to be anything but smoke." (3/29/13 RP 8)

The trial court also expressed concern that Karla had been disseminating information regarding the CPS investigations to members of the Mercer Island community. (3/29/13 RP 6) In one instance, Karla had told the mother of the parties' sons' friend about the CPS investigations, which caused Brad to be a subject of the friend's parents' divorce. (CP 811) The father of the friend contacted Brad to ascertain the veracity of the claim because "whether or not Brad Hanson was an appropriate person to be around my children" had become an issue in his divorce. (CP 826-27) The trial court was "not happy with [Karla's] reluctance to let go of the CPS records and the ability to get them out there." (3/29/13 RP 6)

Nevertheless, while the trial court repeated that Karla had not purged her contempt at the time of the May 31, 2012 review hearing, it found she had purged the contempt by March 29, 2013, when the court entered its order. (CP 868) The trial court cautioned, however, that Karla must continue to comply with its orders or "it will have consequences in terms of the parenting plan if it doesn't stop." (3/29/13 RP 29) The trial court stated that

"continued behavior along these lines is something this court will take extremely seriously, and if it doesn't stop, then the only remedy is going to be contempt because repeated findings of contempt is the only basis to modify the existing parenting plan." (3/29/13 RP 11)

The trial court denied Karla's motion for reconsideration on April 22, 2013. (CP 870-71) As part of this order, the trial court rejected Karla's request to file her counsel's notes from the May 31, 2012 review hearing as a "Verbatim Report." (CP 870-71) The trial court ruled that while it was "pretty good notes, [t]he court said more things than what is in the notes [ ] and they are considered only for that purpose." (CP 871)

It is from this order that Karla now appeals. (CP 860)

III. ARGUMENT

A. The only orders before this court for review are those entered in 2013. The 2011 orders requiring appellant to report any abuse allegations to the case manager and finding her in contempt were not timely appealed.

The only orders before this court for review are the March 29, 2013 order and the April 22, 2013 order denying reconsideration, which purged her of the contempt that she complains about on appeal. Appellant's purported challenge to the

June 24, 2011 orders that required her to first report any abuse allegations to the case manager and to the November 4, 2011 order finding her in contempt are not before this court because she failed to timely appeal these orders.

Appellant's April 26, 2013 Notice of Appeal (CP 860) does not bring up for review the June 24, 2011 Order Appointing Case Manager, the June 24, 2011 Final Parenting Plan, or the November 4, 2011 Order on Contempt. A party must seek review within 30 days of the entry of an appealable order for this court to acquire appellate jurisdiction. RAP 5.2; *Carrara, LLC v. Ron & E Enterprises, Inc.*, 137 Wn. App. 822, 825-26, 155 P.3d 161 (2007) (dismissing appeal filed more than 30 days after entry of appealed order); *Bushong v. Wilsbach*, 151 Wn. App. 373, 213 P.3d 42 (2009) (same). Appellant's attempt to challenge these orders nearly two years after they were entered comes too late, and each of those orders now establishes the law of the case. *See Beltran v. State Dept. of Social and Health Services,* 98 Wn. App. 245, 254, 989 P.2d 604 (1999) (unappealed summary judgment is "now the law of the case"), *rev. granted*, 140 Wn.2d 1021 (2000). Appellant is thus bound by the final and appealable orders from which she failed to timely appeal.

In this appeal, appellant challenges the terms of the order appointing the case manager - in particular the requirement that she report any abuse allegations to the case manager first and not make referrals to CPS independent of the case manager. (App. Br. 20-27) This order was entered "pursuant to the Final Parenting Plan." (CP 36) It was a final order when it was entered in June 2011, and should have been appealed at that time if appellant disagreed with its terms. *Marriage of Possinger,* 105 Wn. App. 326, 332, 19 P.3d 1109 (2001) (a challenge to a final parenting plan is not timely if it is not appealed within 30 days following its entry), *rev. denied,* 145 Wn.2d 1008 (2001). The fact that the trial court built in a six-month review period of the case manager's duties (CP 37) did not make this order any less final. *Marriage of Adler,* 131 Wn. App. 717, 725-26, ¶¶ 15, 16, 129 P.3d 293 (2006) (a final parenting plan may include a "built in review" of its terms), *rev. denied,* 158 Wn.2d 1026 (2007).

Likewise, the appeal of the November 2011 order finding appellant in contempt for "intentionally, knowingly, and willfully" violating the "court ordered reporting process" (CP 118) is also untimely. (App. Br. 27-41) *See Wagner v. Wheatley,* 111 Wn. App. 9, 15-16, 44 P.3d 860 (2002) ("An adjudication of contempt is

appealable if it is a final order or judgment; i.e., the contumacy – the party's willful resistance to the contempt order – is established, and the sanction is a coercive one designed to compel compliance with the court's order."); *Seattle Northwest Securities Corp. v. SDG Holding Co., Inc.,* 61 Wn. App. 725, 732-33, 812 P.2d 488 (1991) (same). Even if the November 2011 contempt ruling "prejudicially affects" the March 2013 ruling that appellant had not yet purged her contempt by May 2012 to warrant review under RAP 2.4(b), this would not bring up for review the June 2011 final orders on which the contempt was based. "A contempt judgment will normally stand even if the order violated was erroneous or was later ruled invalid." *City of Seattle v. May*, 171 Wn.2d 847, 852, ¶ 6, 256 P.3d 1161, 1163 (2011)("The collateral bar rule prohibits a party from challenging the validity of a court order in a proceeding for violation of that order"); *Matter of J.R.H.*, 83 Wn. App. 613, 616, 922 P.2d 206 (1996) (declining to review validity of order underlying contempt order because it was not timely appealed); *Griffin v. Draper*, 32 Wn. App. 611, 614, 649 P.2d 123 (appeal of contempt order did "not bring forward the original judgment for review because the appeal is more than 30 days from the judgment"), *rev. denied*, 98 Wn.2d 1004 (1982); *see also Holiday v.*

City of Moses Lake, 157 Wn. App. 347, 353, 357, ¶¶ 15, 28, 236 P.3d 981 (2010) (City could not challenge writ of prohibition by appealing show cause order entered a year and a half later), *rev. denied*, 170 Wn.2d 1023 (2011).

The only exception to this rule is if the order alleged to be violated was entered without jurisdiction. *Matter of J.R.H,* 83 Wn. App. at 616. "The 'jurisdiction' test measures whether a court, in issuing an order or holding in contempt those who defy it, was performing the sort of function for which judicial power was vested in it. If, but only if, it was not, its process is not entitled to the respect due that of a lawful judicial body." *Matter of J.R.H.*, 83 Wn. App. at 617. Appellant does not and cannot claim the trial court lacked jurisdiction to enter its June 2011 orders.

Instead, appellant complains that the June 2011 orders imposed unconstitutional "speech restrictions." Appellant cites absolutely no authority for her claim that the alleged speech restrictions renders the orders "void [and] all associated past penalties vacated, and such provisions stricken from any future application." (App. Br. 23) This is not a valid basis to review these long-final orders as part of a review of an order determining whether appellant had purged a previous finding of contempt. *See*

Detention of Broer v. State, 93 Wn. App. 852, 957 P.2d 281 (1998) (refusing to consider challenge to underlying order in which appellant was found in contempt under the collateral bar rule when he cited "no authority for the proposition that these constitutional violations render the void the trial court's order"), *rev. denied*, 138 Wn.2d 1014 (1999); *In re Schneider,* 173 Wn.2d 353, 362, ¶ 17, 268 P.3d 215, 219 (2011) ("A court that grants relief beyond the scope of its authority commits an error of law but does not exceed its subject matter jurisdiction"), *appeal after remand*, 174 Wn. App. 1076 (2013)*; City of Seattle v. May,* 171 Wn.2d at 853, ¶ 7 (a court does not lose jurisdiction by entering an erroneous order, no matter how flagrant)*; See also e.g. Adler,* 131 Wn. App. at 728, ¶¶ 25, 26 (speech restrictions in a final parenting plan will not be reviewed as a part of an appeal denying a motion to vacate because any error of law was not related to the "regularity of the court's proceedings").

Because only the March/April 2013 orders are before this court, the following addresses those arguments first:

B. Appellant is not aggrieved by the March 2013 order purging her contempt and the trial court did not abuse its discretion in finding that she had not purged her contempt by the May 2012 review hearing.

The appellant is not aggrieved by the March 2013 order because she received exactly what she requested at the presentation hearing: "I would ask the court to purge my contempt at this hearing in order to avoid the necessity of another review." (CP 270) (*See also* CP 416: "I am asking that the court purge the contempt at this [March 2013] hearing. In the alternative, I would ask that the court automatically purge it on May 31, 2013."; CP 617: "[R]ather than ask us to pick at the wound that coming to court creates, I would ask the court to purge the contempt now [in March 2013].") Because the appellant is not aggrieved she is not entitled to challenge this order on appeal. RAP 3.1 (only an aggrieved party may seek review by the appellate court); *See e.g. Breda v. B.P.O. Elks Lake City* 1800 So-620, 120 Wn. App. 351, 353, 90 P.3d 1079 (2004) (clients were not "aggrieved" by the trial court's sanction of their attorney for his own misconduct, thus could not appeal the sanctions).

Since the trial court found appellant has now purged her contempt, her challenge to the court's earlier finding that she had

not *yet* purged her contempt is moot, as this court can no longer provide her effective relief. *Orwick v. City of Seattle*, 103 Wn.2d 249, 253, 692 P.2d 793 (1984); *Lunsford v. Waldrip,* 6 Wn. App. 426, 432, 493 P.2d 789 (1972) (a challenge to a contempt order is rendered moot when the party appealing the order has already served his jail sentence).

Even if her challenge is not moot and the appellant is aggrieved, the trial court did not abuse its discretion in finding that appellant had not purged her contempt by May 2012. "It must be left to the considered discretion of the trial court to decide whether the contemnor has purged [herself] of contempt by [her] subsequent conduct and attitude." *Keller v. Keller,* 52 Wn.2d 84, 91, 323 P.2d 231 (1958). In this case, the trial court found that appellant's "subsequent conduct and attitude" did not warrant purging her contempt in May 2012. The trial court found that despite the earlier finding of contempt, it was still seeing the "same old, same old" from appellant, in that allegations against the father continued to "get inflated," her actions continued to create conflict with the father, and her negative influence over the sons continued to cause abuse reports to mandatory reporters, including the most recent report in September 2011. (3/29/13 RP 6-8)

Appellant complains that the September 2011 report could not be a basis for the trial court's finding that she had not yet purged her contempt because it occurred prior to the November 2011 contempt finding. (App. Br. 41) But there was no direct evidence regarding this report at the time of the November 2011 hearing. (CP 1658) By the time of the May 2012 review hearing, the case manager was finally able to report the details, including that appellant took the child to the meeting with the counselor when the disclosure was made. (CP 1312) Appellant never denied knowing that the disclosure would be made by the son at this meeting, and in fact acknowledged that she knew of the bruise that was the premise of the disclosure. (*See* CP 617, 1313)

Based on this evidence, and the appellant's "history" of involving the sons in "a drama that they don't need and is not warranted" (3/29/13 RP 9-10), the trial court could infer that appellant, as she had previously, had known of the pending allegation, but nevertheless presented the child to a mandatory reporter knowing that it would be reported, without first contacting the case manager. This was not a "gut feeling" of the trial court, as argued by appellant (App. Br. 43), but a reasonable inference from the evidence that the trial court was entitled to take in light of its

history with this case and the parties. *Marriage of Rich,* 80 Wn. App. 252, 259, 907 P.2d 1234 (trial court is entitled to deference for the weight it gives evidence and the inferences it draws from that evidence), *rev. denied*, 129 Wn.2d 1031 (1996); *Marriage of Rideout,* 150 Wn.2d 337, 352, 77 P.3d 1174 (2003) ("trial courts are better equipped than multijudge appellate courts to resolve conflicts and draw inferences from the evidence").

While this September 2011 incident could have been a basis for a separate finding of contempt, the trial court instead relied on it to find that appellant had not purged the first contempt. The trial court reasoned that it would leave the contempt in place to ensure future compliance and give appellant another opportunity to purge the contempt. (*See* CP 364, 868) That decision was well within the trial court's discretion and is supported by substantial evidence.

C. The trial court was not required to "correct" the proffered transcript created by appellant's counsel from her notes.

The trial court acknowledged that the "transcript" created by the appellant's trial counsel from her notes of the May 2012 hearing, which was not recorded or reported, was "pretty good notes." (CP 871) But it declined to allow the appellant to file it as a "verbatim report" because the trial court "said more things than

what is in the notes." (CP 871) The trial court was not required to "correct" the proffered notes to make a proper report, as appellant complains on appeal. (App. Br. 43)

While RAP 9.5(c) provides that the trial court "settle the record" when there are objections to a narrative report, the trial court was never asked to do any more than accept the proffered "transcript." In fact, when appellant initially presented this "transcript," she merely filed it with the court as a "Transcript of May 31, 2012 Review Hearing Proceeding," without asking for permission. (CP 59-66) Only after the father objected did appellant for the first time refer to it as a RAP 9.3 "Narrative Report." (*See* CP 374-75, 835-36) Even then, she did not ask the court to "settle the record" or make "corrections" if it found it was inadequate. (*See* CP 835-36) Absent any indication in the record that appellant advanced this particular claim in any substantive fashion at trial, it cannot be considered on appeal. *Marriage of Studebaker*, 36 Wn. App. 815, 818, 677 P.2d 789 (1984); *see also* RAP 2.5(a); *Lindblad v. Boeing Co.*, 108 Wn. App. 198, 207, 31 P.3d 1 (2001) (declining to review issue, theory, argument, or claim of error not presented at the trial court level).

Even after the trial court rejected the appellant's offered narrative report of proceedings, appellant still listed it as part of her "Statement of Arrangements," and attempted to make it part of the record in this court. (*See* Supp. CP 1689-1701 (Sub. no. 307)) After respondent objected, a commissioner of this court struck the narrative report, noting that appellant "should have informed this Court" of the trial court's ruling rejecting it. (Sept. 19, 2013 Commissioner Ruling) Despite this ruling, appellant continues to cite to this "Narrative Report" in her brief (App. Br. 5, 14, 16), and does so without advising this court that the commissioner struck it from the record. This court should award fees as a sanction for appellant's transgression in citing to portions of the record stricken by both the trial court and a commissioner of this court without advising this court of the rulings. *See* Argument § G, *infra*.

D. The November 2011 contempt order is supported by substantial evidence, and requiring appellant to comply with its orders as a means of purging her contempt was within the trial court's discretion.

This court only needs to consider this argument if it determines it has jurisdiction to review the trial court's November 4, 2011 order finding the mother in contempt. *See* Argument § A, *supra*.

1. Undisputed evidence supports the trial court's finding that appellant knowingly and willfully violated its order.

"An attempt by a parent [ ] to refuse to perform the duties provided in the parenting plan [ ] shall be deemed bad faith and shall be punished by the court by holding the party in contempt of court and by awarding to the aggrieved party reasonable attorneys' fees and costs incidental in bringing a motion for contempt of court." RCW 26.09.160(1); *Marriage of Rideout*, 150 Wn. 2d 337, 349, 77 P.3d 1174 (2003). "Whether contempt is warranted in a particular case is a matter within the sound discretion of the trial court; unless that discretion is abused, it should not be disturbed on appeal." *King v. DSHS*, 110 Wn.2d 793, 798, 756 P.2d 1303 (1988). This court reviews a trial court's factual findings for substantial evidence, and will not review credibility determinations on appeal. *Rideout,* 150 Wn.2d at 352; *see also Marriage of Davisson*, 131 Wn. App. 220, 226, ¶ 13, 126 P.3d 76, *rev. denied*, 158 Wn.2d 1004 (2006).

Appellant does not, and cannot, seriously challenge the trial court's finding that she was in contempt, because she does not deny that she caused a CPS investigation when she presented the parties' son to a mandatory reporter knowing that he was about to disclose

alleged abuse, and failed to report it first to the appointed case manager. Instead, her only defense is that the case manager was apparently "not in place" at the time of the event in June 2011 because her retainer had not been paid. (App. Br. 37-38)

The trial court properly rejected this as a defense when it is undisputed that 1) there was a court order appointing the case manager in August 2010 (CP 1066), 2) appellant knew who the case manager was and how to contact her (CP 1578), 3) appellant did not know that the case manager had not yet receive her retainer (CP 1578), and 4) appellant did not contact the case manager before taking the son to a mandatory reporter as required by the August 9, 2010 order and the May 31, 2011 oral ruling. (CP 1578) The trial court also properly found that appellant had the ability to comply with the court's rulings requiring that she contact the case manager first before any contact with a mandatory reporter, but knowingly and willfully failed to do so. (CP 117-19, 122-23)

Appellant questions whether the trial court could have found her in contempt of its May 31, 2011 oral ruling because the order appointing the case manager was not entered until 16 days after she caused the fifth CPS investigation on June 8, 2011. (App. Br. 38, fn. 17) But a "violation of an oral order may serve as a proper basis for

a contempt finding." *Stella Sales, Inc. v. Johnson*, 97 Wn. App. 11, 20, 985 P.2d 391, *rev. denied*, 139 Wn.2d 1012 (1999). In any event, there is no dispute that appellant could have, and was, found in contempt of the August 19, 2010 written ruling requiring her to make abuse allegations to the case manager.

2. The trial court's order requiring that appellant show future compliance with its orders in order to purge contempt was well within its discretion.

It was well within the trial court's discretion to order appellant to "comply with the terms of the Case Manager order and Parenting Communication Coach order and [ ] first report any allegation she is aware of to the case manager before she takes the children to a mandatory reporter" as a means to purge her contempt. (CP 119) Appellant is wrong when she claims that the trial court could only order sanctions enumerated in RCW 26.09.160(2)(b) unless it made a "specific finding that statutory remedies are inadequate." (App. Br. 28-29)

In addition to the sanctions for contempt under RCW 26.09.160(2)(b), the statute also provides the court with authority to exercise its power to impose remedial sanctions under "any other contempt power the court may possess." RCW 26.09.160(6). RCW

7.21.030(2)(c) gives the court authority to enter "an order designed to ensure compliance with a prior order of the court." In this case, an order requiring appellant to continue to comply with its orders to purge her contempt was well with its discretion. *See In re M.B.*, 101 Wn. App. 425, 447-49, 3 P.3d 780 (2000) (requiring future compliance of the order that the contemnor is found to have violated is an "appropriate purge condition"), *rev. denied*, 142 Wn.2d 1027 (2001).

Appellant appears to argue that her "promise" to comply with the court's orders in the future required the trial court to impose no purge condition, absent a finding that her promise was "demonstrably unreliable." (App. Br. 40, *citing In re M.B.*, 101 Wn. App. at 447-450) First, appellant made no such promise. Second, this court in *M.B.* held that a promise is only a "first step," and "where the promise is demonstrably unreliable, the court can insist on more than mere words of promise as a means of purging contempt. To conclude otherwise would render the statutes unenforceable and reduce the court to the level of beggar." *In re M.B.*, 101 Wn. App. at 448.

In this case, the trial court clearly concluded that any promise by appellant to comply with its orders without more was

"demonstrably unreliable," requring a review in six months and evidence that appellant was complying with its orders before the trial court would find she had purged her contempt. The trial court expressly stated its concern that despite the fact it had "told [her] all along" that her negative influence on the sons' perception of their father had to stop, it did not believe that it was "getting through to [her] well on this." (11/4/11 RP 24, 25) The trial court stated that appellant still had "some work to do" (11/4/11 RP 33), and it warned her that there needed to be "no more contempts." (11/4/11 RP 35)

Appellant complains that somehow requiring her to wait six months before she could be found to have purged her contempt was "punitive." (App. Br. 30-35) But there is no requirement that a party should be allowed to "immediately" purge her contempt. (App. Br. 33-34) "Mere passage of time [ ] does not transform coercive contempt into punitive contempt." *King v. Dep't of Soc. & Health Servs.*, 110 Wn.2d 793, 803, 756 P.2d 1303 (1988). Further, the Washington cases cited by appellant for the argument that a contemnor must be able to immediately purge her contempt address contemnors who are dealing with actual or threatened detention. *See e.g. King,* 110 Wn.2d 793 (App. Br. 33) (father jailed

for disobeying an order requiring him to bring his son to a dependency hearing); *In re Silva,* 166 Wn.2d 133, 206 P.3d 1240 (2009) (App. Br. 33-34) (juvenile placed in detention for refusing to comply with at-risk youth order); *In re M.B.,* 101 Wn. App. 425 (App. Br. 34) (D.M., a juvenile, placed in detention for violating a CHINS order); *Marriage of Didier,* 134 Wn. App. 490, 140 P.3d 607 (2006) (App. Br. 35) (threatening father with incarceration if he failed to pay his court-ordered obligations), *rev. denied*, 160 Wn.2d 1012 (2007). As this court held in *M.B.,* it is improper to place a party "under an indefinite finding of contempt," because "the contemnor must be able to purge the contempt (and the threat of a detention sanction) within some definite time frame." *M.B.,* 101 Wn. App. at 465-66.

Here, there was never any threat of detention; the trial court acknowledged that the father had a "strong desire not to put [the mother] in jail, and I am never going to be putting her in jail, even if you ask me to." (3/29/13 RP 11) There was also a "definite time frame" during which appellant could purge her contempt – six months of full compliance with the trial court's orders

Whether a purge provision is remedial rather than punitive depends on if it has a "coercive effect" and "the contemnor is able to

purge the contempt." *In re Silva,* 166 Wn.2d 133, 206 P.3d 1240 (2009). As a preliminary matter, it is hard to fathom under what circumstance requiring a party to comply with an existing equitable order is "punitive." But in any event, the purge condition here is clearly remedial, because it had the "coercive effect" of compelling appellant's compliance with the trial court's order. Further, the trial court found, and appellant does not challenge, that she had the ability to comply with its orders to purge the contempt. That a review hearing was set for six months out to determine whether she had does not make the purge conditions punitive. *See State ex rel. Shafer v. Bloomer*, 94 Wn. App. 246, 252, 973 P.2d 1062 (1999).

In *Bloomer,* the court rejected an argument similar to the one appellant makes here that "the number and frequency of the review hearings held pursuant to the order to show cause regarding contempt sentenced him to a 'lifetime of probation' in violation of his due process rights." 94 Wn. App. at 252. The court held that the trial court has the "duty to enforce the terms of its contempt order, including periodic review hearings to check compliance." *Bloomer*, 94 Wn. App. at 252. "It is not unreasonable to periodically review the contempt order, in court, as a method of coercing compliance [and once the father] is in full compliance with

the order of contempt, it is reasonable to dismiss the action and the corresponding review hearings." *Bloomer*, 94 Wn. App. at 253.

Likewise, it was not unreasonable for the court to wait six months before determining whether appellant purged her contempt in this case. Appellant was not under a "lifetime of probation." Instead, her "probation" was only six months, so long as she complied with the trial court's orders.

E. The trial court's June 2011 orders preventing harmful CPS investigations based on false allegations were well within the trial court's discretion.

This court should reject as untimely the mother's challenge to the trial court's orders, entered more than two years earlier, requiring appellant to disclose any abuse allegations to the case manager and avoid any other report to a mandatory reporter independent of the case manager. *See* Argument § A, *supra*. Even if this court could consider the challenge, the trial court's reasonable limitations on appellant's conduct are supported by the evidence and well within the trial court's discretion.

Trial courts are given broad discretion to fashion parenting plans, including by imposing restraints on a parent to protect the other parent's authority and ability to parent. *Marriage of Adler,*

131 Wn. App. 717, 728, ¶ 25, 129 P.3d 293 (2006). Where the trial court has weighed the evidence, appellate review is limited to determining whether substantial evidence supports the findings, and if so, whether the findings in turn support the trial court's conclusions of law. *Marriage of Rideout*, 110 Wn. App. 370, 377, 40 P.3d 1192 (2002), *aff'd,* 150 Wn.2d 337, 77 P.3d 1174 (2003). Because none of the trial court findings of fact entered in June 2011 to support its orders are challenged, they are verities on appeal. *Brewer v. Brewer*, 137 Wn.2d 756, 765-66, 976 P.2d 102 (1999).

The concerns raised by appellant do not rise to constitutional dimensions. "The First Amendment does not guarantee the right to communicate one's views at all times and places or in any manner that may be desired." *Bering v. SHARE*, 106 Wn.2d 212, 222, 721 P.2d 918 (1986) (*citations omitted*). A court "may impose reasonable time, place and manner restrictions upon all expression, whether written, oral or symbolized by conduct. Such restrictions are valid if they are content-neutral, are narrowly tailored to serve a significant government interest, and leave open ample alternative channels of communication." *Bering,* 106 Wn.2d at 222 (*citations omitted*).

Here, the trial court's order requiring appellant to report any abuse allegations first to the case manager, and to refrain from making any independent referrals to CPS or law enforcement, was a reasonable and necessary restriction because of appellant's previous conduct, and was narrowly tailored to protect the children from any further psychological harm from involving CPS and law enforcement if more false allegations were made. In any event, appellant is not totally barred from making abuse allegations against the father - the order only prevents her from directing those allegations directly to CPS or indirectly through mandatory reporters. The appellant is left with "open ample alternative channels of communication," *Bering,* 106 Wn.2d at 222, including to the case manager and non-mandatory reporters.

In *Dickson v. Dickson*, 12 Wn. App. 183, 186, 529 P.2d 476 (1974), *cert. denied*, 423 U.S. 832 (1975), the appellate court upheld an order restraining the father from making defamatory statements about the mother that threatened to have a detrimental emotional effect on the children. The *Dickson* court held that First Amendment rights are not absolute, and interference with the mother's right to privacy and the children's well-being outweighed the father's exercise of his rights of free speech and free exercise of

religion. *Dickson*, 12 Wn. App. at 186, 188; *See also Marriage of Olson*, 69 Wn. App. 621, 630, 850 P.2d 527 (1993) (upholding an injunction restraining father from making disparaging remarks about the mother to the children); *Marriage of Farr*, 87 Wn. App. 177, 185, 940 P.2d 679 (1997), *rev. denied*, 134 Wn.2d 1014 (1998) (upholding a finding of contempt when father violated provision of the parenting plan restraining him from disparaging the mother to the children).

The order here is unlike the order in *Marriage of Suggs*, 152 Wn.2d 74, 93 P.3d 161 (2004) (App. Br. 23), in which our Supreme Court reversed a broadly drafted anti-harassment order that restrained the former wife from "knowingly and willfully making invalid and unsubstantiated allegations or complaints to third parties" about her former husband. The order here is not so broad. Appellant is, regrettably, free to disparage the father to third parties. Appellant is only prevented from making an allegation of abuse to any mandatory reporters except the case manager. Appellant could continue to make these allegations to anyone else so long as they are not a mandatory reporter and not to CPS - and in fact, has continued to do so. (*See* CP 811, 826-27) Further, unlike the order in *Suggs*, the order here has a very narrow purpose to

protect the children from what the trial court found was damaging and psychologically harmful interviews with third parties and law enforcement officers based on false allegations against their father.

Finally, the trial court's order requiring appellant to report abuse allegations to the case manager instead of directly to CPS does not infringe on appellant's right to "petition the government." (App. Br. 25) As with freedom of speech, this right is not absolute. *See State v. Alphonse*, 147 Wn. App. 891, 901-02, ¶¶ 13-16, 197 P.3d 1211 (2008) (defendant's right to petition the government was not violated when he intended to harass and intimidate a police officer, in connection with his grievance to the police department), *rev. denied*, 166 Wn.2d 1011 (2009).

This case is an entirely different situation from *Marriage of Meredith*, 148 Wn. App. 887, 201 P.3d 1056, *rev. denied*, 167 Wn.2d 1002 (2009) (App. Br. 26), in which Division Two vacated a provision in a protection order that restrained the former husband from "contacting any agency regarding [the wife]'s immigration status." 148 Wn. App. at 895, ¶ 11. There, the appellate court's concern was that the trial court had not first made a determination that the husband had "abused his right to speak" before entering this restraint. 148 Wn. App. at 897, ¶ 17. But here, the trial court

did find appellant had abused her right to speak, due to her history of making false allegations that resulted in CPS investigations that the trial court found were "detrimental" to the sons and had "damaged" them. (CP 896)

The trial court's order in this case is not much different than those orders limiting a litigant's ability to file pleadings when it is found that they have abused the privilege. For instance, in *Marriage of Giordano,* 57 Wn. App. 74, 787 P.2d 51 (1990), this court upheld an order imposing a moratorium on motions after the trial court found that the wife had "burdened the court with excess verbiage, diatribes and petty claims." 57 Wn. App. at 76. This court acknowledged that while there is right to access to the courts, it is not absolute. The "requirement that litigation proceed in good faith and comply with court rules has always been implicit in the right of access to courts." *Giordano,* 57 Wn. App. at 77. "If access is to be guaranteed to all, it must be limited as to those who abuse it." *Giordano,* 57 Wn. App. at 77-78.

In this case, the trial court found that the mother had abused her right to petition CPS, because of her false allegations against the father that not only took up time from CPS to investigate, but worse yet, harmed the children whom CPS is charged to protect. An order

placing reasonable limits on any right she has to petition CPS was wholly appropriate. Appellant was not denied access to CPS, instead, her access was reasonably limited by requiring her to pursue any abuse claim through the case manager, who could make the report on the mother's behalf. (CP 37) The trial court's order was well within its discretion to protect the children from harm.

F. In the event of remand, this case should return to the same trial judge who has followed this case over the last 3 years.

There is no evidence that the trial court was biased. In the unlikely event that this matter is remanded for any reason, this court must reject appellant's meritless and wasteful request for a different judge. *Marriage of Sievers*, 78 Wn. App. 287, 314, 897 P.2d 388 (1995). "Without evidence of actual or potential bias, an appearance of fairness claim cannot succeed and is without merit." *Santos v. Dean*, 96 Wn. App. 849, 857, 982 P.2d 632 (1999), *rev. denied*, 139 Wn.2d 1026 (2000) (citations omitted). The mere fact that the trial court previously ruled against a party is not evidence of bias. *See Business Services of America II, Inc. v. WaferTech LLC,* 159 Wn. App. 591, 600, ¶ 15, 245 P.3d 257 (2011), *aff'd*, 174 Wn.2d 304, 274 P.3d 1025 (2012); *see also Shepler Const., Inc. v. Leonard,* 175 Wn. App. 239, 250, ¶ 24, 306 P.3d 988 (2013).

Custody of R., 88 Wn. App. 746, 947 P.2d 745 (1997) (App. Br. 47-48), does not support appellant's demand for a new judge. There, Division Two held that the trial court's direct response to a party's question, "are you mad at me?" with "I don't like what you did... We don't like that as judges," coupled with the trial court's denial of a requested continuance, could make it appear that the trial judge was impartial, requiring remand to a different judge. *Custody of R.*, 88 Wn. App. at 763. But here, while the trial court expressed displeasure with appellant's previous actions that resulted in the initial finding of contempt, it ultimately found that she had purged her contempt. In other words, unlike in *Custody of R.*, the trial court here ultimately ruled in favor of the mother. Further, the trial court found that appellant had "improved" in her communications with the father. (3/29/13 RP 4) The trial court also acknowledged that while appellant may be "willfully blind" to the effect of her actions, it would not "impute nefarious motives to her." (3/29/13 RP 10) If remand is required, this court should remand it to the same judge who has presided over this case for the last three years.

G. This court should award attorney fees to the father for having to respond to this appeal.

This appeal of an order finding that appellant purged her contempt – the exact relief she requested in the trial court – is both frivolous and a sham. Appellant is not really asking this court to review that decision. Instead, she is using this appeal to challenge orders that were entered 2 ½ years earlier. Her untimely challenge to these orders, prosecuted on her behalf by experienced appellate counsel, is clearly by design, as evidenced by the fact that appellant's initial designation of clerk's papers included *only* those orders entered in June 2011 and earlier. (CP 1-56)

The father should not forced to bear the cost of this meritless appeal, and appellant should be ordered to pay his fees. RAP 18.9; *Holiday v. City of Moses Lake,* 157 Wn. App. 347, 356, ¶¶ 27-28, 236 P.3d 981 (2010). In *Holiday,* the City filed an appeal of an order that found it had violated a writ of prohibition entered 18 months earlier, but declined to find it in contempt because its violation was unintentional. On appeal, the City challenged the writ of prohibition, along with the order to show cause. The court held that the City's challenge to the writ was untimely because it failed to appeal that ruling and instead "waited to appeal the show cause

order." *Holiday*, 157 Wn. App. at 353, ¶ 15. The court awarded fees to the respondent because "essentially, the City seeks to appeal the writ of prohibition, over one and a half years after its issuance. Thus, its appeal is without merit, and the [respondents] are entitled to attorney fees pursuant to RAP 18.9(a)."

Likewise, the father is entitled to attorney fees here pursuant to RAP 18.9(a). Even if this court concludes that the appeal is not frivolous, this court should award attorney fees to the father under RCW 26.09.160 and RCW 7.21.030, for defending the trial court's determination whether the mother purged her contempt.

IV. CONCLUSION

This court should affirm the trial court's orders and award attorney fees to the father for having to respond to this appeal.

Dated this 31st day of January, 2014.

SMITH GOODFRIEND, P.S.

By: _____
Valerie A. Villacin
WSBA No. 34515
Catherine W. Smith
WSBA No. 9542

THE LAW OFFICE OF
TERESA C. McNALLY, PLLC

By: _____
Teresa C. McNally
WSBA No. 17566

Attorneys for Respondent

DECLARATION OF SERVICE

The undersigned declares under penalty of perjury, under the laws of the State of Washington, that the following is true and correct:

That on January 31, 2014, I arranged for service of the foregoing Brief of Respondent, to the court and to the parties to this action as follows:

Office of Clerk Court of Appeals - Division I One Union Square 600 University Street Seattle, WA 98101	___ Facsimile ___ Messenger X U.S. Mail ___ E-Mail
Teresa McNally The Law Office of Teresa C. McNally PLLC 1424 4th Avenue, Suite 1002 Seattle, WA 98101-4604	___ Facsimile ___ Messenger ___ U.S. Mail X E-Mail
Gregory M. Miller Carney Badley Spellman PS 701 5th Ave Ste 3600 Seattle, WA 98104-7010	___ Facsimile ___ Messenger X U.S. Mail X E-Mail
Alexandra Moore-Wulsin Strata Law Group 600 University Street, Ste. 1020 Seattle, WA 98101-4107	___ Facsimile ___ Messenger X U.S. Mail X E-Mail

DATED at Seattle, Washington this 31st day of January, 2014.

V. Vigoren

Victoria K. Vigoren