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SUPREME COURT
OF THE STATE OF WASHINGTON

No. 74034-2

COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON

In re the Marriage of:

VIKAS LUTHRA,

Petitioner,

vs.

ARADHNA FORREST (fka Luthra),

Respondent.

PETITION FOR REVIEW

Respectfully Presented by

VIKAS LUTHRA (Pro Se).

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A. Identity Of Petitioner.

Vikas Luthra, respondent in the Superior Court and Appellant in the Court of Appeals, respectfully requests this Court to accept review of the Court of Appeals decision designated in Part B of this petition.

B. Court Of Appeals Decision.

COA - Division One's decision was entered on February 6, 2017. A copy of the unpublished opinion is attached (as **Appendix A.**)

C. Issues Presented For Review.

1. Did the Appellate Court improperly rely on **Ingraham v. Wright, 430 U.S. 651, 97 S. Ct. 1401, 51 L. Ed. 2d 711 (1977)** in ruling that contempt sanction in this case (75 days of work crew) was not a violation of Luthra's Eight Amendment right to be free from cruel and unusual punishment?

2. Did the Appellate Court err in affirming the trial court's Contempt of Parenting Plan Findings in this matter as it relates to modality of treatment of Luthra's OCD?

D. Statement Of The Case.

Appellant Luthra and respondent Aradhna Forrest are parents of a 13 years old Son. After a dissolution proceeding in 2010, a Parenting Plan Final Order (**Appendix B**) was entered in the case splitting time between the two parents.

The Parenting Plan from 2010 withheld mid-week visitation from Luthra “until the father’s therapist provides a status report to counsel and to me that affirmatively reports on the father’s commitment to and progress in treatment.” (**Appendix B, Page 2, Line 17-19**).

The Findings of Fact stated “Mr. Luthra should immediately engage in intensive, home-based therapy for his OCD, which is likely to include both exposure and response prevention and cognitive behavioral therapy, as recommended by Dr. Hastings. This therapy should be undertaken with a therapist highly experienced in intensive OCD treatment and will also likely include medication. The frequency and length of intensive treatment should be as recommended by the therapist, and should be followed by

maintenance level treatment specifically for OCD long-term. When the father has begun treatment, the therapist shall report that fact, outlining the nature and frequency of the treatment to both counsel.

(Appendix C, Page 6, Line 1-5)

Both parents were allowed liberal vacation privileges with the child, and major decisions relating to Non-Emergency Health Care and Religious Upbringing for the Child were designated in Section 4.2 of the Parenting Plan as “Joint”.

The Parenting Plan Final Order (PP) Amended on 9/9/13 stated : “The father’s mid-week visits will stop until the father is in compliance with the court’s orders regarding treatment, the father’s therapist provides a status report to counsel and to Judge Fleck (or any successor Judge or Commissioner if no successor Judge is assigned) that affirmatively reports on the father’s commitment to and progress in treatment, and the court approves the start of midweek visits” **(Appendix D, Page 2, Line 19-22)**

Subsequent to the trial, Luthra sought the medical opinion of the specialists at Valley Medical Center's Psychiatry and Counseling Clinic in Renton. At the advice of Dr. Triet Nguyen (DO Psychiatry) and Ms. Nancy Eveleth (Licensed Mental Health Counselor who testified at the dissolution proceedings), Luthra also started seeing Ms. Rhonda Griffin (LMHC) at that Clinic to comply with the "intensive" OCD treatment requirement of the Parenting Plan.

On October 19th, 2011, Luthra's Counsel at that time – Patrice Johnston submitted a letter to the Court of Judge Deborah Fleck informing her of Luthra's participation in OCD therapy with Ms. Griffin, and the medical reasoning for the same along with supporting letters from Dr. Nguyen and Ms. Eveleth. The Court never directed Luthra to discontinue seeing Ms. Griffin or question her qualifications to render the ordered therapy.

Luthra continued to work with Dr. Nguyen, Ms. Griffin and Ms. Eveleth on a regular basis per their medical directive thereafter. However, in June 2015, Forrest filed a Contempt of Court action

against Luthra regarding dispute between the parties related to Child Support pass through payment and (newly) alleging Luthra was in violation of the OCD treatment requirements of the Parenting Plan despite having not objected to his seeing Ms. Griffin when originally notified in October, 2011.

The resulting orders from subsequent Contempt Of Court hearings in the matter were the issues before COA, Division 1 in Luthra's Appellate filings.

E. Argument Why This Court Should Accept Review.

- 1. The Court Of Appeals Decision Conflicts With A Previous Supreme Court Decision Holding That Adult Persons Have The Fundamental Right To Control The Decisions Relating To The Rendering Of Their Own Medical Care, Including The Decision To Have Life-Sustaining Procedures Withheld or Withdrawn In Instances Of A Terminal Condition. RAP 13.4(b)(1),(3)**

This Court should grant review per RAP 13.4(b)(1),(3) because the decision of COA affirming the trial court finding Luthra in contempt for using mental treatment modality prescribed by his Doctor's over the modality supposedly expected by the Trial Court) conflicts with the language and spirit of previous orders of this

Court and with State Statutes.

a) In Specific, *In re Colyer*, 660 P.2d 738, 99 Wash. 2d 114, 99 Wash. 114 (1983)

*...**The legislature finds that adult persons have the fundamental right to control the decisions relating to the rendering of their own medical care**, including the decision to have life-sustaining procedures withheld or withdrawn in instances of a terminal condition.”...*

*...**The legislature further finds that, in the interest of protecting individual autonomy**, such prolongation of life for persons with a terminal condition may cause loss of patient dignity, and unnecessary pain and suffering, while providing nothing medically necessary or beneficial to the patient.”*

While unlike *in Colyer*, Luthra is not dealing with a terminal condition, he should nonetheless be entitled to the same protections and autonomy in decisions related to rendering of his own medical care, especially given that the procedure and modality of treatment he underwent was prescribed by qualified and experienced medical professionals (**Dr. Nguyen, Psychiatrist, Ms. Eveleth, LMHC and Ms. Griffin, LMHC**) each of whom is independently tasked with and held accountable by our Department of Health (per Statutes governing Medical Licensing) and by their respective Hospital Administration to be qualified in rendering the medical treatment that they administer to their patients.

b) In RCW 71.32.020 (5), (6), (7), (8) our Legislature

specifically defined:

(5) "Health care facility" means a hospital, as defined in RCW [70.41.020](#); an institution, as defined in RCW [71.12.455](#); a state hospital, as defined in RCW [72.23.010](#); a nursing home, as defined in RCW [18.51.010](#); or a clinic that is part of a community mental health service delivery system, as defined in CW [71.24.025](#).

(6) "Health care provider" means an osteopathic physician or osteopathic physician's assistant licensed under chapter [18.57](#) or [18.57A](#) RCW, a physician or physician's assistant licensed under chapter [18.71](#) or [18.71A](#) RCW, or an advanced registered nurse practitioner licensed under RCW [18.79.050](#).

(7) "Incapacitated" means an adult who: (a) Is unable to understand the nature, character, and anticipated results of proposed treatment or alternatives; understand the recognized serious possible risks, complications, and anticipated benefits in treatments and alternatives, including nontreatment; or communicate his or her understanding or treatment decisions; or (b) has been found to be incompetent pursuant to RCW [11.88.010](#)(1)(e).

(8) "Informed consent" means consent that is given after the person: (a) Is provided with a description of the nature, character, and anticipated results of proposed treatments and alternatives, and the recognized serious possible risks, complications, and anticipated benefits in the treatments and alternatives, including nontreatment, in language that the person can reasonably be expected to understand; or (b) elects not to be given the information included in (a) of this subsection.

In RCW 71.34.020 (2) our Legislature defined:

(2) "Children's mental health specialist" means:

(a) A mental health professional who has completed a minimum of one hundred actual hours, not quarter or semester hours, of specialized training devoted to the study of child development and the treatment of children; and

(b) A mental health professional who has the equivalent of one year of full-time experience in the treatment of children under the supervision of a children's mental health specialist.

While the issue here doesn't entail a child's mental health specialist, it would seem reasonable to presume that the legislature would offer the strictest protections/quality of care to young/vulnerable children, thus making the above defined standards analogously applicable to adults? Luthra's mental health treatment providers more than sufficiently met the standard above, since each has decades of expertise and experience in treating mental health issues as WA State Licensed Mental Health Practitioners. (**CP 933-945**)

The language of **RCW 71.32.020 and RCW 71.34.020** (portions detailed above) should offer context to this Court to compare facts in this case with the intent of the WA State Legislature and determine if justice was indeed done in this case per Statutes that govern these issues?

c) Our legislature addressed "medical necessity" as more persuasive than an individual's advance directive in **RCW**

71.32.070 (1). Alarminglly, on the contrary, in the Luthra matter before this court, the Trial Court seems intent on substituting its own directive over that of “**medical necessity**” determination of qualified Mental Health professionals most familiar with the current condition of the Petitioner. Egregiously, the court then even went on to punish Luthra with a sentence of 75 days of CWP simply based on its own medical opinion?

d) In addition our legislature’s intent for rights of citizens with mental health issues (as outlined in **Chapter 71.05 RCW and Chapter 71.32 RCW**) afford Luthra far greater autonomy and protections (even in the event Luthra was incapacitated due to a Mental Health condition.) Here, to find Luthra in contempt of court for exercising his rights under the specific circumstances of this case, and then sentencing him to 75 days of work crew for following medical directives of his treatment team, flies in the face of these protections.

2. **The Appellate Court Improperly Applied *Ingraham v. Wright*, 430 U.S. 651, 97 S. Ct. 1401, 51 L. Ed. 2d 711 (1977) In This Case.** RAP 13.4(b)(3),(4)

This Court should grant review per RAP 13.4(b)(3),(4) because this Petition involves an issue of substantial public interest that should be determined by the Supreme Court. While *Ingraham v. Wright* does elude in part to indicate that Eight Amendment offers protections against Cruel and Unusual Punishment in Criminal Proceedings, it also was applied in the context of punishment (even if cruel or unusual) rendered in a school environment to errant students. While the Luthra matter proceedings were held in a Civil matter, the punishment (75 days of work crew) ordered to Luthra appears disproportionate and excessive in these circumstances, perhaps even "quasi or incidentally criminal in nature". In fact, Section VIII of the Parenting Plan clearly states that "Violation of residential provisions of this order with actual knowledge of its terms is punishable by contempt of court and may be a criminal offense under **RCW 9A.40.060(2) or 9A.40.070(2)**. Violation of this order may subject a violator to arrest. (**Appendix D, Page 10, Line 8-10.**)

In Keller v. Keller, 323 P.2d 231, 52 Wash. 2d 84 (1958).

*RCW 7.20 has, on some occasions, been referred to as the "general contempt statute" (State v. Boren, supra) and, on other occasions, as the "civil contempt statute." In one case, the statute is designated as "quasi or incidentally criminal in nature" (State ex rel. Dailey v. Dailey, 164 Wash. 140, 2 P. (2d) 79 (1931)) and, in another, as "more 87*87 accurately described as being sui generis." State v. Sanchez, 4 Wn. (2d) 432, 435, 104 P. (2d) 464 (1940).*

In Ingraham v. Wright, 430 U.S. 651, 97 S. Ct. 1401, 51 L. Ed. 2d 711 (1977), the Supreme Court of the United States:

"The schoolchild has little need for the protection of the Eighth Amendment. Though attendance may not always be voluntary, the public school remains an open institution. Except perhaps when very young, the child is not physically restrained from leaving school during school hours; and at the end of the school day, the child is invariably free to return home. Even while at school, the child brings with him the support of family and friends and is rarely apart from teachers and other pupils who may witness and protest any instances of mistreatment."

Unlike a child in a school environment, in performing Community Service (in the Community Works Program) for 8 hour days x 75 days, Luthra should be entitled to protections against Cruel and Unusual Punishment. Unlike a child in school, Luthra is not free to walk away from the CWP during those CWP days; he has to travel to CWP Job sites in a Van Marked with "Department of Corrections" logos, and is ordered to and must perform hard manual labor during those 8 hours – which often entails

uncontrolled exposure to the same contaminants/filth/garbage etc. which is the very trigger of his OCD affliction – which ironically the Court claims to be attempting to help him manage via its orders requiring psychiatric intervention. While exposure to filth/garbage may not be unmanageable disturbing to an average adult, given Luthra’s OCD affliction, this particular penalty (CWP) is cruel and excessive due to his condition and disability. RAP 13.4(b)(3)

In *Ingraham v. Wright*, 430 U.S. 651, 97 S. Ct. 1401, 51 L. Ed. 2d 711 (1977), the Supreme Court of the United States:

*In addressing the scope of the Eighth Amendment's prohibition on cruel and unusual punishment, this Court has found it useful to refer to "[t]raditional common-law concepts," Powell v. Texas, 392 U. S. 514, 535 (1968) (plurality opinion), and to the "attitude[s] which our society has traditionally taken." *Id.*, at 531. So, too, in defining the requirements of procedural due process under the Fifth and Fourteenth Amendments, the Court has been attuned to what "has always been the law of the land," United States v. Barnett, 376 U. S. 681, 692 (1964), and to "traditional ideas of fair procedure." Greene v. McElroy, 360 U. S. 474, 508 (1959).*

Analogously in this case in scrutiny under the “traditional common-law concepts” – our society would not find forcing a person afflicted with an acute fear of germs/filth to endure (8 hours/day over 75 days) working in a garbage dump as “**motivating**” as opined by the Appellate Order. (**Appendix A**,

Page 11, Last Paragraph.) The ordered CWP punishment in this case is indeed axiomatically “cruel and unusual” under the specific circumstances of this case. This was clearly imposition of an unlawful punitive sentence, without the statutory due-process protections. Therefore this Court should grant review per RAP 13.4(b)(3).

3. The Court Of Appeals Decision In This Case Incorrectly Extends The Scope Of Parenting Plan To That Of An Irrevocable Medical Directive Of An Individual Or A Competent Court With Jurisdiction Over An Incapacitated Individual. RAP 13.4(b)(4)

This Court should also grant review because the Court of Appeals decision affirming the trial court order which effectively acts as a Medical Directive of the Father or (possibly) of a Court, even when the subject parent is not currently medically or mentally “incapacitated.” Overall, this is an issue of substantial public interest. RAP 13.4(b)(4). Such a narrow/manipulated interpretation of the purpose and function of a parenting plan improperly elevating it to the same level as a living will or a ruling of a Mental Health court finding a person *incompetent pursuant to RCW [11.88.010\(1\)\(e\)](#)*.

“Under the domestic relations law of this State, the best interests of the child must be the paramount concern of the court. As important as this consideration is, however, it must nevertheless be balanced against a parent's fundamental right to be a parent. This right is of constitutional magnitude and cannot be restricted without a rational reason for doing so.” *Marriage of Cabalquinto*, **100 Wn.2d 325, 330-31, 669 P.2d 886 (1983)**. While the trial court here is not extending additional direct limitations on the father's fundamental parental rights, the “disparate impact” of the Court's rulings against the father is obvious.

While **RCW 26.09.191** allows the court to limit a parent's residential time with the child, “any limitation or restriction placed on a parent's conduct or contact with their child must be “specifically tailored to the presenting problem.” **20 Kenneth W. Weber, Washington Practice: Family and Community Property Law § 33.25, at 100 (Pocket Part, 2010); RCW 26.09.191(m)(i)** (“the limitations imposed by the court under (a) or (b) of this subsection shall be reasonably calculated to protect the child from the physical, sexual, or emotional abuse or harm that could result if the child has

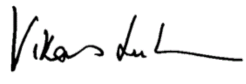
contact with the parent requesting residential time”). A logical question is raised when the abridgment of fundamental rights is justified by some "compelling state interest" which it furthers. If it is not, its impact constitutes a violation of due process.

F. Conclusion.

There was no finding in 2015-2016 hearings nor allegations that the child was unsafe in the father’s presence. Thus, the trial court erred and abused its discretion when entering its contempt of court orders related to the OCD treatment modality for the father.

This Court should grant review of the Court of Appeals decision and reverse the contempt of court findings related to the OCD treatment provisions of the Parenting Plan.

Dated this 8th day of March, 2017.

By: 
Vikas Luthra (Pro Se Petitioner)

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 ___March 8th_____, 2017, I arranged for service of the attached Petition for Review, to the parties to this action as follows:

Office of Clerk Court of Appeals – Div 1 One Union Square 600 University Street Seattle, WA 98101	<input checked="" type="checkbox"/> E-Filed <input type="checkbox"/> Messenger <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered
Caleb M. Oken-Berg Attorney at Law Skellenger Bender, P.S. 1301 – Fifth Avenue, Suite 3401 Seattle, WA 98101	<input checked="" type="checkbox"/> E-Mail <input type="checkbox"/> Messenger <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered
Patricia Novotny 3418 NE 65 th Street, Suite A Seattle, WA 98115	<input checked="" type="checkbox"/> E-Mail <input type="checkbox"/> Messenger <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered

DATED at NewCastle, Washington this 8th day of March, 2017



Vikas Luthra (Pro Se)

Appendix A

Petition for Review

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

In the Matter of the Marriage of:)	
)	DIVISION ONE
ARADHNA FORREST (f/k/a Luthra),)	
)	No. 74034-2-I
Respondent,)	(consol. with No. 74735-5-I,
)	No. 75135-2-I, and
and)	No. 75395-9-I)
)	
VIKAS LUTHRA,)	UNPUBLISHED OPINION
)	
Appellant.)	FILED: February 6, 2017
_____)	

FILED
COURT OF APPEALS DIV 1
STATE OF WASHINGTON
2017 FEB - 6 AM 9:29

DWYER, J. — Vikas Luthra appeals from consecutive contempt orders entered against him during litigation to enforce portions of a parenting plan and a child support order. Luthra contends that the trial court erred by holding him in contempt for not paying child support, by imposing sanctions against him for not acting in compliance with the parenting plan, and by awarding attorney fees against him. Ample evidence supports the trial court's factual findings and the contempt sanctions were well within its discretion. We affirm.

I

The procedural history of this case is lengthy and complex and is summarized here only as necessary to address issues properly raised in this

appeal. In 2010, upon the dissolution of Luthra and Aradhna Forrest's marriage, the trial court entered a child support order and a parenting plan after a lengthy trial. Pursuant to these orders, Luthra was to make regular child support payments and obtain intense home-based treatment for his severe obsessive compulsive disorder (OCD). The trial court found that Luthra's OCD "constitutes an emotional impairment that interferes with the father's performance of parenting functions under RCW 26.09.191(3)(b)." Based on the evidence at trial, the trial court specifically required intensive home-based OCD therapy.

Luthra paid some, but not all, of the ordered child support, refusing to pay the portion of his transfer payment related to childcare expenses. Although the plain language of the child support order required Luthra to pay a fixed amount for childcare as part of his regular transfer payment, Luthra professed a belief that he was only required to make childcare payments if Forrest gave him advance notice and the opportunity to preapprove such expenses. During litigation in 2013, the trial court entered as an order an amended final parenting plan to resolve issues that Luthra and Forrest identified as being in need of determination. The trial court directly addressed Luthra's professed confusion regarding childcare payments by including a provision in the amended final parenting plan specifically reiterating that Luthra's child support obligation included a monthly amount for childcare, as set forth in the order of child support, and did not require preapproval.¹

¹ Section 6.14 of the amended final parenting plan dated September 9, 2013 reads in pertinent part: "**Financial Obligations.** Neither parent shall financially obligate the other parent for any expense related to the child without the written consent of the other parent, with the

Luthra also never engaged in the ordered intensive home-based OCD treatment, prompting Forrest to bring contempt proceedings in July of 2015. Between July 23, 2015 and June 3, 2016, the trial court held seven hearings in which it admonished Luthra to begin complying with the court's orders or face sanctions for contempt. Luthra continued to fail to comply, leading the trial court to impose increasingly coercive sanctions against him, including financial penalties and assignment to work crew. Luthra appeals all of the orders stemming from those hearings.²

II

We review contempt orders for an abuse of discretion. In re Pers. Restraint of King, 110 Wn.2d 793, 798, 756 P.2d 1303 (1988). Discretion is abused if the court's decision is manifestly unreasonable or based on untenable grounds or untenable reasons. In re Marriage of Littlefield, 133 Wn.2d 39, 46-47, 940 P.2d 1362 (1997). A court's decision is manifestly unreasonable if its decision is outside the range of acceptable choices; it is based on untenable grounds if the factual findings are unsupported by the record; it is based on untenable reasons if it is based on an incorrect legal standard. Littlefield, 133 Wn.2d at 47.

exception of the cost of daycare (selected by the mother) which expense is addressed in paragraph 3.15 of the Order of Child Support.”

² Although Luthra, in blanket fashion, appeals every order entered during the contempt proceedings, we do not address all of them. We do not address his appeal from the order on civil motion entered on October 25, 2015 and from the order on third contempt review hearing entered on March 18, 2016 because Luthra did not appeal those orders within the time provided in RAP 5.2(a). Similarly, we do not address claims related to the trial court's findings in the 2010 parenting plan order and child support order as those orders became final years ago. Finally, we do not address any of Luthra's arguments raised for the first time in his reply brief. See Cowiche Canyon Conservancy v. Bosley, 118 Wn.2d 801, 809, 828 P.2d 549 (1992) (a reviewing court need not address claims raised for the first time in a reply brief).

It is “axiomatic that a court must be able to enforce its orders.” In re Interest of M.B., 101 Wn. App. 425, 431, 3 P.3d 780 (2000). An “order of the court must be obeyed implicitly, according to its spirit, and in good faith.” Blakiston v. Osgood Panel & Veneer Co., 173 Wash. 435, 438, 23 P.2d 397 (1933). When a parent does not make court ordered child support payments or refuses to comply with a parenting plan, RCW 26.18.050 authorizes the aggrieved party to initiate proceedings under chapter 7.21 RCW, the contempt of court statute, in order to enforce compliance with the court’s order. Contempt of court is the “intentional . . . [d]isobedience of any lawful judgment, decree, order, or process of the court.” RCW 7.21.010(1)(b). A trial court must make findings of fact setting forth the basis for its judgment of contempt, State ex rel. Dunn v. Plese, 134 Wash. 443, 447-48, 235 P. 961 (1925), including findings of “bad faith or intentional misconduct.” In re Marriage of James, 79 Wn. App. 436, 440, 903 P.2d 470 (1995). A trial court may then impose sanctions against the noncompliant parent which may include the payment of any losses suffered by the aggrieved party in connection with the contempt proceedings and reasonable attorney fees. RCW 7.21.030.

A

Contempt of Child Support Order

Luthra’s monthly child support obligation was set forth in the trial court’s order of child support dated July 8, 2010. Luthra was to make regular child support payments in the amount of \$700 per month. The monthly transfer payment was based on a detailed breakdown attached to the court’s order. That

order included, as part of the \$700 monthly obligation, a fixed sum for childcare in the amount of \$166.³

Luthra regularly paid only a portion of the ordered child support. He never paid the required portion of the transfer payment related to childcare expenses between the date on which the 2010 order was entered and the August 19, 2015 contempt hearing, accumulating \$10,900 in past due child support. After notice and a hearing, the trial court found Luthra in contempt and entered a monetary judgment against him. The total judgment amount was determined by adding the amount of the past due child support, interest on the unpaid sum, and an amount for attorney fees incurred by Forrest in bringing enforcement proceedings.

Luthra does not contend that the 2010 child support order was unlawful or that he was unaware of it. Neither did he appeal it. Rather, Luthra asserts that his noncompliance was not willful. This is so, Luthra avers, because the portion of the child support payment covering childcare expenses required preapproval and mandatory referral to dispute resolution, which did not occur. Alternatively, he argues that his noncompliance was not willful because he was financially insolvent. Both claims fail.

Luthra's contention that the unpaid childcare expenses required preapproval, with any disputes referred to mandatory dispute resolution, is wrong. The child support order provision that he references explicitly applies only to childcare expenses in excess of the regular monthly amount, listed as

³ Monthly daycare costs were set at \$322 per month, of which Luthra's share was one half, or \$166.

\$166 per month. In fact, in bringing her motion, Forrest specifically refrained from seeking a contempt finding relating to the string of unmade payments for sums in excess of the \$166 monthly transfer payment. Rather, her motion was confined solely to Luthra's failure to make payments of the basic obligation amount. Furthermore, in a 2013 proceeding, the trial court specifically reiterated that regular childcare expenses not in excess of \$166 were not subject to the preapproval or dispute resolution provisions and were therefore part of Luthra's standard monthly child support obligation. Luthra was plainly made aware of his obligation and the trial court, in the contempt proceedings at issue, properly ruled that he had willfully not complied.

Alternatively, Luthra asserts that his failure to make court ordered child support payments was not willful because he lacked the financial means to comply. RCW 26.18.050(4) requires a child support obligor who contends that he or she lacks the financial means to comply to "establish that he or she exercised due diligence in seeking employment, in conserving assets, or otherwise in rendering himself or herself able to comply with the court's order." Luthra made no such showing.

Although Luthra contends that he did not have the financial means to make the transfer payment, he failed to provide any evidence, other than bare assertions, to support this claim. He provided no detailed financial records or declarations to support his claimed insolvency.⁴ The trial court found Luthra's

⁴ At the August 19, 2015 hearing, Luthra's counsel admitted that he had not provided any new financial declarations or evidence other than those submitted in 2010. Luthra still had not provided the necessary financial information five hearings later, as of May 17, 2016. Additionally,

evidence unconvincing and his testimony untrustworthy. Indeed, Luthra failed to rebut assertions that his business was thriving and that his financial situation was stable. Accordingly, there was ample evidence to support the trial court's determination that Luthra willfully violated the child support order.

Luthra makes a conclusory claim that the sanctions entered against him for refusing to make the child support payments constituted an abuse of discretion. Again, we disagree.

RCW 26.18.050 specifically authorizes entry of a contempt order to enforce a child support obligation until the obligor has satisfied all duties of support, including amounts in arrears. Similarly, RCW 7.21.030 and RCW 26.09.160 authorize the court to order a party found in contempt to pay the aggrieved party for any losses incurred in connection with the enforcement proceedings. Here, the trial court's contempt order required Luthra to pay his past due child support, pay interest on that sum, and pay attorney fees incurred by Forrest—all remedies well within the range of acceptable choices. Littlefield, 133 Wn.2d at 47. There was no abuse of discretion.

B

Contempt of Parenting Plan Order

In its 2010 parenting plan order, the trial court found that Luthra's OCD "constitutes an emotional impairment that interferes with the father's performance of parenting functions under RCW 26.09.191(3)(b)." The trial court found that

Forrest pointed to Luthra's late model luxury cars, expensive vacations, and recent remodel to his house as evidence tending to negate his claim of financial distress.

Luthra's OCD manifestations were most severely pronounced at his home.⁵ Therefore, the court specifically ordered Luthra to obtain intensive home-based OCD therapy with a provider approved by the court.

Luthra did not obtain intensive home-based OCD treatment between the time the parenting plan was entered and the contempt proceeding on August 19, 2015. Instead, he participated in occasional non-home-based treatment. The trial court found that Luthra was not in compliance with the parenting plan and sanctioned him with 30 days of work crew assignment. The trial court increased his work crew assignment by another 30 days after he continued to not comply a few months later and subsequently imposed a further 15 days after he again did not comply. Luthra was also ordered to pay attorney fees incurred by Forrest in bringing enforcement proceedings.

Luthra contends that his noncompliance was not willful. This is so, he asserts, because the court ordered therapy is not covered by his insurance and there is no treatment provider capable of performing home-based treatment in the Seattle area. He avers that his alternative OCD treatment regimen, therefore, satisfies the court's order. None of his contentions have merit.

Luthra's arguments challenge the trial court's original findings of fact entered in 2010. Luthra did not seek timely review of the 2010 factual findings and cannot do so now. Detonics ".45" Assocs. v. Bank of Cal., 97 Wn.2d 351, 353, 644 P.2d 1170 (1982). The trial court entertained evidence in 2010 and

⁵ The trial court found that Luthra's OCD requires him to participate in lengthy "cleansing rituals" when family members enter his home or touch certain surfaces. The trial court found that this impairment was serious and had an adverse impact on the child's best interests.

again in 2015 regarding the necessity and availability of the ordered home-based treatment. The trial court found that it was available and ruled that it was mandatory. Indeed, during the 2015 contempt proceedings, the court had evidence before it that, contrary to Luthra's assertions, home-based therapy was provided by at least one local therapist in Luthra's insurance network. Furthermore, the court made clear that participating in the ordered treatment was not in any way contingent on insurance eligibility.

The trial court did not credit Luthra's claim that his current OCD treatment was in compliance with the order. There was evidence that this treatment was the same kind of treatment that he was engaged in at the time of the 2010 dissolution proceeding. During that proceeding, the trial court considered evidence from Luthra's doctor stating that Luthra needed more intense treatment than she could provide. For this and other reasons, the court in 2010 found his desired treatment regimen insufficient and specifically ordered the treatment set forth in its order. During the recent enforcement proceedings, the trial court again found that the treatment Luthra preferred did not satisfy the orders. Luthra had over five years to begin the necessary treatment with a court approved provider. Given Luthra's recalcitrance with regard to the trial court's order, there was ample evidence to support the trial court's finding of willful noncompliance.

Luthra next challenges his assignment to work crew, contending that this sanction was an abuse of discretion. This is so, he asserts, because it violated his right to be free from double jeopardy. This claim fails.

Contempt sanctions may be either civil or criminal. To determine whether a sanction is civil or criminal, we examine whether the sanction is coercive or punitive. M.B., 101 Wn. App. at 439. A sanction “remains coercive, and therefore civil, if the contemnor is able to purge the contempt and obtain his release by committing an affirmative act.” M.B., 101 Wn. App. at 439. “For double jeopardy to apply, the accused must have been subjected to two punitive proceedings.” State v. Buckley, 83 Wn. App. 707, 713, 924 P.2d 40 (1996).

Here, the trial court sanctioned Luthra pursuant to RCW 7.21.030, which authorizes a broad array of remedial sanctions, including imprisonment. The ordered sanctions were civil—Luthra needed only to participate in the ordered treatment program to purge himself of contempt and avoid further contempt sanctions.

However, Luthra failed to perform this volitional act for over six years. The trial court first sanctioned Luthra with 30 days of work crew assignment on October 20, 2015. Luthra completed some of the work crew but still did not begin OCD treatment, leading the court, at the next hearing, to sanction him with 30 additional days of work crew. Some weeks later, the court again sanctioned him with an additional 15 day assignment after he persisted in noncompliance. The fact that the sanctions were entered for a determinate number of days does not render them punitive. M.B., 101 Wn. App. at 439. The trial court characterized these sanctions as motivating and concluded each hearing by delineating specifically what Luthra must do in order to purge his contempt. Luthra could have purged the entire work crew assignment by beginning and completing the

ordered treatment. Accordingly, these sanctions did not constitute a violation of Luthra's right to be free from double jeopardy.

Luthra further argues that the contempt sanctions violated his Eighth Amendment right to be free from cruel and unusual punishment.⁶ Again Luthra's claim lacks merit.

The Eighth Amendment, like constitutional double jeopardy protections, applies to criminal but not civil contempt sanctions. See Ingraham v. Wright, 430 U.S. 651, 667-68, 97 S. Ct. 1401, 51 L. Ed. 2d 711 (1977) (holding that the Eighth Amendment does not apply outside the criminal context). As the sanctions here are civil in nature, the Eighth Amendment is not implicated.

The trial court took pains to avoid incarcerating Luthra, despite the court's admission that it was running out of options to motivate him. The court repeatedly warned him that failure to comply would result in a jail term. The trial court crafted a contempt order, in careful consideration of RCW 7.21.030 and imposed work crew assignment to motivate Luthra to begin home-based OCD treatment. These sanctions were clearly coercive, and therefore civil. Given the record before it, the sanctions ordered by the trial court were well within the range of acceptable choices and, therefore, not an abuse of discretion.

Littlefield, 133 Wn.2d at 47.

⁶ At various times in his briefing, Luthra references other constitutional principles. He never properly develops or presents these claims. "[N]aked castings into the constitutional sea are not sufficient to command judicial consideration and discussion." State v. Johnson, 119 Wn.2d 167, 171, 829 P.2d 1082 (1992) (internal quotation marks omitted) (quoting In re Rosier, 105 Wn.2d 606, 616, 717 P.2d 1353 (1986)).

III

A

Luthra next claims that the trial court abused its discretion by ordering him to pay attorney fees incurred by Forrest during four of the enforcement proceedings. We disagree.

An award of attorney fees is within the trial court's discretion and will be upheld unless there is a manifest abuse of that discretion. In re Marriage of Crosetto, 82 Wn. App. 545, 563, 918 P.2d 954 (1996). Pursuant to RCW 7.21.030, the trial court may order the payment of any losses incurred by the aggrieved party in bringing enforcement proceedings, including attorney fees, as a remedial measure. See McFerran v. McFerran, 55 Wn.2d 471, 473-75, 348 P.2d 222 (1960) (upholding a trial court's award of attorney fees incurred by a wife in connection with her motion to enforce an order of support).

Furthermore, RCW 26.09.160 provides that:

An attempt by a parent, in either the negotiation or the performance of a parenting plan, to condition one aspect of the parenting plan upon another, to condition payment of child support upon an aspect of the parenting plan, to refuse to pay ordered child support, to refuse to perform the duties provided in the parenting plan, or to hinder the performance by the other parent of 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) (emphasis added).

This court has held that once the trial court has found a parent in contempt under RCW 26.09.160, it must award reasonable attorney fees and expenses

incurred by the aggrieved party in bringing enforcement proceedings. In re Marriage of Myers, 123 Wn. App. 889, 894, 99 P.3d 398 (2004).

Here, the trial court, after finding Luthra in contempt, reviewed the attorney fee declarations submitted by Forrest's counsel and found them "more than reasonable." The trial court stated in each order the amount and basis for the awards. Luthra fails to point to any way in which the fee awards were excessive or otherwise unreasonable. Accordingly, there was no abuse of discretion.

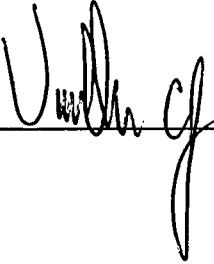
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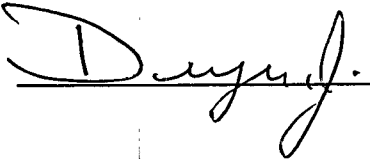
Finally, Forrest requests an award of appellate attorney fees based on the filing of a frivolous appeal or intransigence in this court, pursuant to RAP 18.9. We decline to award attorney fees on these grounds. However, an award of attorney fees for expenses incurred in responding to Luthra's appeal of the trial court's contempt orders is warranted. See In re Marriage of Mattson, 95 Wn. App. 592, 606, 976 P.2d 157 (1999). Not to award fees to Forrest would be to diminish the remedial effect of the remedies provided to her by the trial court. It would also disincentivize parties from litigating for appellate affirmance of contempt orders. Accordingly, we award Forrest attorney fees reasonably incurred in responding to Luthra's appeal of the trial court's contempt orders. Upon compliance with RAP 18.1(d), a commissioner of this court will enter an appropriate order.

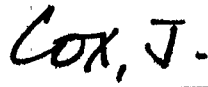
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Affirmed.

We concur:







Appendix B

Petition for Review

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**Superior Court of Washington
County of KING**

In re the Marriage of:

ARADHNA LUTHRA,

 Petitioner,

and

VIKAS LUTHRA,

 Respondent.

No. 09-3-04289-0 KNT
PARENTING PLAN
FINAL ORDER (PP)

This parenting plan is the final parenting plan signed by the court pursuant to a decree of dissolution signed by the court on July 8, 2010.

It is Ordered, Adjudged and Decreed

I. General Information

This parenting plan applies to the following child:

<u>Name</u>	<u>Age</u>
Akshay Luthra	6

II. Basis for Restrictions

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

2.1 Parental Conduct (RCW 26.09.191(1), (2)). Does not apply.

1 **2.2 Other Factors (RCW 26.09.191(3)).** The father's involvement or conduct has an
2 adverse effect on the child's best interests under RCW 26.09.191(3)(g) as described in
3 the Finding of Fact, and also because of the existence of the factors which follow:

4 A long-term emotional or physical impairment which interferes with the
5 performance of parenting functions as defined in RCW 26.09.004.

6 The abusive use of conflict by the parent which creates the danger of serious
7 damage to the child's psychological development.

8 **III. Residential Schedule**

9 *The residential schedule must set forth where the child shall reside each day of the year,*
10 *including provisions for holidays, birthdays of family members, vacations, and other special*
11 *occasions, and what contact the child shall have with each parent. Parents are encouraged to*
12 *create a residential schedule that meets the developmental needs of the child and individual*
13 *needs of their family. Paragraphs 3.1 through 3.9 are one way to write your residential*
14 *schedule. If you do not use these paragraphs, write in your own schedule in Paragraph 3.13.*

15 **3.1 Schedule for Child Under School Age.** There are no children under school age.

16 **3.2 School Schedule.** Upon enrollment in school the child shall reside with the mother,
17 except for the following days and times when the child will reside with or be with the
18 other parent:

19 From after school on Fridays to 7:00 p.m. on Sunday evenings, on the first and third
20 weekends of each month.

21 When school begins, the father's mid-week visits will stop until the father's therapist
22 provides a status report to counsel and to me that affirmatively reports on the father's
23 commitment to and progress in treatment. When the therapist reports that the father is
24 engaged in and making progress in intensive therapy, the father may also spend time
25 with Akshay in West Seattle on Wednesdays from after school until 7:00 p.m., where he
26 can participate in activities at one or both of the West Seattle Y facilities, at the Hiawatha
Community Center, at parks and other similar locations, as well as share a meal with
Akshay. The father shall return Akshay to the mother at the Metropolitan Market on
Admiral Way. Once begun, this mid-week schedule will place the burden of travel for
the visit on the father, not on Akshay, and should also reduce the level of exhaustion for
the child, while giving him an opportunity to spend time with his father.

1 **3.3 Winter Vacation.** The child shall reside with the mother during winter vacation, except
2 for the following days and times when the child will reside with or be with the other
3 parent:

4 The parties shall share winter vacation. The father shall have the first half in even
5 years and the second half in odd years. The mother shall have the second half in even
6 years and the first half in odd years. Christmas Eve and Christmas Day shall not be
7 counted in determining what constitutes half the number of days.

8 **3.4 Schedule for Other School Breaks.** The child shall reside with the mother during
9 other school breaks, except for the following days and times when the child will reside
10 with or be with the other parent:

11 The parties shall share each school break. The mother shall have the first half in odd
12 years and the second half in even years. The father shall have the second half in odd
13 years and the first half in even years.

14 **3.5 Summer Schedule.** Upon completion of the school year, the child shall reside with
15 the mother, except for the following days and times when the child will reside with or be
16 with the other parent: The father may have residential time every other week as
17 follows: from Thursday through Sunday during week A and a Thursday overnight
18 during week B. The father shall pick up the child from daycare from 9:00 a.m. on
19 Thursdays. The father should return the child to the mother on Sunday at 7:00 p.m. on
20 week A, and to daycare at 9:00 a.m. on Friday during week B.

21 **3.6 Vacation with Parents.** The schedule for vacation with parents is as follows:
22 Each parent shall have up to two weeks of vacation each summer to be taken in one-
23 week or two-week segments, beginning in the summer of 2011. Once Akshay turns ten
24 (10) years old in the summer of 2013, each parent shall be authorized to take three
25 week vacations for special trips that require travel. If a parent exercises this option, the
26 other parent shall be granted one week of makeup time during the summer.

Each parent must provide the other with his or her respective days by April 1st of each
year. If the proposed vacation dates conflict and the parties are not able to resolve the
conflict, the mother shall have priority in even years and the father in odd years. The
parties may take Akshay out of the country if both parents agree, or if ordered by the
court. If a parent plans to take Akshay out of the country, he or she shall provide notice
of the country, the itinerary, and contact information for such out of country vacation by
April 1st of each year.

For all vacations, five days prior to departure, the parent taking the child shall provide
the other parent in writing with a complete itinerary, and valid address and telephone

1 contact numbers of where they will be staying while on vacation with the child. The
2 parent who is not with the child shall have reasonable telephone contact with the child
3 during that time; see paragraph 6.2. Neither parent shall remove the child from the
4 State of Washington for vacation purposes without complying with this provision.

5 The mother shall have the sole authority to obtain and retain Akshay's passport. She
6 shall provide it to the father within one week of any scheduled vacation out of the
7 country.

8 **3.7 Schedule for Holidays.** The residential schedule for the child for the holidays listed
9 below is as follows:

	With Mother	With Father
New Year's Day	Even	Odd
Martin Luther King Day	Even	Odd
Presidents' Day	Odd	Even
Memorial Day	Even	Odd
July 4th	Odd	Even
Labor Day	Even	Odd
Veterans' Day	Odd	Even
Thanksgiving Day	Even	Odd
Christmas Eve	Odd	Even
Christmas Day	Even	Odd
Diwali		Every
Begins 9:00 a.m. and ends 7:00 p.m.		
Falls Fri/Mom includes Sat/Sun <input checked="" type="checkbox"/> yes		

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17 **3.8 Schedule for Special Occasions.** The residential schedule for the child for the
18 following special occasions is as follows:

	With Mother	With Father
Father's Day		Every
Mother's Day	Every	
Child's Birthday	Even	Odd

19
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21 **3.9 Priorities Under the Residential Schedule.**

22 Paragraphs 3.3-3.8 have priority over paragraphs 3.1 and 3.2, in the following order,
23 with 1 being given the highest priority:
24

winter vacation (3.3)	holidays (3.7)
school breaks (3.4)	special occasions (3.8)
summer schedule (3.5)	vacation with parents (3.6)

3.10 **Restrictions.** There are limiting factors in paragraph 2.2, and the father's midweek visits during the school period are limited until the conditions for treatment of his OCD have been met.

3.11 **Transportation Arrangements.** Transportation arrangements for the child between parents are as follows: The father shall be responsible to pick up and return Akshay for midweek visits during the school year, when they begin. For all other periods, the receiving parent shall be responsible to pick up Akshay in a public location such as the Y on the eastside when mother receives the child and the Metropolitan market in West Seattle when the father picks up the child. If a parent moves, other more convenient locations shall be identified and used by the parties.

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

3.13 **Other.** The parents shall communicate by email except for emergencies. Emails shall be restricted to practical and necessary co-parenting details, as well as information about the child's physical/emotional well-being, his activity/school schedule, and the like. In order to circumvent abusive use of email, the parents shall copy their communications to the co-parenting therapist.

3.14 **Summary of RCW 26.09.430 - .480, Regarding Relocation of a Child.** This is a summary only. For the full text, please see RCW 26.09.430 through 26.09.480.

If the person with whom the child resides a majority of the time plans to move, that person shall give notice to every person entitled to court ordered time with the child. If the move is outside the child's school district, the relocating person must give notice by personal service or by mail requiring a return receipt. This notice must be at least 60 days before the intended move. If the relocating person could not have known about the move in time to give 60 days' notice, that person must give notice within 5 days after learning of the move. The notice must contain the information required in RCW 26.09.440. See also form DRPSCU 07.0500, (Notice of Intended Relocation of A Child).

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

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

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

9 A relocating person may ask the court to waive any notice requirements that may put
10 the health and safety of a person or a child at risk.

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

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

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

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

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

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

IV. Decision Making

4.1 Day-to-Day Decisions

Each parent shall make decisions regarding the day-to-day care and control of the child
while the child is residing with that parent. Regardless of the allocation of decision

1 making in this parenting plan, either parent may make emergency decisions affecting
2 the health or safety of the child.

3 **4.2 Major Decisions.** Major decisions regarding the child shall be made as follows:

	Mother	Father	Joint
4 Education	XX		
5 Non-Emergency Health Care			XX
6 Religious Upbringing			XX
7			

8 **4.3 Restrictions in Decision Making,** There are limiting factors in paragraph 2.2; but the
9 parents shall have joint decision making with respect to religion and major medical
10 issues, provided that this joint decision making may be revisited by the court if the
11 father's litigiousness is not moderated or if he fails to engage in treatment for OCD.
12 Both parents shall be allowed to engage the child in religious activities when Akshay is
13 in their care, and the father shall be entitled to have some residential time with Akshay
14 during the Hindu holiday, Diwali. Akshay shall attend school in the District in which his
15 mother resides. The mother shall be solely responsible to work with the District to
16 select and obtain Akshay's school assignment from within the available options.

13 V. Dispute Resolution

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

18 Disputes between the parties regarding carrying out this plan, other than child
19 support disputes, shall be submitted to the co-parenting therapist in therapeutic
20 mediation, given the level of conflict in this case, the concern that the father is at risk
21 for continued intractable litigation, the history of police and CPS reports with little or
22 no basis by Mr. Luthra, as well as the abuse of the discovery process leading to the
23 court's order restricting discovery. This shall be the requirement both during and
24 following the completion of co-parenting therapy.

1 **VI. Other Provisions**

2 There are the following other provisions:

3 **6.1 Address Change.** Each parent shall provide the other with the address and phone
4 number of their residence and update such information promptly whenever it changes.

5 **6.2 Telephone Access.** The child shall not be given his own cell phone. The father shall
6 provide the mother, by email or text message, with one phone number she can use for
7 the child's calls to the father. The father shall have phone contact with Akshay on
8 Monday between 8:15pm and 8:45 pm and every other Saturday between 9:15 am and
9 9:45 am, when Akshay is not residing with the father. The mother shall have phone
10 contact with Akshay every other Saturday between 9:15 am and 9:45 am, when Akshay
11 is not residing with the mother.

12 The residential parent will initiate each and every phone call between Akshay and the
13 other parent. The residential parent will dial the other parent's phone number and hand
14 the phone to the child so there will be no phone contact between mother and father. If
15 the call is not answered, the child shall leave a voice mail and the residential parents
16 shall call again five minutes later. If the second call is not answered, the child shall
17 leave a second voice mail. The other parent shall not be entitled to make-up phone
18 contact and shall not attempt to return the phone call at a later time.

19 If the residential parent is unavailable to place the phone call at the regularly scheduled
20 time, he or she may text message the other parent an alternate phone number where
21 he or she can talk to the child. The time for the call shall not change except in an
22 urgent or unavoidable situation. Prior to sending a text message to the father, the
23 mother shall notify any care provider of the procedures to follow for the phone contact.

24 Neither parent shall interrupt the child's call with the other parent, except in an
25 emergency. If a phone call lasts longer than 15 minutes, the residential parent shall
26 remind the child of the time and advise the child to conclude the call.

27 **6.3 Access to Records.** Each parent shall have the right and responsibility to ensure that
28 the child attends school and other scheduled activities while in that parent's care. Each
29 parent shall have the full and equal access to the education, daycare and health
30 records of the child (except to the extent that a separate consent may need to be
31 obtained for a child as provided by law). Both parents shall have equal and
32 independent authority, as provided by statute, to confer with the school regarding the
33 child's educational progress.

1 **6.4 Scheduling.** Activities shall not be scheduled to unreasonably interfere with the other
2 parent's residential time with the child. Each parent will avoid approving events or
3 appointments (birthday parties, dentist appointments, etc.) that affect the hours of the
4 other parent's residential time.

5 **6.5 Emergency Notification.** Each parent shall notify the other promptly but in any event
6 within 24 hours of receipt of extraordinary information regarding the child, such as
7 emergency medical care, major school discipline, unusual or unexplained absence from
8 the home, or contact with police or other legal authority.

9 **6.9 Travel Notification.** Each parent shall inform the other parent when that parent plans
10 to be away from his or her residence with the child for more than two nights. The
11 information to be provided shall include duration of the period, the destination(s) and
12 destination telephone number(s).

13 **6.10 Child's Property.** Items belonging to the child, including but not limited to sporting
14 equipment, backpacks, musical instruments, uniforms, costumes and the like, shall be
15 deemed the property of the child, and shall be permitted to travel with the child between
16 the parents' homes as the child require.

17 **6.11 Involvement in Proceedings.** Neither parent shall advise the child of the status of
18 child support payments or other legal matters regarding the parents' relationship or this
19 proceeding.

20 **6.12 Child as Messenger.** Neither parent shall use the child, directly or indirectly, to gather
21 information about the other parent or to take verbal messages to the other parent. The
22 father shall not question the child about events occurring during the mother's residential
23 time or about the mother's friends and family. Any abuses of this requirement shall first
24 be reported to the co-parenting therapist for therapeutic intervention. If unsuccessful
25 the issue may be brought before the court.

26 **6.13 Derogatory Comments.** Neither parent shall make derogatory comments about the
other parent or allow anyone else to do the same in the child's presence. Neither
parent shall allow or encourage the child to make derogatory comments about the other
parent. Both parents and their families shall be prohibited from discussing the details of
any aspect of their dispute with the child or in the child's presence, including but not
limited to negative descriptions of a parent or their family, any legal action, visitation,
placement and child support. Both parents shall be encouraged to convey positive
support regarding visitation and placement with the respective parent.

6.14 Financial Obligations. Neither parent shall financially obligate the other parent for any
expense related to the child without the written consent of the other parent.

1 **6.15 Medical Directive.** Both parents shall follow the medical directives of the child's
2 physician(s) prescribing any medication. Each parent shall notify the other parent
3 immediately of any medication that has been prescribed for the child.

4 **VII. Declaration for Proposed Parenting Plan**

5 Does not apply.

6 **VIII. Order by the Court**

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

9 **WARNING:** Violation of residential provisions of this order with actual knowledge of its terms
10 is punishable by contempt of court and may be a criminal offense under RCW 9A.40.060(2) or
11 9A.40.070(2). Violation of this order may subject a violator to arrest.

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

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

16 DATED: July 9, 2010

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18 JUDGE DEBORAH D. FLECK

Appendix C

Petition for Review

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**SUPERIOR COURT OF WASHINGTON
COUNTY OF KING**

In re the Marriage of:

ARADHNA LUTHRA,

Plaintiff/Petitioner,

v.

VIKAS LUTHRA,

Defendant/Respondent.

NO. 09-3-04289-0 KNT

FINDINGS OF FACT AND
CONCLUSIONS OF LAW
(Marriage)
(FNFCL)

I. BASIS FOR FINDINGS

The findings are based on trial conducted on June 16, 17, 21, 22, and 23, 2010. Petitioner appeared in person and through her attorney, James M. Sable. Respondent appeared in person and through his attorney, Patrice Johntson.

II. FINDINGS OF FACT

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

2.1 Residency of Petitioner. The petitioner is a resident of the state of Washington.

2.2 Notice to the Respondent. The respondent appeared, responded or joined in the petition.

1 **2.3 Basis of Personal Jurisdiction Over the Respondent.** The facts below establish
2 personal jurisdiction over the respondent.

3 The respondent is currently living in Washington.

4 The parties lived in Washington during their marriage and the petitioner continues to
5 reside in Washington.

6 **2.4 Date and Place of Marriage.** The parties were married on May 30, 1996 at New Delhi,
7 India.

8 **2.5 Status of the Parties.** Husband and wife separated on October 12, 2008.

9 **2.6 Status of the Marriage.** The marriage is irretrievably broken and at least 90 days have
10 elapsed since the date the petition was filed and since the date the summons was
11 served or the respondent joined.

12 **2.7 Separation Contract or Prenuptial Agreement.** There is no written separation
13 contract or prenuptial agreement.

14 **2.8 Community Property.**

15 **2.8.1 Dotzoo.** The parties started a business, Dotzoo, during the marriage. They
16 initially had other investors in the business, but they have paid those investors
17 back any original investment.

18 The community property presumption arises with respect to Dotzoo and no
19 evidence sufficient to overcome that strong presumption has been provided by
20 the husband who asserts that his father has a major interest in the business.
21 There is no proof that the husband's father is an owner, as opposed to an
22 individual who lent money to the company. Because the company has been in
23 existence for a number of years and has generated a reasonable level of gross
24 receipts on a consistent and increasing basis over time, it is likely to have
25 goodwill as well as hard assets, although that goodwill's value is undetermined.
26 Based on the limited evidence provided, this community asset is valued at
\$20,000 and Dotzoo should be awarded to the husband

2.8.2 Family residence. The parties purchased the family home, located at 12624 SE
83rd Ct, Newcastle, Washington, in 2004 and it is of mixed character. The
husband used \$10,000 of separate property money as a down payment. The
home is valued at \$445,000, with a mortgage of \$247,000. for a net value of
\$198,000; \$188,000 of which is community property and \$10,000 of which is the
agreed amount of separate value; the family home should be awarded to the
husband.

1 **2.8.3 Jewelry.** The parties received gold jewelry as wedding presents, as is
2 customary in their culture. The wife also received jewelry as gifts from the
3 husband on various occasions over the years, and the husband may have
4 received gifts of jewelry from the wife. The wedding gift jewelry is community
5 property, the gifts from the husband to the wife and vice versa is the receiving
6 party's separate property; the jewelry is valued at \$25,000 and should be
7 awarded to the wife with the exception of any items of jewelry gifted by the wife
8 to the husband which should be awarded to him.

9 **2.8.4** The wife's Boeing pension is valued at \$18,127 and should be awarded to her.

10 **2.8.5** The wife's Boeing VIP is valued at \$45,297 and should be awarded to her.

11 **2.8.6** The wife automobile should be awarded to her.

12 **2.8.7** The husband's automobile, should be awarded to him.

13 **2.8.8** The P&G shares, valued at \$1,500 and the "Penny Stock" valued at \$1,500
14 should be awarded to the husband.

15 **2.8.9** Each party should be awarded the personal furniture, furnishings and
16 belongings in his or her possession.

17 **2.8.10** Each party should be awarded any bank accounts in his or her name.

18 **2.8.11** The wife should be granted a judgment, secured by an equitable lien and by a
19 note and deed of trust against the family home, which should bear interest at
20 12% per annum. The note and deed of trust should be signed by the husband
21 immediately upon presentation by the wife's attorney to the husband's attorney
22 in the sum of \$61,288.00. The note should be payable in three equal monthly
23 installments, with the first installment due on December 15, 2010, the second on
24 July 15, 2011 and the third on December 15, 2011. If the husband does not pay
25 the first or the second installment timely, the balance should be accelerated and
26 should be due the day following the missed payment.

2.9 Separate Property. The parties have no real or personal separate property, with the
exception of accumulations or acquisitions since the separation of the parties, and
except as provided in paragraph 2.8.2 and 2.8.3 above.

2.10 Community Liabilities. The parties have not incurred community liabilities.

2.11 Separate Liabilities. The husband has no known separate liabilities. The wife has no
known separate liabilities.

2.12 Maintenance. Maintenance was not requested.

1 **2.13 Continuing Restraining Order.** A continuing restraining order against the husband
2 should be entered against the husband restraining him from knowingly coming within or
3 knowingly remaining within 500 feet of the home or the workplace of Aradhna Luthra.

4 **2.14 Protection Order.** Does not apply.

5 **2.15 Fees and Costs.** There is no award of fees or costs.

6 **2.16 Pregnancy.** The wife is not pregnant.

7 **2.17 Dependent Child.** The child listed below is dependent upon either or both spouses.

<u>Name of Child</u>	<u>Age</u>	<u>Mother's Name</u>	<u>Father's Name</u>
Akshay Luthra	6	Aradhna Luthra	Vikas Luthra

8
9
10 **2.18 Jurisdiction Over the Child.** This court has jurisdiction over the child for the reasons
11 set forth below. This state is the home state of the child because:

12 The children lived in Washington with a parent or a person acting as a parent for
13 at least six consecutive months immediately preceding the commencement of
this proceeding.

14 The children have no home state elsewhere.

15 No other state has jurisdiction.

16 **2.19 Parenting Plan.**

17 The parties are the parents of Akshay, born in July, 2003. Both parents have provided
18 care for Akshay and have been actively involved in his life. Both love Akshay, and he
19 loves each of his parents.

20 Mr. Luthra has suffered from Obsessive/Compulsive Disorder for over thirty years, since
21 approximately age 7.

22 Mr. Luthra has severe OCD, which is a lifelong condition that cannot be cured.

23 Mr. Luthra's OCD has had a profound impact on the family, requiring Ms. Luthra to
24 participate in "cleansing rituals" when areas of the home or when family members have
25 been "contaminated," for example. Family members are only allowed to enter the home
26 in a certain manner, until extensive cleansing rituals are completed. Members cannot
touch certain surfaces or items in the home without the father's permission, or enter

1 certain areas of the home or the edges or corners of rooms where contaminated objects
2 are stacked. Visitors to the family home are very rare because of the extensive efforts
3 necessary to prepare for the visits as well as the need to engage in cleansing rituals
4 following such visits.

5 This is abnormal behavior, and it is not in Akshay's best interest to be raised in an
6 environment that is so severely impacted. Unfortunately, Ms. Luthra has engaged in
7 cleansing rituals, something she did to assist her husband but which paradoxically has
8 allowed him to avoid facing his emotional impairment and getting treatment. Akshay has
9 also been subjected to cleansing rituals, and irrational notions of contamination.

10 With intensive, ongoing treatment, Mr. Luthra's obsessions and the anxiety they cause
11 are capable of being addressed to such a degree that the compulsive rituals should be
12 able to be moderated substantially. If Mr. Luthra is successful in intensive treatment
13 including prescribed medications, his OCD will likely have only limited impact on Akshay
14 as he moves through childhood and adolescence.

15 Mr. Luthra does not appear to fully appreciate the impact of his OCD on Akshay, and
16 has not successfully engaged in the type of intensive treatment necessary to address it.
17 Although he did participate in a residential program in another state in early 2009, he left
18 that program before he was determined to be ready from a medical standpoint, and has
19 not engaged in an intensive non-residential program locally, despite having received
20 referrals over a year ago.

21 Presently, Mr. Luthra's undertreated OCD including his fear of contamination, need to
22 avoid geographical locations as well as areas of the home, undertake cleansing rituals
23 and expose and subject Akshay to these fears and rituals is conduct that has an
24 adverse effect on Akshay's best interests under RCW 26.09.191(3)(g) and also
25 constitutes an emotional impairment that interferes with the father's performance of
26 parenting functions under RCW 26.09.191(3)(b).

Mr. Luthra has also engaged in abusive use of conflict, including reports to CPS and the
police with virtually no rational basis, particularly at the outset of this case, and also
leading to a court order preventing him from pursuing additional discovery without court
permission, under RCW 26.09.101(3)(e).

Mr. Luthra has disparaged Ms. Luthra and her family and friends to Akshay, both subtly
and directly, has engaged in behaviors designed to align Akshay emotionally with the
father and against the mother, and has discussed with Akshay or in his presence adult
financial and dissolution matters, all of which is harmful and detrimental to Akshay's best
interests under RCW 26.09.191(3)(g).

Akshay's best interests will be served if his father obtains intensive treatment for his
OCD so that Akshay can continue to have the regular presence of his father in his life in
a way that is healthy for him.

1 Mr. Luthra should immediately engage in intensive, home-based therapy for his OCD,
2 which is likely to include both exposure response prevention and cognitive behavioral
3 therapist highly experienced in intensive OCD treatment and will also likely include
4 medication. The frequency and length of intensive treatment should be as
5 recommended by the therapist, and should be followed by maintenance level treatment
6 specifically for OCD long-term. When the father has begun treatment, the therapist shall
7 report that fact, outlining the nature and frequency of the treatment to both counsel.

8 Mr. Luthra should also engage in therapeutic help to address his controlling behavior
9 and resentment toward the mother.

10 The parents should engage in co-parenting therapy with a therapist having a strong
11 background in family law and co-parenting/child issues. The first available of the
12 following therapists should be utilized, with the research done by the mother or her
13 attorney: Jane Harmon-Jacobs, Ph.D.; Lisa Woods, Ph.D.; Kathy Melman, Ph.D., Wren
14 Hudgins, Ph.D. or Bonnie Bhatti, Ph.D. If none are reasonably available, the mother
15 should ask for referrals from any of them. This is not intended to be long term therapy.

16 The mother should have Akshay screened to determine if he would benefit from
17 counseling.

18 All therapists involved with any member of this family should be provided with a copy of
19 Dr. Teri Hastings' evaluation.

20 The mother should be designated as primary parent. Akshay should reside with the
21 mother, except during the father's residential time, which should be as follows:

22 When Akshay begins Lafayette Grade School, he will spend alternating weekends with
23 his father, from after school on Fridays to Sunday evenings at 7 p.m.

24 After school begins, the father's mid week visits will stop until the father's therapist
25 provides a status report to counsel and to me that affirmatively reports on the father's
26 commitment to and progress in treatment. When the therapist reports that the father is
engaged in and making progress in intensive therapy, the father may also spend time
with Akshay in West Seattle on Wednesdays from after school until 7 p.m., where he
can participate in activities at one or both of the West Seattle Y facilities, at the Hiawatha
Community Center, at parks and other similar locations, as well as share a meal with
Akshay. The father shall return Akshay to the mother at the Metropolitan Market on
Admiral Way. Once begun, this mid-week schedule will place the burden of travel for
the visit on the father, not on Akshay, and should also reduce the level of exhaustion for
the child, while giving him an opportunity to spend time with his father.

1 The holidays, breaks, summer schedule and special occasions should be divided as set
2 forth in the Parenting Plan.

3 Decision making: The parents should have joint decision making with respect to religion
4 and major medical issues. Both parents should be allowed to engage the child in
5 religious activities when Akshay is in their care. Akshay should attend school in the
6 District in which his mother resides. The mother should be solely responsible to work
7 with the District to select and obtain Akshay's school assignment from within the
8 available options.

9 Given the history of police and CPS reports by Mr. Luthra with little or no basis, as well
10 as the abuse of the discovery process leading to the court's order restricting discovery,
11 the parties should engage in mediation with the co-parenting therapist, even after the
12 co-parenting therapy has concluded.

13 The Parenting Plan signed by the court contemporaneously with these Findings and
14 Conclusions is approved and incorporated as part of these findings.

15 **2.20 Child Support.** Akshay is in need of support. The Order of Child Support and Child
16 Support Worksheet previously entered by the court based upon the agreement of the
17 parties adequately provides for Akshay's support and the terms of these documents are
18 incorporated by reference in these findings.

19 III. Conclusions of Law

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

21 **3.1 Jurisdiction.** The court has jurisdiction to enter a decree in this matter.

22 **3.2 Granting a Decree.** The parties should be granted a decree.

23 **3.3 Pregnancy.** Does not apply.

24 **3.4 Disposition.** The court should determine the marital status of the parties, make
25 provision for a parenting plan for any minor children of the marriage, make provision for
26 the support of any minor child of the marriage entitled to support, consider or approve
27 provision for maintenance of either spouse, make provision for the disposition of
28 property and liabilities of the parties, make provision for the allocation of the children as
29 federal tax exemptions, make provision for any necessary continuing restraining orders,
30 and make provision for the change of name of any party. The distribution of property
31 and liabilities as set forth in the decree is fair and equitable.

32 **3.5 Continuing Restraining Order.** The husband should be restrained from knowingly
33 coming within or knowingly remaining within 500 feet of the home or the workplace of
34 Aradhna Luthra.

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3.6 Protection Order. Does not apply.

3.7 Attorney Fees and Costs. There is no award of fees or costs.

3.8 Parenting Plan. The Parenting Plan signed by the court contemporaneously with these Findings and Conclusions should be approved and incorporated herein.

DATED: July 8, 2010.


JUDGE DEBORAH D. FLECK

Appendix D

Petition for Review

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

In re Marriage of:
ARADHNA FORREST (fka Luthra),
Petitioner,
and
VIKAS LUTHRA,
Respondent.

NO. 09-3-04289-0 KNT
PARENTING PLAN
FINAL ORDER (PP)
AMENDED on 9/9/13

COPY
ORIGINAL

This parenting plan is the final parenting plan signed by the court pursuant to a decree of dissolution signed by the court on July 8, 2010, as amended and clarified by Judge Deborah D. Fleck pursuant to the parties' agreement to submit identified issues for her determination.

It Is Ordered, Adjudged and Decreed:

I. GENERAL INFORMATION

This parenting plan applies to the following child:

<u>Name</u>	<u>Age</u>
Akshay Luthra	9

II. BASIS FOR RESTRICTIONS

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

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

2 Does not apply.

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

4 The father's involvement or conduct has an adverse effect on the child's best interests
5 under RCW 26.09.191 (3)(g) as described in the Finding of Fact, and also because of
6 the existence of the factors which follow:

7 A long-term emotional or physical impairment which interferes with the performance
8 of parenting functions as defined in RCW 26.09004.

9 The abusive use of conflict by the parent which creates the danger of serious damage
10 to the child's psychological development.

11 **III. RESIDENTIAL SCHEDULE**

12 *The residential schedule must set forth where the child shall reside each day of the year,*
13 *including provisions for holidays, birthdays of family members, vacations, and other special*
14 *occasions, and what contact the child shall have with each parent. Parents are encouraged to*
15 *create a residential schedule that meets the developmental needs of the child and individual*
16 *needs of their family. Paragraphs 3.1 through 3.9 are one way to write your residential*
17 *schedule. If you do not use these paragraphs, write in your own schedule in Paragraph 3.13.*

18 **3.1 Schedule for Children Under School Age**

19 There are no children under school age.

20 **3.2 School Schedule**

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

23 From after school on Fridays to 7:00 p.m. on Sunday evenings every other weekend.

24 The father's mid-week visits will stop until the father is in compliance with the court's
25 orders regarding treatment, the father's therapist provides a status report to counsel and
26 to Judge Fleck (or any successor Judge or Commissioner if no successor Judge is
assigned) that affirmatively reports on the father's commitment to and progress in
treatment, and the court approves the start of midweek visits. When the therapist
reports that the father is engaged in and making progress in intensive therapy, the
father may also spend time with Akshay in West Seattle on Wednesdays from after
school until 7:00p.m, where he can participate in activities at one or both of the West
Seattle Y facilities, at the Hiawatha Community Center, at parks and other similar
locations, as well as share a meal with Akshay. The father shall return Akshay to the
mother at the Metropolitan Market on Admiral Way. Once begun, this mid-week
schedule will place the burden of travel for the visit on the father, not on Akshay, and
should also reduce the level of exhaustion for the child, while giving him an
opportunity to spend time with his father.

1 The only "school breaks" are winter, mid-winter and spring, with summer listed below
2 as "summer schedule." School breaks do not include other times when the child is not
3 in school, such as teacher training days, snow days, teacher conferences, or any other
4 similar periods.

4 **3.3 Winter Vacation.**

5 The child shall reside with the mother during winter vacation, except for the following
6 days and times when the child will reside with or be with the father:

7 The parties shall share winter vacation, which shall be defined as beginning after
8 school following school release for the winter vacation and ending at 7 p.m. on the day
9 before school resumes. If the day before school resumes is January 1st, the father shall
10 return the child to the mother at 7 p.m. in odd numbered years and the mother shall
11 have the child with her according to the normal schedule in even numbered years.

12 The father shall have the first half in even years and the second half in odd years. The
13 mother shall have the second half in even years and the first half in odd years.
14 Christmas Eve and Christmas Day shall not be counted in determining what
15 constitutes half the number of days.

16 The "halfway" transfer shall occur at 2 p.m. on the day which constitutes the halfway
17 point. If there is an odd number of days the extra day shall be spent with the parent
18 who has the second half of vacation.

19 **3.4 Schedule for Midwinter and Spring Breaks**

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

22 The parties shall share midwinter and spring breaks equally. The mother shall have the
23 first half of each break in odd years and the second half of each break in even years.
24 The father shall have the second half in odd years and the first half in even years.
25 Assuming that the midwinter and spring breaks are one full week, the break shall not
26 include the weekends and the midway exchange shall be Wednesday at 2 p.m. In even
years when the father has the first half of spring break, if the child is also scheduled to
be with him the weekend immediately preceding spring break, the child shall remain
with him Sunday overnight so as not to require multiple transfers of the child in a
short period.

27 **3.5 Summer Schedule**

28 Upon completion of the school year, the child shall reside with the mother, except for
29 the following days and times when the child will reside with or be with the other
30 parent: The father may have residential time every other week as follows: from
31 Thursday through Sunday during week A and a Thursday overnight during week B.
32 The father shall pick up the child from daycare from 9:00 a.m. on Thursdays. The
33 father should return the child to the mother on Sunday at 7:00 p.m. on week A, and to
34 daycare at 9:00 a.m. on Friday during week B.

1 **3.6 Vacation with Parents**

2 The schedule for vacation with parents is as follows:

3 Each parent shall have up to two weeks of vacation each summer to be taken in one
4 week or two-week segments, beginning in the summer 2011. Once Akshay turns ten
5 (10) years old in the summer of 2013, if either agreed or approved by the court, each
6 parent shall be authorized to take three-week vacations for special trips to India. If a
parent exercises this option, the other parent shall be granted one week of makeup
time during the summer. Absent such extended travel, the parents shall continue to
have two weeks of vacation.

7 Each parent must provide the other with his or her respective days by April 1" of each
8 year. If the proposed vacation dates conflict and the parties are not able to resolve the
9 conflict, the mother shall have priority in even years and the father in odd years. The
10 parties may take Akshay out of the country if both parents agree, or if ordered by the
court. If a parent plans to take Akshay out of the country, he or she shall provide
notice of the country, the itinerary, and contact information for such out of country
vacation by April 1st of each year.

11 For all vacations, five days prior to departure, the parent taking the child shall provide
12 the other parent in writing with a complete itinerary, and valid address and telephone
13 contact numbers of where they will be staying while on vacation with the child. The
14 parent who is not with the child shall have reasonable telephone contact with the child
during that time; see paragraph 6.2. Neither parent shall remove the child from the
State of Washington for vacation purposes without complying with this provision.

15 The mother shall have the sole authority to obtain and retain Akshay's passport. She
16 shall provide it to the father within one week of any scheduled vacation out of the
country.

17 **3.7 Schedule for Holidays:** The residential schedule for the child for the holidays listed
below is as follows:

	With Mother	With Father
New Year's Day	Even	Odd
Martin King Luther Day	***	***
President's Day	Per 3.4	Per 3.4
Memorial Day	***	***
July 4th	Odd	Even
Labor Day	***	***
Veteran's Day	*** (if Fri. or Mon.)	*** (if Fri. or Mon.)
Thanksgiving Day	Even	Odd
Christmas Eve	Odd	Even
Christmas Day	Odd	Even
Diwali		Every

26 ***The marked holidays, including Veteran's Day only if it falls on a Friday or

Monday, shall be spent with the parent who has the adjacent weekend. For Monday holidays, the weekend shall extend until 7 p.m. Monday; for Friday holidays, the holiday shall begin with pick-up after school on Thursday or, if there is no school, at 7 p.m. on Thursday. If Veteran's Day is not on a Friday or Monday, it shall be spent per the regular school schedule.

Thanksgiving shall last from 9 a.m. Thanksgiving Day until 7 p.m. on Friday.

All other holidays shall last from 9 a.m. to 7 p.m., except that when July 4th falls on a Monday in even years and the child will be with the father the preceding weekend, the child shall remain with the father overnight on Sunday to avoid multiple transitions in a short period.

3.8 Schedule for Special Occasions

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

	With Mother	With Father
Mother's Day	Every	
Father's Day		Every
Akshay's Birthday	Even	Odd

Special occasions shall commence at 9:00am and end at 7:00pm on the day of the special occasion.

3.9 Priorities Under the Residential Schedule

Paragraphs 3.3-3.8 have priority over paragraphs 3.1 and 3.2, in the following order, with 1 being given the highest priority:

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

1. Holidays (3.7)
2. Special Occasions (3.8)
3. Winter Breaks (3.3)
4. School Breaks (3.4)
5. Vacation with Parents (3.6)
6. Summer schedule (3.5)

3.10 Restrictions

There are limiting factors in paragraph 2.2, and the father's midweek visits during the school period are limited until the conditions for treatment of his OCD have been met.

3.11 Transportation Arrangements

Transportation arrangements for the child between parents are as follows: The father shall be responsible to pick up and return Akshay for midweek visits during the school

1 year, when they begin and to pick Akshay up from school for weekend or extended
2 weekend residential time which begins after school. For all other transfers, when the
3 mother is the receiving parent, the transfer shall take place at the Newcastle Safeway
4 and when the father is the receiving parent, the transfer shall take place at the
5 Metropolitan market in West Seattle. If a parent moves, other more convenient public
6 locations shall be identified and used by the parties.

3.12 Designation of Custodian

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

3.13 Other

12 The parents shall communicate by email except for emergencies. Emails shall be
13 restricted to practical and necessary co-parenting details, as well as information about
14 the child's physical/emotional well-being, his activity/school schedule, and the like.
15 E-mails shall be limited to one topic which appears in the subject line and shall
16 generally be no more than one hundred words.

17 For issues related to joint decision-making or to necessary scheduling logistics (e.g.
18 vacations and camps), if a parent communicates with the other parent seeking input or
19 agreement, and the other parent fails to respond within 24 hours, the initiating parent
20 is entitled to rely on his or her proposal, unless the responding parent notifies the
21 initiating parent that s/he needs a brief extension of an additional 24 hours. This 24
22 hour rule does not apply to any other attempts at communication.

23 Failure to respond on a timely basis on such issues which has the result of requiring
24 the requesting parent to initiate dispute resolution may be a basis for the award of
25 attorney's fees.

26 As a matter of enforcement of Paragraphs 3.13 and 6.2 of the Parenting Plan, the
parties may not transmit text messages to each other for any purpose, including the
Father sending messages to the child.

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

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

If the person with whom the child resides a majority of the time plans to move, that
person shall give notice to every person entitled to court ordered time with the child. If
the move is outside the child's school district, the relocating person must give notice
by personal service or by mail requiring a return receipt. This notice must be at least
60 days before the intended move. If the relocating person could not have known
about the move in time to give 60 days' notice, that person must give notice within 5
days after learning of the move. The notice must contain the information required in

1 RCW 26.09.440. See also form DRPSCU 07.0500, (Notice of Intended Relocation of
2 A Child).

3 If the move is within the same school district, the relocating person must provide
4 actual notice by any reasonable means. A person entitled to time with the child may
5 not object to the move but may ask for modification under RCW 26.09.260.
6 Notice may be delayed for 21 days if the relocating person is entering a domestic
7 violence shelter or is moving to avoid a clear, immediate and unreasonable risk to
8 health and safety.

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

11 A relocating person may ask the court to waive any notice requirements that may put
12 the health and safety of a person or a child at risk.

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

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

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

19 An objection may be filed by using the mandatory pattern form WPF DRPSCU
20 07.0700. (Objection to Relocation/Petition for Modification of Custody
21 Decree/Parenting Plan/Residential Schedule). The objection must be served on all
22 persons entitled to time with the child.

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

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

IV. DECISION MAKING

4.1 Day-to-Day Decisions

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

4.2 Major Decisions

Major decisions regarding the child shall be made as follows:

	Mother	Father	Joint
Education	XX		
Non-Emergency Health Care			XX
Religious Upbringing			XX

Major medical decisions which require joint decision-making shall be defined as a change in medical providers, surgery, or a new course of treatment (such as orthodontia). Because the child resides primarily with the mother and the mother has been primarily responsible for his medical care, the father shall only seek medical care for the child in the case of an illness or accident and shall notify the mother prior to seeking such medical care for the child except in the case of an emergency. In the event of an emergency, the father shall immediately notify the mother at the earliest possible time and provide her with all details, including where the child is receiving care so that she may go to that location.

The mother shall notify the father within 24 hours after taking Akshay to any medical, dental, vision, etc. appointment, whether routine or otherwise and she shall notify the father of any significant diagnosis or treatment and of any care requirements which will span the father's residential time.

The mother shall place the child in therapy within the next three months. Based on the father's failure to comply with the court's order regarding his own treatment, and the ongoing conflict between the parties, the mother shall have sole authority to select the therapist. The mother is not required to disclose the name of the therapist to the father, but she shall notify the father when a therapist is engaged, the frequency of the therapy and when the mother, in consultation with the therapist, determines that therapy is no longer necessary for the child. The father may have contact with the child's therapist only as requested by the therapist or as ordered by the court. The father shall not question the child or engage in conversation with the child regarding therapy, including asking the child to identify the therapist in any way.

4.3 Restrictions in Decision Making

There are limiting factors in paragraph 2.2; but the parents shall have joint decision making with respect to religion and major medical issues (except as regarding the child's therapy which is addressed above), provided that this joint decision making may be revisited by the court if the father's litigiousness is not moderated or if he fails to engage in treatment for OCD. Both parents shall be allowed to engage the child in religious activities when Akshay is in their care, and the father shall be entitled to have some residential time with Akshay during the Hindu holiday, Diwali. Akshay shall attend school in the District in which his mother resides. The mother shall be solely responsible to work with the District to select and obtain Akshay's school assignment from within the available options.

V. DISPUTE RESOLUTION

No dispute resolution process, except court action is ordered.

1 **VI. OTHER PROVISIONS**

2 There are the following other provisions:

3 **6.1 Address Change.** Each parent shall provide the other with the address and phone
4 number of their residence and update such information promptly whenever it changes.

5 **6.2 Telephone Access.** The child shall not be given his own cell phone absent agreement
6 by the parties or a court order. The father shall provide the mother, by email, with one
7 phone number she can use for the child's calls to the father. The father shall have
8 phone contact with Akshay on Monday between 8:15pm and 8:45 pm and every other
9 Saturday between 9:15 am and 9:45 am, when Akshay is not residing with the father.
10 The mother shall have phone contact with Akshay every other Saturday between 9:15
11 am and 9:45 am, when Akshay is not residing with the mother.

12 The residential parent will initiate each and every phone call between Akshay and the
13 other parent. The residential parent will dial the other parent's phone number and hand
14 the phone to the child so there will be no phone contact between mother and father. If
15 the call is not answered, the child shall leave a voice mail and the residential parents
16 shall call again five minutes later, If the second call is not answered, the child shall
17 leave a second voice mail. The other parent shall not be entitled to make-up phone
18 contact and shall not attempt to return the phone call at a later time.

19 If the residential parent is unavailable to place the phone call at the regularly
20 scheduled time, he or she may email message the other parent an alternate phone
21 number where he or she can talk to the child. The time for the call shall not change
22 except in an urgent or unavoidable situation. Prior to sending an email message to the
23 father, the mother shall notify any care provider of the procedures to follow for the
24 phone contact.

25 Neither parent shall interrupt the child's call with the other parent, except in an
26 emergency. If a phone call lasts longer than 15 minutes, the residential parent shall
remind the child of the time and advise the child to conclude the call.

As a matter of enforcement of Paragraphs 3.13 and 6.2 of the parenting plan, the
parties may not transmit text messages to each other for any purpose, including the
father sending messages to the child.

It is further ordered that the Father's telephone contact with the parties' child, as
provided in Paragraph 6.2 of the Parenting Plan, shall be supervised by the Mother
until further Order of the Court.

The designated form of contact between father and child when the child is not with the
father shall be by telephone with audio only. During those calls, the father shall not:

- Attempt to speak directly to the mother
- Make an disparaging remarks about the mother's friends and family
- Prompt the child to question the moter's decisions and motives
- Prompt the child to question the mother directly
- Pressure the child to call the father outside of the designated call timeframes

1 Pressure the child to sue chat websites or anything other than the telephone to
communicate with him
2 ~~Pressure the child to use the face-time feature on the mother's phone.~~

3 The Father shall not communicate with the child through other media, including but
not limited to e-mail, Facetime, chat rooms and other web-based communication.

4
5 **6.3 Address Change.** Each parent shall have the right and responsibility to ensure that
the child attends school and other scheduled activities while in that parent's care. Each
parent shall have the full and equal access to the education, daycare and health records
6 of the child (except to the extent that a separate consent may need to be obtained for a
child as provided by law). Both parents shall have equal and independent authority, as
7 provided by statute, to confer with the school regarding the child's educational
progress.

8
9 **6.4 Scheduling.** Activities shall not be scheduled to unreasonably interfere with the other
parent's residential time with the child. Each parent will avoid approving events or
appointments (birthday parties, dentist appointments, etc) that affect the hours of the
10 other parent's residential time.

11 **6.5 Emergency Notification.** Each parent shall notify the other promptly but in any event
within 24 hours of receipt of extraordinary information regarding the child, such as
12 emergency medical care, major school discipline, unusual or unexplained absence
from the home, or contact with police or other legal authority.

13
14 **6.9 Travel Notification.** Each parent shall inform the other parent when that parent plans
to be away from his or her residence with the child for more than two nights. The
information to be provided shall include duration of the period, the destination(s) and
15 destination telephone number(s).

16 A parent is not required to notify the other parent where the child will be staying when
the parent is out of town away from the child. The traveling parent shall ensure that
17 the care provider has contact information for the other parent in the event of an
emergency which requires that the parents be contacted.

18
19 If the mother is away on vacation for five days or more without the child, she shall
notify the father of the person with whom the child is staying. The father is prohibited
from contacting the caretaker or the child at any time other than his scheduled
20 telephone calls, unless there is a serious emergency such as an earthquake disaster. If
the father does make such contact in violation of this provision, this provision shall no
21 longer be in effect.

22 **6.10 Child's Property.** Items belonging to the child, including but not limited to sporting
equipment, backpacks, musical instruments, uniforms, costumes and the like, shall be
23 deemed the property of the child, and shall be permitted to travel with the child
between the parents' homes as the child require.

24
25 **6.11 Involvement in Proceedings.** Neither parent shall advise the child of the status of
child support payments or other legal matters regarding the parents' relationship or this
26 proceeding.

1 **6.12 Child as Messenger.** Neither parent shall use the child, directly or indirectly, to gather
2 information about the other parent or to take verbal messages to the other parent. The
3 father shall not question the child about events occurring during the mother's
4 residential time or about the mother's friends and family. Any abuses of this
5 requirement shall first be reported to the co-parenting therapist for therapeutic
6 intervention. If unsuccessful the issue may be brought before the court.

7 It is further ordered that the father shall strictly comply with Paragraphs 6.12 and 6.13,
8 including he shall not ask the child if he has received information from the Mother,
9 interrogate the child regarding the child's life at the Mother's home nor suggest to the
10 child that the child speak to personnel at school if he has problems at home.

11 **6.13 Derogatory Comments.** Neither parent shall make derogatory comments about the
12 other parent or allow anyone else to do the same in the child's presence. Neither
13 parent shall allow or encourage the child to make derogatory comments about the
14 other parent. Both parents and their families shall be prohibited from discussing the
15 details of any aspect of their dispute with the child or in the child's presence,
16 including but not limited to negative descriptions of a parent or their family, any legal
17 action, visitation, placement and child support. Both parents shall be encouraged to
18 convey positive support regarding visitation and placement with the respective parent.

19 **6.14 Financial Obligations.** Neither parent shall financially obligate the other parent for
20 any expense related to the child without the written consent of the other parent, with
21 the exception of the cost of daycare (selected by the mother) which expense is
22 addressed in paragraph 3.15 of the Order of Child Support.

23 **6.14 Medical Directive.** Both parents shall follow the medical directives of the child's
24 physician(s) prescribing any medication. Each parent shall notify the other parent
25 immediately of any medication that has been prescribed for the child.

26 **6.15** The father shall immediately cease his visits, including during the lunch period, with
the parties minor child, AKSHAY LUTHRA, at the Lafayette Elementary School or at
any other school the child may attend and the Respondent shall immediately cease
being in the presence of the child at any other times and places not specifically
awarded to the Respondent under the Final parenting plan, dated July 8, 2010, in the
above entitled matter, with the exception that the father may chaperone one field trip
per year that the mother is not serving as a chaperone and may participate in one
classroom/school event per year that the mother is not participating in. These one per
year limitations for the father's contact with the child during school hours shall apply
regardless of which parent has residential time with the child during the field trip or
classroom/school event. In order to avoid incidental contact not contemplated by this
order, the father shall not be present at the school during regular school hours or after
school until the children have departed except as provided herein. After school events
may be attended by the parent who has residential time with the child.

VII. DECLARATION FOR PROPOSED PARENTING PLAN

Does not apply.

VIII. ORDER BY THE COURT

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

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

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

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

DATED: September 9, 2013


THE HONORABLE DEBORAH D. FLECK