Superior Court of Washington, County of _____

In re custody of: Children*:* _____ Petitioner/s *(person/s who started this case):* _____ Respondents *(parents and any guardian or custodian):* _____ _____	No. _____ Findings and Conclusions on Non-Parent Custody Petition (FNFCL)

Findings and Conclusions on Non-Parent Custody Petition

Use this form *together with either a Final Non-Parent Custody Order (form FL Non-Parent 431) or a Final Order Denying Non-Parent Custody (form FL Non-Parent 432).*

1. Basis for findings and conclusions *(check all that apply):*

☐ Parties' agreement.

☐ Default Order *(date):* _____.

☐ Trial for this case on *(date):* _____, with the following people present *(check all that apply):*

- ☐ Petitioner *(name):* _____ ☐ This person's lawyer
- ☐ Other Petitioner *(name):* _____ ☐ This person's lawyer
- ☐ Respondent *(name):* _____ ☐ This person's lawyer
- ☐ Other Respondent *(name):* _____ ☐ This person's lawyer
- ☐ Guardian ad Litem (*name):* _____
- ☐ Other *(name and relationship to this case):* _____

2. Indian children

*(An **Indian child** is a child who is a member of an Indian tribe, or who is the biological child of an Indian tribe member and eligible for membership.)*

☐ **None** of the children are Indian children. The state and federal Indian Child Welfare Acts do not apply to this case. The court makes this conclusion because *(check all that apply):*

- ☐ the Petitioner made a good faith effort to find out if any child in this case is an Indian child. (RCW 13.38.050.) The court has received no information showing that any child is or may be an Indian child.
- ☐ the Petitioner notified the tribal agent of every tribe the children may have been eligible for membership in. *List tribes notified*: _____

  _____.

  Each tribe responded that the children were not tribal members and not eligible for membership.
- ☐ other *(specify):* _____

  _____

☐ **These children are Indian children**:

Children	Tribe
☐ All children ☐ *(name/s):*	
☐ All children ☐ *(name/s):*	

The federal and state Indian Child Welfare Acts apply to this case.

Notice to tribes – The Petitioner ☐ provided ☐ did **not** provide the required *Indian Child Welfare Act Notice* (form FL Non-Parent 402) and a copy of the *Petition* to the agent for the tribe/s named above, the parents and any Indian custodian.

Evidence – The evidentiary requirements of the Acts ☐ have ☐ have **not** been met as described below. (RCW 13.38.130)

- *Active efforts* – The following active efforts were made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family: *(Active efforts means: "a documented, concerted, and good faith effort to facilitate the parent's or Indian custodian's receipt of and engagement in" those services and programs. RCW 13.38.040.)*

  _____

  _____

  _____

  _____

- *Serious emotional or physical damage* – The court considered testimony from a qualified expert witness as defined in RCW 13.38.130. The court finds by clear and convincing evidence that the children *(check one):* ☐ would ☐ would **not**

likely suffer serious emotional or physical damage if they lived with either parent or an Indian custodian. The Court makes this conclusion because:

_____

_____

_____

_____

3. Jurisdiction over Indian children

☐ Does not apply. None of the children are Indian children.

☐ This court **cannot** decide this case for these Indian children *(names):* _____ _____ because this court does not have jurisdiction over them. The *Petition* should be dismissed as to these children.

☐ This court **can** decide this case for the Indian children because *(check one)*:

☐ *(Children's names):* _____ are **not** domiciled or living on an Indian reservation, and are not wards of a tribal court. (25 USC §1911)

☐ *(Children's names):* _____ **are** domiciled or living on an Indian reservation, or are wards of a tribal court, however *(check all that apply):*

☐ The children's tribe agrees to Washington State's concurrent jurisdiction.

☐ The children's tribe decided not to use its exclusive jurisdiction (expressly declined). (RCW 13.38.060)

☐ Washington State should claim emergency jurisdiction for children temporarily located off the reservation to protect the children from immediate physical damage or harm. (RCW 13.38.140)

☐ Other *(specify):* _____

_____

4. Dependency case

☐ There is no open dependency case for these children.

☐ There is an open dependency case for these children in _____ county under case number: _____. The court handling the dependency has signed an order allowing this court to proceed with this non-parent custody case.

5. Jurisdiction over the children (RCW 26.27.201 – .221, .231, .261, .271)

☐ This court **cannot** decide this case for these children *(names):* _____ _____ because this court does not have jurisdiction over them. The *Petition* should be dismissed as to these children.

☐ This court **can** decide this case for these children because *(check all that apply; if a box applies to all of the children, you may write "the children" instead of listing names):*

☐ **Exclusive, continuing jurisdiction** – A Washington court has already made a parenting plan, residential schedule or custody order for the children, and the court still has authority to make other orders for *(children's names):* _____.

☐ **Home state jurisdiction** – Washington is the children's home state because *(check all that apply):*

- ☐ *(Children's names):* _____ lived in Washington with a parent or someone acting as a parent for at least the 6 months just before this case was filed, or if the children were less than 6 months old when the case was filed, they had lived in Washington with a parent or someone acting as a parent since birth.
  - ☐ There were times the children were not in Washington in the 6 months just before this case was filed (or since birth if they were less than 6 months old), but those were temporary absences.
- ☐ *(Children's names):* _____ do not live in Washington right now, but Washington was the children's home state some time in the 6 months just before this case was filed, and a parent or someone acting as a parent of the children still lives in Washington.
- ☐ *(Children's names):* _____ do not have another home state.

☐ **No home state or home state declined** – No court of any other state (or tribe) has the jurisdiction to make decisions for *(children's names):* _____, **or** a court in the children's home state (or tribe) decided it is better to have this case in Washington **and:**

- The children and a parent or someone acting as a parent have ties to Washington beyond just living here; **and**
- There is a lot of information (substantial evidence) about the children's care, protection, education and relationships in this state.

☐ **Other state declined** – The courts in other states (or tribes) that might be *(children's names):* _____'s home state have refused to take this case because it is better to have this case in Washington.

☐ **Temporary emergency jurisdiction** – Washington had temporary emergency jurisdiction over (*children's names):* _____ when the case was filed, and now has jurisdiction to make a final custody decision because:

- When the case was filed, the children were abandoned in this state, or the children were in this state and the children (or children's parent, brother or sister) was abused or threatened with abuse;
- The court signed a temporary order on *(date)* _____ saying that Washington's jurisdiction will become final if no case is filed in the children's home state (or tribe) by the time the children have been in Washington for 6 months;
- The children have now lived in Washington for 6 months; **and**
- No case concerning the children has been started in the children's home state (or tribe).

☐ Other reason *(specify):* _____

_____

6. Background Records Checked

The Court has (unless stated otherwise below):

- Checked the judicial information system for any information or proceedings relevant to placement of the children;
- Reviewed the records from the Department of Social and Health Services provided in response to the court's *Order to DSHS to Release CPS Information*; and
- Reviewed the criminal history record from the Washington State Patrol for Petitioner and each adult living in Petitioner's home.

☐ The court did not check background records because the *Petition* is denied.

☐ Other findings *(specify):* _____

_____

7. Adequate Cause

The Court found there was adequate cause to make a final decision on the *Petition* in an *Order on Adequate Cause for Non-Parent Custody* (form FL Non-Parent 417) signed by the court on *(date):* _____.

8. Are there valid reasons why the children should <u>not</u> live with a parent?

☐ **No.** The Petitioners did not prove that both parents were unfit or that the children would suffer actual detriment (harm) to their growth and development if they lived with either parent. The *Petition* should be denied.

☐ *(Other findings):* _____

_____

_____

_____

☐ **Yes.** At the time this case was filed *(check all that apply):*

☐ the children were not living with either parent. The children had been living with *(name/s):* _____ since *(date):* _____.

☐ neither parent was a suitable custodian.

And,

Both parents are **currently** unfit, or, even if they may be fit, the children will suffer actual detriment (harm) to their growth and development if they lived with either parent.

(These conclusions are based on the following facts.)

_____

_____

_____

_____

_____

_____

_____

9. Should the children live with Petitioner/s?

☐ Does not apply. The Court found no valid reasons why the children should not live with a parent. The *Petition* should be denied.

☐ **No.** The *Petition* should be denied. It is **not** in the children's best interests to live with the Petitioner/s because *(explain):*

_____

_____

_____

_____

☐ **Yes.** It is in the children's best interests to live with the Petitioner/s because *(explain):*

_____

_____

_____

_____

10. Respondents' Visitation

☐ Does not apply. The *Petition* should be denied.

☐ The visitation ordered is reasonable. Findings about any reasons for limiting a parent's visitation are summarized either in the *Residential Schedule* or the *Non-Parent Custody Order*. These findings are supported by the following facts *(include facts about both parents):*

_____

_____

_____

_____

_____

_____

11. Limitation on Petitioner's Authority (RCW 26.10.170)

☐ Does not apply. The *Petition* should be denied.

☐ No limits should be put on the Petitioner's authority over the children's upbringing or decision-making for the children.

☐ Limits should be put on the Petitioner's authority over the children's upbringing or decision-making for the children because *(check all that apply):*

☐ the parties have agreed as follows: _____

_____

_____

☐ without a limit, the children's physical, mental, or emotional health would be endangered. *(Explain):* _____

_____

_____

☐ The court finds that an agency should be appointed to assure the Petitioner is following the custodial or visitation terms of the order. The court finds that *(agency name):* _____ is an appropriate agency that regularly deals with children.

☐ Other findings: _____

_____

12. Support, insurance and taxes

The court has considered whether to order child support, health insurance, and allocation of tax exemptions. The court finds:

☐ Does not apply. The *Petition* should be denied.

☐ **Child Support –** The children should be supported according to state law.

☐ The court signed the final *Child Support Order* and *Worksheets* filed separately today or on *(date):* _____.

☐ There is no need for the court to make a child support order because the DSHS Division of Child Support (DCS) has already established an administrative child support order for the children.

☐ **Heath Insurance or other expenses** – The parents should pay for health insurance, uninsured medical, day care, or other necessary expenses as listed in the *(check one):*

☐ final *Child Support Order* or administrative order.

☐ *Final Non-Parent Custody Order* (if no *Child Support Order* is being issued). Support is ordered based on the *Worksheets* and/or the following findings:

_____

_____

☐ **Tax Exemptions** – The parties should have the right to claim the children as their dependents on their tax forms as listed on the final *Child Support Order* or the *Non-Parent Custody Order.*

☐ *(Check here if the court is **not** ordering child support, health insurance, other expenses, and/or allocating tax exemptions, and explain why.)* _____

_____

_____

☐ Other *(specify):* _____

_____

13. Protection Order

☐ No one requested an *Order for Protection* in this case.

☐ *(Name):* _____ requested an *Order for Protection* in this case.

Conclusion: The court should *(check one):*

☐ **not** approve an *Order for Protection* order because: _____

_____

_____

☐ approve an *Order for Protection* because: _____

_____

_____

14. Restraining Order

☐ No one requested a *Restraining Order* in this case.

☐ *(Name):* _____ requested a *Restraining Order*.

Conclusion: The court should *(check one):*

☐ **not** approve a *Restraining Order* because: _____

_____

_____

☐ approve a *Restraining Order* because: _____

_____

_____

15. Fees and Court Costs

☐ Each party should pay his/her own fees or costs.

☐ *(Name):* _____ incurred fees and costs, and needs help to pay those fees and costs. *(Name):* _____ has the ability to help pay fees and costs and should be ordered to pay the amount as listed in the *Final Non-Parent Custody Order* or *Final Order Denying Non-Parent Custody*. The court finds that the amount ordered is reasonable.

☐ Fees for a guardian ad litem (GAL) or other court-appointed professional should be paid as listed in the *Final Non-Parent Custody Order* or *Final Order Denying Non-Parent Custody.* The court has considered relevant factors including each party's ability to pay, and finds the fees as ordered are reasonable.

☐ Other findings: _____

_____

16. Other findings or conclusions (if any)

_____

_____

_____

Date | *Judge or Commissioner*

Petitioner/s and Respondent/s or their lawyers fill out below.

This document *(check any that apply)*:
- ☐ is an agreement of the parties
- ☐ is presented by me
- ☐ may be signed by the court without notice to me

*Petitioner signs here **or** lawyer signs here + WSBA #*

Print Name *Date*

This document *(check any that apply)*:
- ☐ is an agreement of the parties
- ☐ is presented by me
- ☐ may be signed by the court without notice to me

*Respondent signs here **or** lawyer signs here + WSBA #*

Print Name *Date*

This document *(check any that apply)*:
- ☐ is an agreement of the parties
- ☐ is presented by me
- ☐ may be signed by the court without notice to me

*Other Petitioner **or** lawyer signs here + WSBA #*

Print Name *Date*

This document *(check any that apply)*:
- ☐ is an agreement of the parties
- ☐ is presented by me
- ☐ may be signed by the court without notice to me

*Other Respondent **or** lawyer signs here + WSBA #*

Print Name *Date*