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No. 66635-5

COURT OF APPEALS
OF
THE STATE OF WASHINGTON
DIVISION I

IN RE THE MARRIAGE OF:

JILL IRINA BORODIN
Respondent

v.

ADAM REED GROSSMAN
Appellant

APPELLATE BRIEF

(AMENDED NOVEMBER 7, 2011)

ON APPEAL FROM KING COUNTY SUPERIOR COURT
09-3-02955-9 SEA
(The Honorable Mariane C. Spearman)

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I. INTRODUCTION

This appeal of a Decree of Dissolution and related Orders concerns the marriage between Adam R. Grossman, Appellant, and Jill Irina Borodin, Respondent from December 29, 2002, through December 14, 2010 and their twin daughters Alexandra and Naomi (b. 2006).

It is not a case about domestic violence. There was no domestic violence. It is not a case about endangering children. The children were not in danger from the parents. It is not a case about abusive control. There was no abusive control.

It is a case about the dissolution of a marriage and very simple emotional incompatibility between two adults and nothing more. The family was filled with love. Both parents are excellent parents and were found to be excellent parents by the parent evaluator. Both parents are highly intelligent and highly educated. The children are strongly bonded to both parents and were described by the family evaluator as "among the most delightful children I have ever encountered. They are bright, sweet, curious, good-humored children who appear to delight in each other and each of their parents. The parents have shared values around child-centered parenting and neither uses television. The girls are clearly used to a high level of parental interaction with each of the parents. Notably, both parents had an interactive style with the girls that encouraged them to

think for themselves and each parent gave the girls a lot of warm positive encouragement."

A former nanny stated during these proceedings, "I consider Adam to be a very involved father, and am always impressed by the time he spends caring for his daughters. He is by far one of the most involved fathers I have ever met. Alexandra and Naomi are lucky to have him in their lives."

Through the guidance of aggressive attorneys, what should have been a simple matter of counting assets and dividing by two and deciding which parent will start the alternation of weekends, this dissolution was transformed into injustices and legal problems during nearly every step in the process. This has caused to occur a sequence of actions leading up to and including numerous legal errors during a dissolution trial so error-laden that justice and fairness require nothing less than remand to a new and impartial judge who can establish post-dissolution orders that are in the best interests of the children.

II. ASSIGNMENTS OF ERROR / ISSUES RE: ERRORS

ERROR #1 -- Instructions By Judge Re Scope Of Domestic Violence

The Trial Court erred in making any finding related to domestic violence and .191 restrictions because Judge Spearman on the first day provided both sides instructions for the scope of relevant testimony and evidence under consideration for a ruling concerning domestic violence was based on the period during which the parties were married prior to separation,

THE COURT: Okay. We should confine ourselves to what alleged domestic violence occurred during the marriage.

after which Respondent produced numerous exhibits, testimony, and focus on alleged domestic violence that occurred after the marriage as posturing for trial. Appellant having limited time to testify and restrictions on the number of witnesses allowed, followed the Judge's instructions and did not introduce, present, address, or rebut allegations of domestic violence after the marriage.

However, when the Court issued rulings imposing .191 restrictions, they were based on alleged incidents which occurred after the petition for dissolution was filed and there was not one example of even

an allegation of violence towards another person or in front of children that occurred **before** this time.

The error of the trial court in issuing instructions for evidence that conflicted with the ruling of the Court did not allow evidence from both sides to be considered which is a fundamental issue of due process.

ERROR #2 -- Requirement Of Domestic Violent Treatment

The Trial Court erred in requiring Appellant enroll in domestic violent treatment after instructing the parties to limit the scope of evidence to the period prior to separation, April 15, 2009, but citing only examples of alleged domestic violence that were alleged after separation which Appellant was instructed not to address.

ERROR #3 -- Clear Evidence, Stipulated, Improperly Considered

The Trial Court erred in artificially shortening cross-examination concerning written statements by Respondent denying the existence of any domestic violence and affirming, under oath, her denials were true. Establishing the truth or falsehood of the existence of domestic violence is the most central issue of concern yet the limitations placed on examination were critically restrictive.

ERROR #4 -- Access To Justice -- Depositions Not Admitted

The Trial Court erred in not admitting into evidence depositions Appellant submitted despite a pretrial order accepting them as evidence if disclosed, which they were.

ERROR #5 -- Evidentiary Requirements

The Trial Court erred admitting non-testimonial evidence. The Court haphazardly required live testimony or sworn statements sometimes but not others. Much non-sworn evidence was admitted and incorrect. Some sworn affidavits and even live testimony was rejected.

ERROR #6 -- Jurisdiction Over Property Settlement

The Trial Court erred in reversing its previous ruling that it had jurisdiction over issues of property settlement and could remove property from the bankruptcy estate which is administered under the "exclusive jurisdiction" of the bankruptcy courts.

ERROR #7 -- Issuance Of Restraining Orders

The Trial Court erred in issuing continuing restraining orders against Appellant without required justification.

ERROR #8 -- Finding Of Intransigence

The Trial Court erred in finding Appellant acted with intransigence in providing financial information needed by Respondent.

ERROR #9 -- Distribution Of Assets And Liabilities

The Trial Court erred not only in its ruling that it had jurisdiction over property settlement issues during a pending bankruptcy case, but also that the purported distribution of assets and liabilities was fair and equitable.

ERROR #10 -- Award Of Attorney Costs

The Trial Court erred in awarding attorney costs to Respondent instead of to Appellant.

ERROR #11 -- Imposition Of .191(1)(c) Restrictions

The Trial Court erred in imposing .191(1)(c) restrictions on Appellant.

ERROR #12 -- Imposition Of .191(3)(e) Restrictions

The Trial Court erred in imposing .191(3)(e) restrictions on Appellant.

ERROR #13 -- Requirement Of Supervision

The Trial Court erred in requiring supervision during the Appellant's residential time with the children.

ERROR #14 -- Limitations Of Domestic Violent Treatment Programs

The Trial Court erred in limiting domestic violent treatment providers to three programs, one of which does not accept new clients.

ERROR #15 -- Due Process -- Limitation On Witnesses Examination

The Trial Court erred by artificially limiting the time Appellant could directly examine Appellant's witnesses and cross-examine Respondent's witnesses.

ERROR #16 -- Conditional Residential Time

The Trial Court erred in conditioning Appellant's residential time on enrollment and completion of domestic violence treatment.

ERROR #17 -- Requirement To Attend DV Dads

The Trial Court erred in requiring Appellant to attend and complete DV Dads.

ERROR #18 -- Limitation To Email

The Trial Court erred in limiting all communication to email and preventing telephone access between Appellant and young children.

ERROR #19 -- No Order Of DV Treatment For Respondent

The Trial Court erred in failing to order domestic violence treatment for Respondent who was the only parent found by the parent evaluator to have a demonstrated need for "skill in responding to relationship difficulties without resorting to physical force."

ERROR #20 -- Contradictory Conditional Parental Contact

The Trial Court erred in including contradictory language in the Parenting Plan which purportedly makes Appellant's residential time conditional upon compliance with other parts of the Parenting Plan in contradiction to RCW 26.09.160 and includes the language of RCW 26.09.160 prohibiting such conditional requirements.

ERROR #21 -- Purchase Of 20170 Glennview Drive Property

The Trial Court suppressed evidence of witnesses who had direct personal knowledge of this issue and relied solely upon testimony of

witnesses who had no personal knowledge of this issue thus resulting in misclassification of \$255,000 of source funding for the purchase of 20170 Glennview Drive, Cottonwood, CA.

ERROR #22 -- Respondent In Need Of Maintenance

The Trial Court erred in finding Respondent in need of maintenance.

ERROR #23 -- Issuance Of Restraining Orders

The Trial Court erred in stating the evidentiary requirements required by the trial court but citing evidence not meeting these standards when issuing restraining orders affecting Appellant.

ERROR #24 -- Finding Appellant Refused To Provide Documentation

The Trial Court erred in finding Appellant refused to provide documentation to Respondent without identifying any document which existed but was not produced.

ERROR #25 -- Finding Respondent's Net Income

The Trial Court erred in it's determination of Respondent's net income.

ERROR #26 -- Ordering Debt To Third Party Collected By DCS

The Trial Court erred in ordering debt owed to a third party be collected by DCS during a pending bankruptcy proceeding. The claim has been doubly submitted.

ERROR #27 -- Failure To Sanction Pattern Of Misrepresentations

The Trial Court erred in failing to consider, and sanction, Respondent for an ongoing pattern of underrepresenting her income, overreporting her taxes, and submitting nearly \$1m of false assets rejected by the trial court.

ERROR #28 -- Issuance Of Attorney's Fees To Appellant

The Trial Court erred in not awarding Appellant attorney's fees based upon RCW 26.09.140 as Appellant's income throughout the marriage demonstrated a clear need and Respondent's income demonstrated a clear ability to pay.

ERROR #29 -- Classification Of 6821 As Community Property

The Trial Court erred in classifying this property as community despite evidence presented at trial that it was owned solely by Respondent and Appellant years ago signed a Quit Claim Deed transferring all rights to Respondent as her sole and separate property.

ERROR #30 -- Due Process -- Opportunity To Present Evidence

The Trial Court erred by failing to allow Appellant to provide evidence in Appellant's defense.

ERROR #31 -- Res Judicata and Collateral Estoppel

The Trial Court erred by reconsidering the issues of professional supervision during parental residential time, issuance of protection orders, existence of domestic violence, and treatment for domestic violence in the consideration of issues already twice addressed in Family Court and twice rejected.

ERROR #32 -- Access To Justice -- Limitation On Witnesses

The Trial Court erred by artificially limiting the number of witnesses Appellant was permitted to call.

ERROR #33 -- Due Process -- Attempts To Disgorge Attorney Fees

The Respondent's pattern of attempts to disgorge Appellant's attorney's fees including the attempts prior to trial interfered with the process of a fair trial.

ERROR #34 -- Sole Decision Making For Children To Respondent

The Trial Court erred in ordering sole decision making regarding the children to Respondent as a result of procedural, instructional, and evidentiary errors cited herein.

ERROR #35 -- Obstruction Of Justice -- Late Production Of Exhibits

The Respondent did not provide Appellant, as ordered by the Court, copies of Exhibits until the day before trial thus preventing reasonable time to analyze and address the issues presented and preventing a fair trial.

ERROR #36 -- Obstruction Of Justice -- Witness Tampering

Respondent attempted to quash lawfully issued subpoenas for depositions by Appellant. The Motion to Quash was denied by the trial Judge but within hours Respondent's law firm contacted most or all subpoenaed people and misled them into believing their subpoena's were

quashed. Subpoenaed people suddenly became unavailable at their previously scheduled times.

ERROR #37 -- Obstruction Of Justice -- "Unlawful" Conduct

The conduct of Respondent's counsel was described to Judges by at least two attorneys -- on this case alone -- as "unlawful".

ERROR #38 -- Limit Of Testimony -- Scope

The Trial Court erred in accepting Respondent's Motion in Limine limiting the scope of Appellant's ability to testify. Such limits were not applied to Respondent. More importantly, the limitations were abused during Appellant's testimony by preventing Appellant from testifying within the scope allowed by the Motion in Limine.

ERROR #39 -- Limit Of Testimony -- Time

The Trial Court erred in not allowing Appellant time to testify regarding submitted exhibits, allegations made by Respondent, subject matter of witnesses, and many other subjects. Appellant was often given timers and limits prior to testifying. Judge Spearman's allocated time to Respondent was significantly greater than the allocated time to Appellant.

ERROR #40 -- Issuance Of .191 Restrictions, Denial Of 2ND DVPO

The Trial Court erred in its decision to issue .191 restrictions. After explicitly linking them to the continuance or termination of Respondent's 2nd post-separation DVPO, while the Court terminated Respondent's 2nd post-separation DVPO it did not also then, by its own standards, reject the request to issue .191 restrictions.

THE COURT: So if I say -- you know, hypothetically, so if I say -- if I listen to all the evidence presented by both sides and determine, you know, in fact I don't believe any domestic violence existed during this relationship ever, so that I don't think there needs to be any 191 restrictions then I wouldn't continue the domestic violence protection order. I don't know when the end date is, but I think it's sometime in the future?

III. STATEMENT OF THE CASE

This appeal of a Decree of Dissolution and related Orders concerns the marriage between Adam R. Grossman, Appellant, and Jill Irina Borodin, Respondent from December 29, 2002, through December 14, 2010 and their twin daughters Alexandra and Naomi (b. 2006).

It is not a case about domestic violence. There was no domestic violence. It is not a case about endangering children. The children were not in danger from the parents. It is not a case about abusive control. There was no abusive control during the marriage. When Respondent filed a petition for dissolution, **the children had never been injured while in Appellant's care and had never required emergency medical attention while in Appellant's care.**

This is a case about abuse of power, abuse of clergy status, and the abusive use of conflict during dissolution to manufacture conflict and falsely portray Respondent as a victim without substantiating evidence that meet the evidentiary standards stated by, and required by, the Court.

GENDER BIAS IN ASSESSING DOMESTIC VIOLENCE

The female Respondent is not a victim. She is very powerful and can command, through her employment position and status, vast resources which can be coordinated to portray any situation to the Courts despite

having no evidence to support it. **It is only male Appellant who has ever during the marriage or post-separation been kicked, hit, shoved, stomped, choked, and bitten which is corroborated by the sworn statements of the perpetrators of this violence against Appellant who once suffered, as a victim of such violence, a broken rib.**

The day Appellant's rib was broken the police report noted, "no crimes were committed" despite also noting in the same report and ignoring Appellant's claims of being kicked and bitten. While the perpetrators of violence against Appellant later affirmed, under oath, engaging in these violent actions, the violent attack **against** Appellant was cited by the trial Judge for justifying .191 restrictions against Appellant. There were not even allegations that Appellant had engaged in any actions meeting the definition of domestic violence under RCW 10.99.020. Evidentiary standards required to issue .191 restrictions and supervised visitation were not met.

DISSOLUTION RUN AMOK

Despite a lack of abusive or violent patterns of behavior during marriage, the case has been presented as something that it is not through deliberate, systematic, coordinated, intentional misrepresentation to the

court and its representatives that is very different from the reality, the history, the evidence, and the facts.

FALSE ACCUSATIONS OF DOMESTIC VIOLENCE

The period of time from Respondent filing for dissolution through the time that the orders from the Motion for Reconsideration post-trial was nearly two years. During the two years Respondent twice obtained ex parte Domestic Violence Protection Orders (DVPOs) against Appellant and twice were the DVPOs terminated. Both occurrences were rejected with documentation noting the absence of evidence: in the former, Commissioner Smith cited "lack of evidence"; in the latter, the police report generated by Respondent alleging activity in which Appellant was not present stated, Respondent suspected Appellant "but could provide no evidence."

The only evidence in the docket of this dissolution shows pictures of Appellant's shins after being kicked by Respondent, pictures of a door broken that Respondent testified to causing, and several admissions under oath of violent activities perpetrated **against** Appellant by or upon the encouragement of Respondent.

The trial court erred by not admitting the entirety of the police report and instructing Appellant not to testify regarding it. Respondent's

first police report occurred after the parties had separated and the police wrote that Respondent and others at her request initiated physical contact with Appellant. The police wrote that in answer to whether there was "anything physical" other than Respondent and others at her request initiating physical contact against Appellant, all reported none. Appellant reported being kicked and bitten which the police ignored and wrote "no crimes were committed". Later the perpetrators of the violence documented in the police report swore under oath that they had acted violently in those ways against Appellant.

As part of the Respondent's divorce posturing, when Respondent obtained her first ex parte DVPO in 2009 on the petition when asked to describe past incidents "where you were afraid of injury or where the respondent threatened to harm or kill you" Respondent could not write a single incident. Where the petition asked to describe "any violence or threats towards the children" Respondent could not write anything related to the children. A permanent order was denied for "lack of evidence."

Before separation and being the primary care giver to the children, the children were never harmed and never required urgent medical care while in Appellant's care.

There was no independent corroboration of the Respondent's claims of domestic violence made only after deciding to file for

dissolution. To the contrary, the court-appointed family evaluator found it was Respondent **not Appellant** who was found to have the need to develop "skill in responding to relationship difficulties without resorting to physical force."

At trial, a witness testified that Respondent had specifically told him that she had no intention of affording the Appellant equal time with the children and she became **angry** not **frightened** at the suggestion that the Appellant would continue to have a significant role raising his children.

When Respondent filed for dissolution, there is **no evidence that Appellant ever caused harm to the children and the children were never injured or required urgent medical care while in Appellant's care.**

There is no independent corroborating evidence or witness with personal knowledge that Respondent ever had a *reasonable* basis to fear Appellant or that Respondent had reason to have an ongoing *reasonable* fear of Appellant. There is no evidence that Respondent experienced fear other than her own testimony which steadily changed and steadily grew over the course of the dissolution as initial claims of domestic violence were not credible.

Prior to filing for dissolution Respondent did not show hesitation in leaving the children in Appellant's care even traveling for a week or more before the children were one years old. Staged calls to the police *all* post-date Respondent's dissolution filing and *never* found Appellant to have acted violently or in any way to have met the clinical or legal definitions of domestic violence. To the contrary, Respondent would regularly but infrequently physically lash out at the father without any fear of reprisal.

In addition, shortly before filing for dissolution in response to very specific and very detailed questions about domestic violence, fear, sexual abuse or coercion, Respondent in writing denied that any of these were issues in the marriage. Respondent tried to recant that position at trial but only two weeks earlier had testified under oath that when answering the questions, Respondent's answers were truthful.

Again, in 2010 Respondent obtained a second DVPO shortly after the parent evaluator recommended the need to develop "skill in responding to relationship difficulties without resorting to physical force" lay with Respondent and not Appellant.

Having being separated for nearly one year since the first DVPO was denied and having little contact, Respondent could not credibly claim any physical violence and could only claim an acts which did not require

mutual presence but still met the legal definition of domestic violence under RCW 10.99.020 although not the clinical one. A staged police report quotes Respondent urging the police to consider Appellant guilty of burglary but the police wrote Respondent provided "no evidence", listed the suspect as "unknown", never contacted Appellant, and a case was never opened.

Contradictory testimony by Respondent included representations on September 10, 2009 in the court room at 10:00 AM that the Appellant should only see the children in "safe havens" but at 11:30 AM in the hallway outside the court room Respondent sent a proposal in her own handwriting that Appellant should care for the children for ten days while the Respondent attended back-to-back professional conferences.

This case should have settled in far less time than two years and was only protracted as indications continued that parents would be awarded nearly equal residential time with the children and Respondent unrelentingly continued abusive litigation and the abusive use of conflict.

Respondent continued attempts to incriminate Appellant constitute an abusive use of conflict to manipulate the legal process. This included an order or protection, terminated, that Appellant could not be east of 27th Ave NE when Appellant lives east of 27th Ave NE. Respondent presented no independent evidence by a single witness that Appellant was violent. In

fact, the evidence presented by Respondent to the parenting evaluator was not presented to the court under oath and the Appellant discovered that most of the Respondent's witnesses and references had no personal knowledge of the representations they made and, under oath, would not corroborate a single instance supporting a claims of violence made by Respondent. One witness reported Respondent relaying an incident that Respondent has never even alleged.

The Respondent's allegations led to the trial court's imposition of RCW 26.09.191(1)(2) restrictions which have significantly interfered with Appellant's relationship with his children. The Court is asked to review whether proper judicial processes were followed and to determine, as a result, whether the power of the court will be used to ***limit and destroy*** the parental relationship between a father and his children or whether the power of the court will be used to ***preserve and protect*** this relationship.

DUE PROCESS

The legal process of the trial contained significant abuses which the Court is asked to review including the abusive use of missing deadlines to interfere with Appellant's trial preparation, obstruction of justice, witness tampering, errors in instructions given by the trial court Judge, behavior by opposing counsel described by two different attorneys

to Judges as "unlawful", suppression of evidence, denial of the Appellant an opportunity to offer testimony in his own defense, illegitimate striking of testimony, issuance of orders contrary to Washington statute, and issues of law including res judicata and collateral estoppel.

JURISDICTIONAL ISSUES FOR PROPERTY SETTLEMENT

During protracted legal proceedings over two year that drained the families economic resources, Appellant filed for bankruptcy. Opposing counsel at first concurred that financial issues and property settlement were not considered at trial but three days before the start of trial obtained, ex parte, a ruling from the bankruptcy court not given to Appellant's counsel until the morning of the first day of trial supporting the position in a Motion in Limine that reversed opposing counsels prior agreement regarding the scope of the trial and leaving Appellant less prepared for the reintroduction of financial issues.

IV. ARGUMENT
DOMESTIC VIOLENCE

Domestic Violence is a serious issue. False reporting of Domestic Violence is also a serious issue and the errors of the trial court prevented the required ability to defend against false accusations which is difficult. Mere accusations of domestic violence, without proof, are not sufficient to constitute statutory basis for establishing a finding of domestic violence. *Caven v. Caven*, 136 Wn.2d 800, 966 P.2d 1247 (1998).

Given that there was no substantiating evidence to support a finding of a history of domestic violence, it is clear the trial judge relied upon mere accusations of domestic violence made by Respondent. This does not permit a finding of domestic violence based upon mere accusations. *Id.* The Court erred in finding that Appellant had engaged in a history of acts of domestic violence absent substantial and substantiating testimonial evidence.

The most significant error of the trial court having far reaching effects was the instruction to present testimony limited to the duration of the marriage from the date of marriage (December 29, 2002) through the date of separation (April, 15, 2009):

THE COURT: Okay. We should confine ourselves to what alleged domestic violence occurred during the marriage. (November 11, 2010)

MS. ZAIKE: ...And at the date of separation, as of the end of March... (November 11, 2010)

THE COURT: The date of separation was April 15th, '09. (December 14, 2010)

Appellant followed the instructions of the Judge to "confine" testimony and evidence about what "alleged domestic violence occurred during the marriage" made clear ending through separation. In issuing rulings, the Court explained,

THE COURT: ..I am finding, under RCW 26.09.191, restrictions against the father. I am finding that the father has a history of domestic violence.

which referred to manufactured claims and incidents cited only after the petition of dissolution was filed. Appellant was instructed not to address these issues, and did not, in the limited time Appellant was permitted to testify. Eliminating the issues cited about which Appellant was not allowed to testify leaves no incident involving any physical contact with any person near any children even stipulating that Court believes Respondent's testimony on one day to be correct and that Respondent's testimony on the following day to be incorrect -- that Respondent's testimony of reporting in January, 2009, of no domestic violence was "truthful." This does not meet the standards required either for a finding of domestic violence as defined by RCW 26.50.010 or the conviction in a criminal court of an offense defined in RCW 9A.46.110, the issuance of a

restraining order, the requirement to be treated for domestic violence, or the requirement to complete DV Dads.

The trial Judge further erred by denying to admit into evidence depositions which had be previously approved to be admitted. The depositions of people who had submitted letters to the Court or letters to the family evaluator were very different from their statements under oath during depositions. With one exception, no person had any personal knowledge of any instance of behavior or conduct that would meet the definition of domestic violence either clinically or legally. The only instance in which a person reported conduct that could be considered to meet the standards described in RCW 26.50.010, was a recollection of "hitting a wall" *described to the witness by Respondent* which Respondent has never alleged.

In another instance, the author of a six-page letter written to the parent-evaluator described vivid details portraying Appellant abusively and violently wished to avoid being deposed and wrote, "I still have no information related to this case or to the claims of either party." These depositions were not allowed into evidence although statements they made to the parenting evaluator were.

The parent evaluator's recommendation was that no restrictions be placed on either parent and that the parents share nearly equal custody of

the children. The only parent found with a need to develop "skill in responding to relationship difficulties without resorting to physical force" was Respondent not Appellant yet Appellant's residential time with the children has been reduced to none by the decision of Respondent.

SUPPRESSION OF FINANCIAL EVIDENCE AND TESTIMONY

The trial Judge erred by striking from evidence testimony by Appellant that the source of funds used to purchase the real property located at 20710 Glennview Drive, Cottonwood, CA, was post-separation debt but allowing the testimony by Respondent who claimed the source of funds were from the community. Appellant likely had personal knowledge of property purchased post-separation and held in the name of Appellant. Petitioner likely had little personal knowledge about the business activities of Appellant post-separation.

The trial Judge ruled that the source of funds were community monies and resulted in the involuntary transfer of assets belonging to Appellant's clients to Petitioner through a series of events that followed.

If this error is not corrected, Appellant fears it will likely trigger losses distributed among a large number of clients and former clients in Appellant's asset management business which is regulated by the SEC. Wealthy clients do not like incurring losses due to the misappropriation of

funds by the manager's spouse during divorce proceedings and this will inevitably lead to securities litigation in federal district court in which investors are highly likely to prevail against Respondent and be awarded legal fees.

Appellant respectfully requests appellate review of decisions that affect losses of other people's money -- people who were not party to the dissolution proceedings to protect their interests.

OBSTRUCTION OF JUSTICE AND ACCESS TO JUSTICE

The trial errors and pre-trial errors in the execution of the trial were numerous. Appellant was limited by the trial Judge in the number of witnesses who could be called. This is very crucial in the defense against false allegations of domestic violence.

Appellant was not allowed equal time to testify. Appellant was limited in the scope of Appellant's testimony. Opposing counsel violated court orders by providing trial exhibits two weeks late -- one day before trial -- not allowing Appellant time to review the exhibits and address them in trial. Respondent repeatedly asked for documents that Appellant did not have for the purpose of creating a paper trail that was used to describe Appellant's behavior as "refusing" to provide documents when no instance of a document which existed but not provided was presented.

Appellant was not permitted enough time to address this accusation. The trial judge erred by making a finding that Appellant was willfully refusing to provide information while the evidence not introduced included letters documenting offers to meet with Respondent's financial expert or Appellant's actual meeting with opposing counsel prior to discovery requests being made to provide financial information.

ANALYSIS

Findings of fact are reviewed under the substantial evidence standard. *Pope v. University of Washington*, 121 Wn.2d 479,490, 852 P.2d 1055 (1993). Evidence is substantial if it persuades a fair-minded, rational person of the truth of the finding. *In re Marriage of Spreen*, 107 Wn. App. 341, 346,28 P.3d 769 (2001); *In re Marriage of Thomas*, 63 Wn. App. 658, 660,821 P.2d 1227 (1991).

A court abuses its discretion if its decision is manifestly unreasonable or exercised on untenable grounds or for untenable reasons. *In re Marriage of Thomas*, 63 Wn. App. 658, 660, 821' P.2d 1227 (1991).

Appellate review is required to confirm or reject the trial court's decisions Appellant respectfully suggest show a manifest abuse of discretion. *Horner*, 151 Wn.2d at 893; *Bay*, 147 Wn. App. at 651. A trial court manifestly abuses its discretion when a review of the record shows

that its decision is based on untenable grounds or untenable reasons. In re Marriage of Littlefield, 133 Wn.2d 39, 46-47, 940 P.2d 1362 (1997). In re the Marriage of Lisa M. Fahey, 40906-2-II. In re Marriage of Brewer, 137 Wn.2d 756, 769, 976 P.2d 102 (1999). In re Marriage of Fiorito, 112 Wn. App. 657, 663-64, 50 P.3d 298 (2002).

RCW 26.09.187(3)(b) recommends that the court order that a child frequently alternate the residence between the households of the parents for brief and substantially equal intervals of time if such provision is in the best interests of the child. This is consistent with (i) the history of parenting during the marriage, (ii) the schedule ordered by the Court and in effect for a year under temporary orders, and (iii) the recommendations of the parenting evaluator. The parents live in close geographic proximity as Appellant has specifically chosen to establish a residence in walking distance (but not too close) to Respondent to accommodate Respondent's religious observance of not driving during religious holidays and facilitating the ability to share performance of the parenting functions.

The State of Washington recognizes "the fundamental importance of the parent-child relationship to the welfare of the child" and states that "the relationship between the child and each parent should be fostered unless inconsistent with the child's best interests." RCW 26.09.002. The parent evaluator found, "**People stated that Adam is a good parent and**

praised his ability to relate to children in general. Among his strengths are his ability to encourage critical thinking and his creativity in connecting with his children. He was observed to have a strong bond with his children and this observation is also supported by the comments of others."

A former nanny testified, "**[Appellant] is by far one of the most involved fathers I have ever met. Alexandra and Naomi are lucky to have him in their lives."**

A parent's fundamental right to raise his or her child is accorded the highest constitutional protection and may be restricted or interfered with under only the narrowest of circumstances. State interference when a fundamental right is involved is justified "*only* if the state can show that it has a compelling interest *and that any interference is narrowly drawn to meet only the compelling state interest involved.*" *Smith, supra*, 137 Wn.2d at 15 (emphasis added). Additionally, a state may interfere with a parent's fundamental right to make decisions concerning the care, custody, and control of his or her child under the state's *parens patriae* power, but only if a child has been harmed or a threat of harm exists. *Smith, supra*, 137 Wn.2d at 16; *Parentage ICAMA*. 154 Wn.2d at 64,66. Thus, the State (including through the courts) may interfere with the constitutional right of a fit parent to rear one's child *only* if it appears that parental decisions *will*

jeopardize the health or safety of the child. *Smith*, 137 Wn.2d at 15-20.

When Respondent filed a petition for dissolution, the children had never been injured in the care of Appellant and had never required urgent medical attention while in the care of Appellant.

Appellant has **never** been charged with an act of committing domestic violence, has **never** been arrested for domestic violence, there was **no direct evidence** presented at trial other than descriptions by Respondent that Appellant had ever engaged in any act of domestic violence directed at another person or in the presence of children other than the post-separation police report stating Respondent provided "no evidence" for her allegations and in which a case was **never** opened.

Permitting only restrictions reasonably calculated to protect the child is consistent with the recognition of the "fundamental importance of the parent-child relationship to the welfare of the child" in RCW 26.09.002. Since under RCW 26.09.191(2)(m)(i), restrictions on the parent-child relationship must be "reasonably calculated to protect the child", substantial evidence meeting the requirement of issuing 191 restrictions was not met and the issuance of them by the trial court was an abuse of discretion by the trial court.

The children at this critical time in childhood deserve an opportunity to develop a normal relationship with both parents. As a

reference provided by Respondent to the parent evaluator stated, "Let me start by saying that both are very good parents."

The trial court erred in revisiting findings previously made in the termination of Respondent's first DVPO and the issuance of temporary orders. Under the doctrine of res judicata, a party is precluded from asserting a claim that was litigated in a prior proceeding. *Rains v. State*, 100 Wn.2d 660, 663, 674 P.2d 165 (1983). Res judicata similarly applies if, between the two proceedings, there is identity of the (1) subject matter, (2) cause of action, (3) persons and parties, and (4) quality of the persons for or against whom the claim is made. *Id.*

The doctrine of collateral estoppel differs from res judicata in that it prevents relitigation of issues between the parties, even though a different cause of action is asserted. *Rains*, 100 Wn.2d at 665. Collateral estoppel applies if (1) the identical issue was previously adjudicated, (2) a final judgment was entered on the merits, (3) the party to be estopped was a party to or in privity with a party to the prior adjudication, and (4) applying the doctrine will not work an injustice. *Id.* Both doctrines apply to this case. *Hanson v. City of Snohomish*, 121 Wn.2d 552, 561, 852 P.2d 295 (1993).

The trial court erred by citing,

...the most serious incident that was testified to occurred at Camp Solomon Schechter.

despite that issue have been already addressed by the Court -- twice -- and as a result the DVPO was terminated for "lack of evidence" and a temporary parenting plan ordered that included nearly equal residential time between both parents, with no restrictions, and unsupervised.

Before the trial court may impose restrictions under RCW 26.09.191(3)(e), "the trial court must find, inter alia, that the abusive use of conflict creates the danger of serious damage to the child's psychological development." Marriage of Burrill, 113 Wn. App. 863, 871, 56 P.3d 993 (2002), citing RCW 26.09.191(3)(e). This requires the court to find a "nexus" between the parent's conduct and the danger of serious damage to the child's psychological development. Watson, 132 Wn. App. at 234. The trial court did not find that Appellant's actions created a danger of serious psychological damage to any of the children. The absence of this finding alone requires reversal or, at minimum remand for additional fact finding. Burrill, 113 Wn. App. at 871. **The children had never been injured in the care of Appellant nor required urgent medical attention when Respondent petitioned for dissolution.** Moreover, even if there had been a "serious damage" finding, the trial court's findings did not support a conclusion that Appellant engaged in an "abusive use of conflict."

INTRANSIGENCE AND ATTORNEY'S FEES

In a dissolution action, the trial court may consider whether additional legal fees were caused by one party's intransigence and may award attorney fees on that basis. In re Marriage of Greenlee, 65 Wn. App. 703, 708, 829 P.2d 1120 (1992). While the trial court made such finding citing Appellant's alleged non-production of documents in discovery, there was not a single document identified which Appellant had but did not produce.

To the contrary evidence submitted showed that Appellant had offered to meet with Respondent's financial expert on four different days and no offer was accepted.

No party to a dissolution action is entitled to attorney's fees as a matter of right. In re Marriage of Stachofsky, 90 Wn. App. 135, 148, 951 P.2d 346 (1998). Although intransigence is a recognized equitable ground for an award of attorney's fees, "[t]he party requesting fees for intransigence must show the other party acted in a way that made trial more difficult" but no direct evidence, not a single document, was shown to have been withheld by Appellant. Respondent did not make a single discovery request until 11 months after petitioning for dissolution. In re Marriage of Pennamen, 135 Wn. App. 790,807, 146 P.3d 466 (2006).

V. CONCLUSION

First, this Court should not tolerate the conspiracy to misappropriate assets from the customers of one spouse, exceeding \$1/4 million, by the other spouse under the guise of being a normal part of dissolution proceedings. An "equitable distribution" may, depending on a specific fact pattern, be correctly found to be anywhere from 0% to 100% *between the assets and liabilities of the two parties of the dissolution* but under no circumstances should the involuntary distribution of assets or equivalent value from clients and customers who are not party to the dissolution be tolerated. Under no circumstances can this outcome be considered "equitable." Appellant respectfully requests the Court to note that nothing in this concluding section requests Appellate review for issues that would result in greater assets for Appellant. Appellate review is requested for the purpose of returning misappropriated assets *belonging to other people* to their rightful owners.

Second, this Court should not tolerate the unethical and unlawful behavior, as described by two different attorneys to Judges, that has been allowed to prevail in the lower courts and should remand, with oral sanctions to Respondent, back to Superior Court for a trial that is based on clear standards, rules of evidence, and requirements to make findings of fact that must meet a threshold of determination that by a least one

measure exceeds merely the a statement by one party, or their attorney, as the basis for making life altering decisions for children.

Third, the Court should carefully consider whether the power of the court will be used to limit and destroy the parental relationship between a father and his children or whether the power of the court will be used to preserve and protect this relationship. The alienation and complete severance of a relationship between one parent and two children who were previously referred to as "among the most delightful children I have ever encountered" and are now in therapy grieving the loss of one parent merely for the convenience of the other is not in the children's best interest. Pretrial testimony of a person with daily contact having personal knowledge of the parent-child relationship wrote, "He is by far one of the most involved fathers I have ever met. Alexandra and Naomi are lucky to have him in their lives."

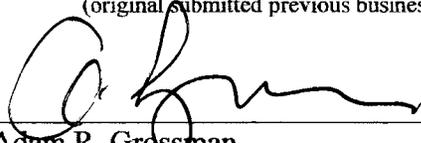
While remand to new trial is requested, it is hoped by Appellant that a quicker and less burdensome process will be acceptable to Respondent because it is the best interests of the children (i) to continue to maintain strong relationships with two loving parents (ii) who both accept that the children are best served by maintaining a strong relationship with the other parent, who while divorced from their former spouse, is not divorced from the children.

In light of the substantial errors before and during the trial, the Court of Appeals is respectfully requested to:

1. Remand with instructions to vacate the decree of divorce and parenting plan and issue a new ones establishing residential provisions consistent with requisite levels of evidence, consistent with the children's historical parenting by both parents, consistent with the findings and establishment of a parenting plan under temporary orders, and consistent with the recommended parenting plan by the parent evaluator.
2. Remand with instructions to order treatment for the only parent found by the parenting evaluator in need of developing "skill in responding to relationship difficulties without resorting to physical force."
3. Remand for a new trial in King County Superior Court due to serious errors of the trial court and regarding due process, jurisdictional issues, financial misconduct, suppression of evidence, obstruction of justice, and conduct by Respondent's counsel described to Judges on separate occasions by two different attorneys as "unlawful."

4. Reverse the attorney fees awarded and related matters of "intransigence" based on testimonial evidence presented at trial.
5. Remand for revision of Findings of Fact and Law.

Respectfully submitted as amended on the 7th day of November, 2011.
(original submitted previous business day)



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CERTIFICATE OF SERVICE

I hereby certify that on on Nov. 7 the original of the foregoing document (signed) was filed with the Court of Appeals, Division I and that on Nov. 7 copies were served as follows: Respondent's attorney via U.S. Mail & ~~E Mail~~:

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VI. APPENDIX

TABLE OF CASES

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151 Wn.2d at 893; Bay, 147 Wn. App. at 651

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In re Marriage of Greenlee

65 Wn. App. 703, 708, 829 P.2d 1120 (1992)

In re Marriage of Littlefield

133 Wn.2d 39, 46-47, 940 P.2d 1362 (1997)

In re Marriage of Pennamen

135 Wn. App. 790,807, 146 P.3d 466 (2006)

In re Marriage of Spreen

107 Wn. App. 341, 346,28 P.3d 769 (2001)

In re Marriage of Stachofsky

90 Wn. App. 135, 148, 951 P.2d 346 (1998)

In re Marriage of Thomas

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IN THE SUPERIOR COURT OF WASHINGTON
IN AND FOR KING COUNTY

In re the Marriage of:)
)
9 JILL IRINA BORODIN,) NO. 09-3-02955-9 SEA
)
10)
) Petitioner,)
11 and) PARENTING PLAN
) FINAL ORDER
12 ADAM REED GROSSMAN,)
)
13) Respondent.)
14)

IT IS ORDERED, ADJUDGED AND DECREED:

I. GENERAL INFORMATION

This Parenting Plan applies to the following children:

Name	Age
Alexandra Grossman	4
Naomi Grossman	4

II. BASIS FOR RESTRICTIONS

2.1 PARENTAL CONDUCT (RCW 26.09.191(1), (2)).

ORIGINAL

1 The Father's residential time with the children shall be limited or restrained
2 completely, and mutual decision making and designation of a dispute resolution
3 process other than court action shall not be required because the Father has engaged in
4 the conduct which follows:

5 A history of acts of domestic violence as defined in RCW 26.50.010(1) or an
6 assault or sexual assault which causes grievous bodily harm or the fear of such
7 harm.

8 **2.2 OTHER FACTORS (RCW 26.09.191(3)).**

9 The Father's involvement or conduct may have an adverse effect on the children's best
10 interests because of the existence of the factors which follow:

11 The abusive use of conflict by the parent which creates the danger of serious
12 damage to the children's psychological development.

13 **III. RESIDENTIAL SCHEDULE**

14 **3.1 SCHEDULE FOR CHILDREN UNDER SCHOOL AGE.**

15 Same as Paragraph 3.2 below.

16 **3.2 SCHOOL SCHEDULE.**

17 The children shall have their primary residence with the Mother. The Father's contact
18 with the children shall be limited based on the findings of 2.1 and 2.2 above. The
19 children shall reside with the mother and have visitation with the father as follows:

20 Phase 1: Visits shall occur on alternating Sundays for 8 hours (to be scheduled by
21 agreement with the supervisor) and Wednesday afternoons from after school (or 3:30
22 p.m. if there is no school) until 7:00 p.m. The Father's visits shall be supervised by
23 Karin Ballantyne or another supervisor from the Indaba Center. Each supervised visit
24 shall be confirmed 10 business days prior to the scheduled visit and each visit shall be
25 paid in cash by the Father at least 48 hours in advance of the visit. A visit that is not
confirmed or paid for in advance will be cancelled without further notice to the father.

Supervised visits shall occur so that the exchange and visit do not interfere with the
Mother's employment obligations and religious observance.

1
2 Phase two: Upon successful completion of all of the treatment conditions in section
3 3.10, the father may petition the court for increased residential time without a
4 substantial change of circumstances or showing of detriment. Prior to filing his
5 petition for modification, the father shall fully participate in, comply with and
6 completely pay for an investigation and report by a guardian ad litem or evaluator
7 mutually agreed to by both parties. The evaluator will make recommendations to the
8 court as to the appropriate residential schedule.

The school schedule begins when the children start Kindergarten.

8 3.3 SCHEDULE FOR WINTER VACATION

9 This section will not apply until the children start school and the father's visits are no
10 longer supervised. While the father's visits are supervised, the father's residential time
11 will be as set forth in phase 1 of section 3.2.

12 The winter vacation shall begin after school on the last day of school in December and
13 end with delivery to school when school resumes in January. The break shall be
14 divided in half with transfer to occur at 10a.m. at the midpoint. In even years, the
15 father shall have the first half of winter break. In odd years, the mother shall have the
16 first half of winter break. Determination of whether the year is odd or even shall be
17 made based upon the first day of the break in December.

16 3.4 SCHEDULE FOR OTHER SCHOOL BREAKS.

17 This section will not apply until the children start school and the father's visits are no
18 longer supervised. While the father's visits are supervised, the father's residential time
19 will be as set forth in phase 1 of section 3.2.

20 Spring break shall begin after school on the last day of school and end with delivery to
21 school when the break ends. The parents shall alternate spring break with the mother
22 having the children in ~~odd~~ years and the father having the children in ~~even~~ years.
23 *even* *odd*

22 3.5 SUMMER SCHEDULE.

1 This section will not apply until the children start school and the father's visits are no
2 longer supervised. While the father's visits are supervised, the father's residential time
3 will be as set forth in phase 1 of section 3.2. except that the pick up will commence at
4 the end of the children's camp or, if no camp 3:30 p.m.

5 It is anticipated that the children will continue to attend Congregation Beth Shalom
6 Family Camp at Camp Solomon Schechter every year. Because the weeks of the
7 children's attendance are dictated by the Camp, camp scheduling will have priority
8 over other residential time in the parenting plan and the parents' summer time will be
9 scheduled around the children's camp attendance.

10 3.6 VACATION WITH PARENTS.

11 This section will not apply ^{to the father} until the children start school and the father's visits are no
12 longer supervised. While the father's visits are supervised, the father's residential time
13 will be as set forth in phase 1 of section 3.2.

14 Each parent should have the right to up to two weeks' vacation with the girls each
15 summer and one week during the school year. The summer vacation schedule should
16 be determined when the summer camp schedule is determined (as outlined in section
17 3.5). Once the summer camp schedule has been issued, each parent shall notify the
18 other of his/her intended dates of vacation. If there is a conflict, the mother's vacation
19 dates prevail in odd-calendar years and the father's vacation dates prevail in even-
20 calendar years.

21 For the one week of vacation during the school year, the traveling parent should
22 provide the other parent with at least 30 days notice by email. Emergency travel
23 should be accommodated by either parent. If there is a conflict with both parents
24 wanting the same week of vacation, the father's preference prevails in odd-numbered
25 years, the mother's in even-numbered years.

26 If a parent is taking the children away from the greater Seattle area for vacation, he or
27 she should provide the other parent with an itinerary 5 days prior to travel. Itinerary
28 information should include where the girls are sleeping each night, including phone
29 numbers and flight information.

30 During vacation periods, the vacationing parent should facilitate a phone call by the
31 girls to the other parent every other day until the children reach age 8 at which time
32 this should change to every third day.

33 The ~~mother~~ ^{father} shall be allowed make up time for
34 any missed time arising out of mother's
35 vacation which shall be scheduled by
36 agreement of father or supervisor, while
37 supervised

Vacation periods should be taken in 7 day increments beginning at 10:00 a.m. the first day and ending at 10:00 a.m. the last day. Vacations should be scheduled so that they do not begin or end on a day that would disrupt either parent's observance of the Sabbath or a non-driving holiday

3.7 SCHEDULE FOR HOLIDAYS.

This section does not apply to the father until his visits are unsupervised. At that time, the residential schedule for the children for the holidays listed below is as follows:

	With Mother (Specify Year Odd/Even/Every)	With Father (Specify Year Odd/Even/Every)
New Year's Day	<u>See paragraph 3.3</u>	<u>See paragraph 3.3</u>
Martin Luther King Day	<u>See paragraph 3.1</u>	<u>See paragraph 3.1</u>
Presidents' Day	<u>See paragraph 3.1</u>	<u>See paragraph 3.1</u>
Memorial Day	<u>See paragraph 3.1</u>	<u>See paragraph 3.1</u>
July 4th	<u>See paragraph 3.5</u>	<u>See paragraph 3.5</u>
Labor Day	<u>See paragraph 3.1</u>	<u>See paragraph 3.1</u>
Veterans' Day	<u>See paragraph 3.1</u>	<u>See paragraph 3.1</u>
Thanksgiving Day	<u>Even</u>	<u>Odd</u>
Rosh Hashanah Days 1 and 2	<u>Odd</u>	<u>Even</u>
Yom Kippur	<u>Even</u>	<u>Odd</u>
Sukkot, Days 1 and 2	<u>Odd</u>	<u>Even</u>
Shmini Atzeret & Simchat Torah	<u>Even</u>	<u>Odd</u>
Chanukah, Days 1,2,7,8	<u>Odd</u>	<u>Even</u>
Chanukah, Days 3,4,5,6	<u>Even</u>	<u>Odd</u>
Purim	<u>Odd</u>	<u>Even</u>
Passover days 1 and 2	<u>Even</u>	<u>Odd</u>
Lag B'Omer	<u>Odd</u>	<u>Even</u>
Shavuot Days 1 and 2	<u>Even</u>	<u>Odd</u>

1 Holidays (except Thanksgiving) shall commence after school (or 3:30 p.m. if there is
2 no school) on the day that the holiday commences and shall end at 10:00 a.m. on the
3 day after the holiday ends. If a holiday falls so that it immediately precedes Shabbat,
4 then the children shall transfer to the Mother after school on Friday (or 3:30 p.m. if
5 there is no school). For example, if Passover starts on Saturday evening at sundown,
6 then the children will transfer to the mother on the preceding Friday.

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3.8 SCHEDULE FOR SPECIAL OCCASIONS.

The residential schedule for the children for the following special occasions is as follows:

	With Mother	With Father
Mother's Day	Every	
Father's Day		Every*
Mother's Birthday	Every	
Father's Birthday		Every*

For purposes of this Parenting Plan, a special occasion shall begin at 10:00 a.m. (or after school if applicable) and end at 10:00 a.m. the following day (or drop off at school) and shall take precedence over the weekly residential schedule without necessitating compensating time.

*As long as the Father's visitation remains supervised, the parties may agree to change days/times so that the Father may exercise these holidays.

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:

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

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

3.10 RESTRICTIONS.

1
2 The Father's residential time with the children shall be limited because there are
3 limiting factors in paragraphs 2.1 and 2.2. The following restrictions shall apply when
4 the children spend time with this parent:

- 5 1. Supervised visits: The father shall strictly comply with all the rules of the Indaba
6 Center.
- 7 2. Domestic Violence Treatment. The Father shall participate in Washington state
8 certified domestic violence perpetrator treatment program with Wellspring Family
9 Services, Doug Bartholomew or Dr. Roland Maiuro. The Domestic Violence order is
10 incorporated into this order as if fully set forth herein. The Father shall follow all state
11 mandated treatment requirements and any additional provider treatment
12 recommendations, including but not limited to additional counseling. The Father shall
13 provide proof of consistent uninterrupted enrollment, monthly progress reports and
14 proof of successful completion of all treatment recommendations to the Mother (or her
15 attorney) and legal file. The Father's residential time is contingent upon his proof of
16 enrollment in treatment, proof of continuous, successful uninterrupted compliance on
17 a monthly basis, and proof of successful completion of treatment. The Father shall
18 sign any and all releases required so the Mother (or her attorney) and the legal file
19 obtains copies of any treatment reports and testing.
- 20 3. DV Dads. The Father shall successfully complete a DV Dads component during his
21 domestic violence perpetrator's treatment program at Wellspring Family Services. He
22 shall be required to demonstrate substantially changed behavior in his interactions
23 with the Mother as part of his successful completion, and the Mother's assessment of
24 the Father's behavior should be sought prior to his completion. The Father shall sign
25 any and all Releases required so the Mother (or her attorney) and the legal file obtains
copies of any treatment reports and testing.

3.11 TRANSPORTATION ARRANGEMENTS.

Transportation costs are included in the Child Support Worksheets and/or the Order of
Child Support and should not be included here.

While the Father's residential time is supervised, the exchange shall be facilitated
through the supervisor. Supervised visits and exchanges shall occur so that they do
not interfere with the Mother's employment obligations and religious observance.

1
2 Once the father's residential time is unsupervised, exchanges shall occur at the
3 children's school or child care facility if possible. If an exchange cannot occur at
4 school or child care, then the exchange shall take place at a mutually agreeable public
location.

5 **3.12 DESIGNATION OF CUSTODIAN.**

6 The custodian of the children solely for purposes of all other state and federal statutes
7 which require a designation or determination of custody shall be the mother. This
8 designation shall not affect either parent's rights and responsibilities under this
Parenting Plan or Washington State Law.

9 **3.13 OTHER.**

- 10 1. Change of Address. Each parent shall provide the other with the address and phone
11 number of his/her residence and update such information promptly whenever it
12 changes.
- 13 2. Travel out of country and Retention of Passports: The mother shall hold the
14 children's passports. If the father requires the passports, he shall provide the mother
15 with 10 days notice and she shall provide him with the passports at least 72 hours
16 before travel. The father shall return the passports to the mother when he returns the
17 children. Each parent shall provide the other with a notarized parental consent form
within three days of the traveling parent's request for presentation to immigration if
he/she plans to travel out of the country with the children.
- 18 3. Communication: All communication between the parties (unless an emergency
19 exists) shall be via email.
- 20 4. Mother's sabbatical: The mother is allowed a sabbatical pursuant to her employment
21 contract approximately one year out of every six. If the Mother travels for her
22 sabbaticals, she would like the children to travel with her. The mother may take the
23 children with her for her three month sabbatical in 2010. The mother shall provide
24 the father with notice of no less than 30 days prior to her scheduled departure and
25 the parties shall arrange make up time that is substantially equivalent to the father's
supervised visitation to occur within 90 days of the Mother's sabbatical.

1 In future sabbatical years, the Mother shall provide the Father with her proposal for
2 travel no less than 6 months prior to any scheduled departure. If no agreement is
3 reached, the parties shall address the issue on the family law motions calendar.

4
5 **4.14 SUMMARY OF RCW 26.09.430- 480 REGARDING RELOCATION OF**
6 **CHILD.**

7 This is a summary only. For the full text, please see RCW 26.09.430 through
8 26.09.480.

9 If the person with whom the child resides a majority of the time plans to move, that
10 person shall give notice to every person entitled to court ordered time with the child.

11 If the move is outside the child's school district, the relocating person must give notice
12 by personal service or by mail requiring a return receipt. This notice must be at least
13 60 days before the intended move. If the relocating person could not have known
14 about the move in time to give 60 days' notice, that person must give notice within 5
15 days after learning of the move. The notice must contain the information required in
16 RCW 26.09.440. See also form DRPSCU 07.0500, (Notice of Intended Relocation of
17 A Child).

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

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

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

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

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

1 If no objection is filed within 30 days after service of the notice of intended relocation,
2 the relocation will be permitted and the proposed revised residential schedule may be
3 confirmed.

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

6 An objection may be filed by using the mandatory pattern form WPF DRPSCU
7 07.0700, (Objection to Relocation/Petition for Modification of Custody
8 Decree/Parenting Plan/Residential Schedule). The objection must be served on all
9 persons entitled to time with the child.

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

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

13 IV. DECISION MAKING

14 4.1 DAY TO DAY DECISIONS.

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

19 4.2 MAJOR DECISIONS.

20 Major decisions regarding each child shall be made as follows:

21 Education decisions (including childcare) ¹	Mother
22 Non-emergency health care (including 23 therapy for the children) ²	Mother
24 Religion ³	Mother

1
2 Extracurricular activities⁴

Mother

3
4
5
6 ¹The children shall attend the Hebrew school and religious school as stipulated by the requirements of the synagogue with which the Mother is affiliated.

7
8 ²If conflict between the parents continues, the mother may make the decision to enroll the children in counseling as set forth in section VI.

9
10 ³The children shall be raised in the Jewish faith. The mother has sole decision making authority regarding religious education and the children's bat mitzvahs (i.e. ongoing religious school, youth groups, bat mitzvah preparation) should be handled through Congregation Beth Shalom or the synagogue where the mother is employed if different than Beth Shalom.

11
12
13 ⁴The mother shall choose the extracurricular activities for the children. While the Father has supervised visitation, the Mother shall make every attempt to schedule activities so that they do not interfere with the Father's visitation. If an activity conflicts with the Father's visit, the visitation day may be changed.

14
15
16 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. Activities shall not be scheduled to unreasonably interfere with the other parent's residential time with the children. Both parents shall have the right to attend the children's school and other activities in which the children participate.

17
18
19 Father's Participation in Decision-Making. The mother shall email the father with information that is available to her about any major decision to be made and the options, including her proposed decision and the reason why. The father will then have 72 hours to provide his input via email. The mother shall consider the father's input, make a decision, and inform the father of her decision.

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22
23 4.3 RESTRICTIONS IN DECISION MAKING.

24 Sole decision making shall be ordered to the Mother for the following reasons:
25

1 A limitation on the other parent's decision-making authority is mandated by
2 RCW 26.09.191 (See Paragraph 2.1.).

- 3 (a) The existence of a limitation under RCW 26.09.191;
4 (b) The history of participating of each parent in decision making in each
of the areas in RCW 26.09.184(4)(a); and
5 (c) Whether the parents have demonstrated ability and desire to cooperate
6 with one another in decision making in each of the areas in
RCW 26.09.184(4)(a).

7 **V. DISPUTE RESOLUTION**

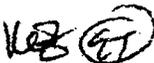
8 No dispute resolution process, except Court action, shall be ordered because of the findings
9 contained in paragraphs 2.1 and 2.2 above regarding limiting factors under RCW 26.09.191.

10 **VI. OTHER PROVISIONS**

- 11
12 1. Father's Therapy: The father shall continue in therapy with Dr. Gundle for as often
13 and as long as Dr. Gundle determines is necessary and beneficial. The father should
14 discuss with Dr. Gundle which medications he is using for anxiety or sleep. All
15 mental health and sleep medications should be prescribed by one provider such Dr.
Gundle.
- 16 2. Mother's Therapy: The mother shall continue in therapy with Marian Hilfrink, LICSW
17 for as often and as long as the therapist determines is necessary and beneficial. Her
18 therapy should include a focus on anxiety reduction, emotion regulation and
developing skills in responding to relationship difficulties.
- 19 3. Children's Therapy: If conflict between the parents continues, the girls shall receive
20 counseling from one of the following individuals, Naomi Oderberg, Ph.D. 206-621-
7007; Inda Drake, LICSW 206-325-9401; Lisa Kahan, Ph.D. 206-322-1893 or Lynn
21 Tienken, LMHC 206-661-2825.*The counseling should be confidential and the
parents should be involved in the girls' therapy at the sole discretion of the therapist.

22 **VII. ORDER BY THE COURT**

23 It is hereby ORDERED, ADJUDGED AND DECREED that the Parenting Plan set forth
24 above is adopted and approved as an order of this Court.

25 *ORSEMER 

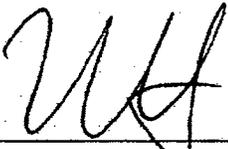
1
2 **WARNING:** Violation of residential provisions of this order with actual knowledge of its
3 terms is punishable by contempt of court and may be a criminal offense under RCW
4 9A.40.070(2). Violation of this order may subject a violator to arrest.

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

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

9 The Parenting Plan set forth above is adopted and approved as an Order of this Court.

10 Date Dec 14, 2010

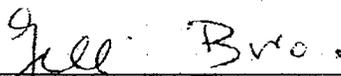
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12 _____
13 JUDGE/COURT COMMISSIONER

14 **Mariane C. Spearman**

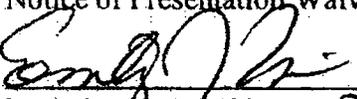
15 Presented by:

16 MICHAEL W. BUGNI & ASSOCIATES

17 
18 _____
19 Karma L. Zaike, WSBA #31037
20 Attorney for Petitioner/Mother

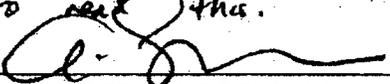
21 
22 _____
23 JILL BORODIN,
24 Petitioner/Mother

25 Copy Received, Approved for Entry and
Notice of Presentation Waived by:



EMILY TSAI, WSBA # 21680
Attorney for Respondent/Father

*I have not had time
to read this.*



ADAM REED GROSSMAN,
Respondent/Father

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2010 DEC 14 PM 3:51
KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

IN THE SUPERIOR COURT OF WASHINGTON
IN AND FOR KING COUNTY

In re the Marriage of:

JILL IRINA BORODIN,

Petitioner,

and

ADAM REED GROSSMAN,

Respondent.

NO. 09-3-02955-9 SEA

DECREE OF DISSOLUTION
(Marriage)

CLERK'S ACTION REQUIRED
 LAW ENFORCEMENT
NOTIFICATION, ¶ 3.10 BELOW

I. JUDGMENT/ORDER SUMMARIES

I.1 RESTRAINING ORDER SUMMARY.

Restraining Order Summary is set forth below:

Name of person(s) restrained:	ADAM R. GROSSMAN
Name of person(s) protected:	JILL I. BORODIN
See paragraph 3.10	

Violation of a Restraining Order in Paragraph 3.10 Below With Actual Knowledge of its Terms is a Criminal Offense Under Chapter 26.50 RCW and Will Subject the Violator to Arrest. RCW 26.09.050.

Decree (DCD) - Page 1 of 13
WPF DR 04.0400 Mandatory (6/2008) - RCW 26.09.030;
.040, .070 (3)

ORIGINAL

1
2 **1.2 REAL PROPERTY JUDGMENT SUMMARY.**

3 Real Property Judgment Summary is set forth below:

4 **Assessor's property tax parcel number: 020850-0100-8 (Washington home)**

5
6 **1.3 MONEY JUDGMENT SUMMARY.**

7	A. Judgment Creditor	Jill I. Borodin
8	B. Judgment Debtor	Adam Reed Grossman
9	C. Principal Judgment Amount (Property Settlement)	\$56,405 56,405 TBD
10	D. Interest to date of Judgment	N/A
11	E. Attorney's Fees	
12	F. Costs	N/A
13	G. Other Recovery Amount:	
14	H. Principal judgment shall bear interest at 12% per annum.	
15	I. Attorney's fees, costs and other recovery amounts shall bear interest at 12% per annum.	
16	J. Attorney for Judgment Creditor	Karma L. Zaike
17	K. Attorney for Judgment Debtor	Emily J. Tsai

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16 **END OF SUMMARIES**

17 **II. BASIS**

18 Findings of Fact and Conclusions of Law have been entered in this case.

19 **III. DECREE**

20 IT IS *DECREED* that:

21 **3.1 STATUS OF THE MARRIAGE.**

22 The marriage of the parties is hereby dissolved. Further references to the "Wife" shall
23 be synonymous with the Petitioner, JILL I. BORODIN. Further references to the
24 "Husband" shall be synonymous with the Respondent, ADAM R. GROSSMAN.

25 **3.2 REAL PROPERTY.**

1
2 3.2.1 6821 39th Avenue NE, Seattle, Washington. The court finds that this
3 property is community property. This property was purchased by the parties
4 during their marriage. The court acknowledges that the husband signed a Quit
5 Claim deed to the home in June, 2005. **Exhibit 55.** However, first and second
6 mortgages on the home (Exhibits 29 and 30 respectively) were arranged by the
7 husband, held only in the Wife's name, and the loan proceeds of \$101,617
8 were taken from the equity of the home and transferred to husband's
9 businesses. (Exhibits 3, pg. 30, 349, 351, Tab F). The only testimony as to the
10 value of the home was presented by the Wife to be \$480,000. There was no
11 dispute that there were two mortgages which totaled over \$600,000 leaving
12 negative equity of \$120,000, which is a community debt.

13 This property is awarded to the Wife as her sole and separate property, free and
14 clear of any interest in the Husband. The Wife shall henceforth assume and
15 pay all taxes, utilities, insurance, mortgage and other obligations on said
16 property and hold the Husband harmless and indemnify him from any liability
17 thereon.

18 3.2.2 868 Montcrest Drive, Redding, CA, Exhibit 351, Tab E, p. 31 The court
19 finds that this property was purchased with community funds and is
20 community property. This property is awarded to the wife.

21 The husband shall immediately sign all documents necessary to effectuate a
22 prompt transfer of this property to the wife. If the Husband refuses to
23 cooperate with immediate transfer of the property to the Wife, then attorney
24 Krystina Larch or Margaret Doyle Fitzpatrick are appointed pursuant to CR 70
25 as a Commissioner in Fact to sign any necessary documents in the husband's
stead.

The husband shall have the affirmative duty to disclose all aspects of
ownership of the property to the wife and he shall further cooperate in signing
any documents necessary to transfer the home to the Wife. The husband shall
report the sale on his tax return and he shall bear any tax consequences of the
sale.

3.2.3 20710 Glennview Drive, Cottonwood, CA. The court finds that this property
was purchased during the marriage and is community property. This property
is awarded to the husband.

1 3.2.4 1679 Strauss Lane, Redding, Ca. The court finds that this property, which
2 was purchased by husband in 1989 before marriage, is the husband's separate
3 property. The Husband shall assume and pay all taxes, utilities, insurance,
4 mortgage and other obligations on said property. Because the husband has a
5 HELOC in both his and wife's name, Husband shall immediately refinance this
6 property to remove the wife's name from the mortgage.

7 3.2.3 773 Metro Way, Redding, Ca. This home was inherited by Mr. Grossman
8 during the marriage and the court finds that this is his separate property. The
9 home shall be awarded to the husband free and clear of any interest in the wife.
10 The Husband shall henceforth assume and pay all taxes, utilities, insurance,
11 mortgage and other obligations on said property and hold the Wife harmless
12 and indemnify her from any liability thereon. If there are undisclosed liens on
13 the 868 Montcrest property or the 20710 Glennview property that the husband
14 fails to immediately remove, then this property may be sold to satisfy the liens.

11 3.3 EMPLOYMENT BENEFITS.

12 Each party shall retain as his or her sole and separate property, free and clear of any
13 interest in the other, all those rights and benefits which have been derived as the result
14 of his or her past or present employment, union affiliations, military service, United
15 States or other citizenship and/or residence within a state including, but not limited to:

16 Various forms of insurance, right to social security payments, welfare
17 payments, unemployment compensation payments, disability payments,
18 Medicare and Medicaid payments, retirement benefits, sick leave benefits,
19 educational benefits and grants, interests in health or welfare plans, interests in
20 profit-sharing plans, and all other legislated, contractual and/or donated
21 benefits, whether vested or non-vested and whether directly or indirectly
22 derived through the activity of that specific party; provided, however, that said
23 benefit or benefits have not been otherwise divided below. Each party is
24 specifically awarded his or her own retirement and 401(k)/403(b) benefits.

21 3.4 PROPERTY TO BE AWARDED TO THE HUSBAND.

22 The Husband is awarded as his separate property, *as shown in exhibit A attached* free and clear of any right, title or
23 claim of the Wife, the following property, and the Wife hereby quit claims and
24 conveys all of said property to the Husband. This Decree, when executed, shall serve
25 as a document of conveyance from the Wife to the Husband of the following property:

- 1 3.4.1 All furniture, furnishings, clothing, personal items and personal property of
2 any description presently in his possession.
- 3 3.4.2 All bank accounts, savings accounts and credit union accounts in his name
4 only.
- 5 3.4.3 All life insurance policies insuring his life, for which the Wife is hereby
6 divested of any interest as beneficiary.
- 7 3.4.4 The following automobile: 2005 Chevrolet Malibu. The Husband shall
8 become solely obligated for all payments due or which may become due for
9 the use, operation, maintenance and financing thereof, and shall hold the Wife
10 harmless thereon.
- 11 3.4.5 Any property acquired by the Husband prior to marriage or subsequent to the
12 date of the parties' separation unless otherwise specifically awarded to the
13 Wife herein.
- 14 3.4.6 All right, title and interest in and to the business known as Terrington Davies
15 LLC, Terrington Davies Capital Management LLC, Terrington Davies Tanager
16 Fund LP and Ptarmigan Fund and all assets thereto, including but not limited
17 to bank accounts, accounts receivables, work in progress. The Husband shall
18 hold the Wife harmless and indemnify her from any debts associated with
19 these businesses.

20 **3.5 PROPERTY TO BE AWARDED TO THE WIFE.**

21 *as shown in exhibit A attached* 
22 The Wife is awarded as her separate property, free and clear of any right, title or claim
23 of the Husband, the following property, and the Husband hereby quit claims and
24 conveys all of said property to the Wife. This Decree, when executed, shall serve as a
25 document of conveyance from the Husband to the Wife of the following property:

- 26 3.5.1 All furniture, furnishings, clothing, personal items and personal property of
27 any description presently in her possession.
- 28 3.5.2 All bank accounts, savings accounts and credit union accounts in her name
29 only.
- 30 3.5.3 All life insurance policies insuring her life, for which the Husband is hereby
31 divested of any interest as beneficiary.

1 3.5.4 The Fidelity account -7955 with an approximate balance of \$236 (Ex 302).
2 The husband shall cooperate in signing any documents needed to permanently
3 close this account.

4 3.5.5 The following automobile: 2001 Toyota. The Wife shall become solely
5 obligated for all payments due or which may become due for the use,
6 operation, maintenance and financing thereof, and shall hold the Husband
7 harmless thereon.

8 3.5.6 The Wife's 403(b) retirement account.

9 3.5.7 Any property acquired by the Wife prior to marriage or subsequent to the date
10 of the parties' separation.

11 3.5.8 The Fidelity Roth IRA -8269 and Fidelity -1338 held in the wife's name.

12 ~~3.5.9 Cash property settlement of \$56,405 to equalize the property division payable
13 by the husband to the wife. The Wife shall have a judgment against the
14 Husband for this amount.~~

15 3.6 LIABILITIES TO BE PAID BY THE HUSBAND.

16 Unless otherwise provided herein, the Husband shall pay all liabilities incurred by him
17 since the date of separation, which was April 15, 2009.

18 The Husband shall pay the following community or separate liabilities:

19 3.6.1 Any and all debt associated with Terrington Davies LLC, Terrington Davies
20 Capital Management LLC, Terrington Davies Tanager Fund LP and Ptarmigan
21 Fund whether said debt was incurred under the business names or the
22 husband's name personally.

23 3.6.2 The Citibank Student Loan account -1125-70 (Ex 3(b), p. 16, Ex 297).

24 3.6.3 The following debts:

- 25 • Amazon.com Chase account -7314 (Exhibit 286)
- Slate Chase acct -6457 (Ex 287)
- AAA Chase acct - 3915 (Ex 288-89)
- Discover acct -0579 (Ex 290-92)
- Citicard -4425 (Ex 293)

- MIT Worldpoints Bank of America -7336 (Ex 294)

3.6.4 All debts in his name only.

If for any reason the Wife must pay on or has collection taken against her on debts payable by the Husband, the Wife may seek a judgment against the Husband for any amounts she has paid, plus reasonable attorney's fees and court costs. Said judgment may be obtained under this cause number by proof from affidavit on the Family Law Motions Calendar unless the Judge/Commissioner determines to set the matter for testimonial hearing.

If said debts are not so maintained, the Wife shall request the specific sums necessary for maintaining said debts from the Husband and he shall pay these amounts to her as a part of the Court's order for support. The Wife shall in turn make said debt payments. If this fails, the Wife may apply to this Court for judgment against the Husband for these amounts, which judgment may then be enforced by the Wife for the repayment of community debts. Because this paragraph is in lieu of maintenance, these debts may not be discharged in bankruptcy.

The assumption of indebtedness by the Husband above is necessary for the maintenance and support of the Wife and shall be considered a duty directly related to her support; provided, however, that payment of said debts shall not be considered deductible as alimony for income tax purposes by the Husband, nor includable as income by the Wife. The Husband's assumption of indebtedness, however, shall not be dischargeable in bankruptcy so as to allow a third-party creditor to claim against the Wife. Furthermore, the remarriage or death of either party shall not affect or terminate the Husband's obligation to pay these debts.

3.7 LIABILITIES TO BE PAID BY THE WIFE.

Unless otherwise provided herein, the Wife shall pay all liabilities incurred by her since the date of separation, which was April 15, 2009.

The Wife shall pay the following community or separate liabilities:

3.7.1 American express account in wife's name.

3.7.2 Alaska Airlines Visa -7563 and -5286.

1 3.7.3 U.S. Airways MC.

2 3.7.4 Citibank mortgages -4673 and -7606.

3 3.7.5 The SallieMae student loan account -3578-9.

4
5
6 **3.8 HOLD HARMLESS PROVISION.**

7 Each party shall hold the other party harmless from any collection action relating to
8 separate or community liabilities set forth above, including reasonable attorney's fees
9 and costs incurred in defending against any attempts to collect an obligation of the other
10 party.

11 **3.9 MAINTENANCE.**

12 Neither party shall pay maintenance to the other.

13 **3.10 CONTINUING RESTRAINING ORDER**

14 A continuing restraining order is entered as follows:

15 The husband wife is restrained and enjoined from disturbing the peace
16 of the other party.

17 The husband wife is restrained and enjoined from going onto the
18 grounds of or entering the home, work place or school of the other party, or
19 the day care or school of the following named children: Alexandra or Naomi
20 Grossman except as set forth in the Parenting Plan under this cause #.

21 The husband wife is restrained and enjoined from knowingly coming
22 within or knowingly remaining within (distance) 500 feet of the home, work
23 place or school of the other party, or the day care or school of these children:
24 Alexandra or Naomi Grossman except as set forth in the Parenting Plan under
25 this cause #.

Adam Grossman is restrained and enjoined from molesting, assaulting,
harassing, or stalking Jill Borodin. (The following firearm restrictions apply
if this box is checked: Effective immediately and continuing as long as this
continuing restraining order is in effect, the restrained person may not possess
a firearm or ammunition. 18 U.S.C. § 922(g)(8). A violation of this federal
firearms law carries a maximum possible penalty of 10 years in prison and a
\$250,000 fine. An exception exists for law enforcement officers and military
personnel when carrying department/government-issue firearms. 18 U.S.C. §
925(a)(1).)

1
2 **Violation of a Restraining Order in Paragraph 3.8 With Actual Knowledge of Its Terms**
3 **Is a Criminal Offense Under Chapter 26.50 RCW and Will Subject the Violator to Arrest.**
4 **RCW 26.09.060.**

5 **Clerk's Action.** The clerk of the court shall forward a copy of this order, on or
6 before the next judicial day, to: Seattle Police Department law enforcement agency
7 which shall enter this order into any computer-based criminal intelligence system
8 available in this state used by law enforcement agencies to list outstanding warrants.
9 (A law enforcement information sheet must be completed by the party or the
10 party's attorney and provided with this order before this order will be entered
11 into the law enforcement computer system.)

12 **Service**

13 The restrained party or attorney appeared in court or signed this order; service of this
14 order is not required.

15 The restrained party or attorney did not appear in court; service of this order is
16 required.

17 The protected party must arrange for service of this order on the restrained party. File
18 the original Return of Service with the clerk and provide a copy to the law enforcement
19 agency listed above.

20 **Expiration**

21 This restraining order expires on: (month/day/year) December 14, 2020.

22 This restraining order supersedes all previous temporary restraining orders in this
23 cause number.

24 Any temporary restraining order signed by the court in this cause number is
25 terminated. **Clerk's Action.** The clerk of the court shall forward a copy of this
order, on or before the next judicial day, to: Seattle Police Department law
enforcement agency where **Petitioner** resides which shall enter this order into any
computer-based criminal intelligence system available in this state used by law
enforcement agencies to list outstanding warrants.

Full Faith and Credit

Pursuant to 18 U.S.C. § 2265, a court in any of the 50 states, the District of Columbia,
Puerto Rico, any United States territory, and any tribal land within the United States
shall accord full faith and credit to the order.

26 **3.11 PROTECTION ORDER.**

27 Does not apply.

28 Decree (DCD) - Page 9 of 13

29 WPP DR 04.0400 Mandatory (6/2008) - RCW 26.09.030,
30 .040; .070 (3)

1
2 **3.12 JURISDICTION OVER THE CHILDREN.**

3 The Court has jurisdiction over the children as set forth in the Findings of Fact and
4 Conclusions of Law.

5 **3.13 PARENTING PLAN.**

6 The parties shall comply with the Permanent Parenting Plan signed by the Court on
7 this date. The Parenting Plan signed by the Court is approved and incorporated as part
8 of this Decree.

9 **3.14 CHILD SUPPORT.**

10 Child support shall be paid in accordance with the Order of Child Support signed by
11 the Court on this date. This Order is incorporated as part of this Decree.

12 **3.15 ATTORNEY'S FEES, OTHER PROFESSIONAL FEES AND COSTS.**

13 Attorney's fees shall be awarded to the Wife based on the husband's intransigence in
14 this matter in failing to provide discovery concerning his businesses. The Wife's
15 financial expert, Steven Kessler, testified that he was unable to render an opinion of
16 value of the Husband's businesses because the Husband refused to provide the
17 requested documentation. Counsel for the Wife shall submit an attorney fee
18 declaration within 10 days of the date of this order and the court shall determine the
19 reasonable fee award

18 **3.16 NAME CHANGES.**

19 Does not apply.

20 **3.17 OTHER.** ~~Wife agrees to pay husband's attorney fees~~
21 ~~by agreement~~ 

22 3.17.1 Undisclosed Debts. Any debt or obligation, not specifically awarded herein,
23 incurred by either party, shall be the sole and separate obligation of the party
24 who incurred it and who failed to disclose it in this Decree. If an undisclosed
25 debt was incurred by the parties jointly, then the parties shall remain jointly
liable.

1 3.17.2 Undisclosed Assets. There are no known assets (i.e., bank accounts,
2 retirement accounts, investment accounts, etc.) which have not been divided
3 by the parties prior to the date of this Decree or by this Decree. Any assets
4 owned by the parties on the date of this Decree which either party has failed
5 to disclose shall be divided 50/50 by the court upon motion by either party.

6 3.17.3 Revocation of Wills, Powers of Attorney and Other Instruments. All
7 previous wills, powers of attorney, contracts and community property
8 agreements between the parties hereto are hereby revoked and the parties are
9 prohibited from exercising same.

10 3.17.4 Federal Income Tax. The parties shall file separately for the year 2010. The
11 Wife shall claim the interest deduction for all house payments made on the
12 Seattle house during tax year 2010. In the event that any prior income tax
13 returns of the parties should be audited for any year during the marriage, any
14 additional tax found to be due (including penalties and interest) shall be paid
15 equally 50/50 by the parties, and any refund due shall be divided 50/50.

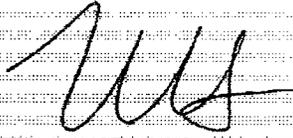
16 3.17.5 Warranty Against Liens. Each party warrants to the other that there are no
17 undisclosed liens, encumbrances, or defects of title attached to or affecting
18 any of the property awarded to the other party herein. Should any
19 encumbrances, liens or clouds of title created or incurred prior to the date of
20 recording this Decree exist but not be disclosed herein, the party incurring
21 the encumbrance, lien or clouds of title shall be responsible and shall pay all
22 costs (including attorney's fees) for removing the lien, encumbrance or cloud
23 of title from the property. Should the encumbrance, lien or cloud of title
24 have been acquired or incurred jointly, each party shall pay for one-half of
25 the encumbrance, lien or cloud of title and one-half of the attorney's fees and
costs incurred in removing the encumbrance, lien or cloud of title from the
property.

3.17.6 Performance of Necessary Acts. Each party shall execute any and all deeds,
bills of sale, endorsements, forms, conveyances or other documents, and
perform any act which may be required or necessary to carry out and
effectuate any and all of the purposes and provisions herein set forth. Upon
the failure of either party to execute and deliver any such deed, bill of sale,
endorsement, form, conveyance or other document to the other party, the
Decree shall constitute and operate as such property executed document.
The County Auditor and any and all other public and private officials are

1 authorized and directed to accept the Decree or a properly certified copy
2 thereof in lieu of the document regularly required for the conveyance or
3 transfer.

4 **3.17.7 Protective order for wife's confidential health care records.** Testimony
5 revealed that the husband had obtained confidential health care records
6 belonging to the Wife associated with marital therapy. Mr. Grossman is
7 ordered to immediately turn over all copies in his possession to Rabbi
8 Borodin's attorney any documents in his possession or over which he has
9 control related to marital counseling or any other medical or mental health
10 record. Mr. Grossman shall destroy and confirm in a sworn statement to
11 Rabbi Borodin that he has destroyed all electronic versions of any health care
12 records. The making of additional copies shall be prohibited, in any format
13 or means, including digitization, scanning, Xeroxing, photographing, etc.,
14 except as stated above.

15 DATED: 12/14/10

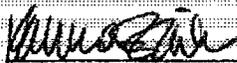

16 JUDGE MARIANE SPEARMAN

17 Petitioner or Petitioner's Attorney:

18 A signature below is actual notice of this order.

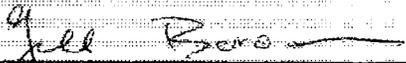
19 Presented by:

20 MICHAEL W. BUGNI & ASSOC., PLLC


21 KARMA L. ZAIKE, WSBA#31037

22 Attorney for Petitioner/Wife

23 Date: 12/14/2010


24 JILL L. BORODIN,

25 Petitioner/Wife

Date: Dec 14, 2010

Respondent or Respondent's Attorney:

A signature below is actual notice of this order.

Approved for Entry:

Notice for presentation waived:

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EMILY J. TSAI, WSBA #21180
Attorney for Respondent/Husband
Date: 12/14/10

I have not read this.



ADAM R. GROSSMAN,
Respondent/Husband
Date: 14 Dec 2010

RECEIVED

2010 DEC 14 PM 3:51

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

IN THE SUPERIOR COURT OF WASHINGTON
IN AND FOR KING COUNTY

In re the Marriage of:

JILL IRINA BORODIN,

Petitioner,

and

ADAM REED GROSSMAN,

Respondent.

NO. 09-3-02955-9 SEA

FINDINGS OF FACT AND
CONCLUSIONS OF LAW
(Marriage)

I. BASIS FOR FINDINGS

The Findings are based on trial. The following people attended: Petitioner; Petitioner's Attorney, Karma L. Zaike; Respondent; and Respondent's Attorney, Emily J. Tsai.

The following witnesses testified on behalf of the wife:

Steve Kessler, C.P.A.
Karin Ballantyne

The following witnesses testified on behalf of the husband:

Steve LeBlanc
Abraham Wyncer
Kerith Lisa
Kelly Shanks, M.Ed., LMHC
Noah Humphries, M.S.W.
Dr. Michael J. Gundle
Jason Ruiz

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II. FINDINGS OF FACT

Upon the basis of the court record, 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.

2.3 BASIS OF JURISDICTION OVER THE RESPONDENT.

The facts below establish personal jurisdiction over the Respondent.

The parties lived in Washington during their marriage, and both parties continue to reside, in this state.

2.4 DATE AND PLACE OF MARRIAGE.

The parties were married on December 29, 2002 at Philadelphia, Pennsylvania.

2.5 STATUS OF THE PARTIES:

The Husband and Wife separated on April 15, 2009. This is the date that the Wife filed the petition for dissolution of marriage.

2.6 STATUS OF THE MARRIAGE.

The marriage is irretrievably broken and at least 90 days have elapsed since the date the Petition was filed and since the date the Summons was served.

2.7 PROPERTY SETTLEMENT AGREEMENT/PRENUPTIAL AGREEMENT.

There is no property settlement or prenuptial agreement.

2.8 COMMUNITY PROPERTY.

The parties have real or personal community property that has been equitably divided as set forth in the parties' Decree. Said Decree is incorporated by reference into these Findings of Fact as if set forth fully herein.

2.9 SEPARATE PROPERTY.

1
2 The parties have real or personal separate property which has been awarded to them as
3 set forth in the parties' Decree. Said Decree is incorporated by reference into these
4 Findings of Fact as if set forth fully herein.

5 **2.10 COMMUNITY LIABILITIES.**

6 The parties have incurred community liabilities which have been allocated to them as
7 set forth in the parties' Decree. Said Decree is incorporated by reference into these
8 Findings of Fact as if set forth fully herein.

9 **2.11 SEPARATE LIABILITIES.**

10 The parties have incurred separate liabilities that have been allocated to them as set
11 forth in the parties' Decree. Said Decree is incorporated by reference into these
12 Findings of Fact as if set forth fully herein.

13 **2.12 MAINTENANCE.**

14 The court finds that the wife has a need for spousal maintenance but that the husband
15 does not have the ability to pay spousal maintenance.

16 **2.13 CONTINUING RESTRAINING ORDER.**

17 A continuing restraining order is necessary against the Husband because the Husband
18 engaged in domestic violence during the marriage. The wife has a reasonable fear for
19 her safety.

20 **2.14 PROTECTION ORDER.**

21 The court has entered a continuing restraining order under section 2.13. The Domestic
22 Violence Order for Protection dated August 31, 2010, is terminated.

23 **2.15 FEES AND COSTS.**

24 The court finds that the husband acted with intransigence by repeatedly providing
25 conflicting information about his assets and debts. The Husband's intransigence
caused the wife to conduct intense discovery which increased her legal bills. The
husband was put on affirmative notice in multiple court proceedings, including but not
limited to the hearings of 9/10/09, 4/9/2010 and 5/28/2010, that full financial
discovery was required, but as of the date of trial, the husband still had not produced
full financial disclosure. The Wife shall provide an affidavit of attorney's fees and the
court will determine a reasonable fee award.

1 **2.16 PREGNANCY.**

2 The Wife is not pregnant.

3
4 **2.17 DEPENDENT CHILDREN.**

5 The children listed below are dependent upon either or both spouses:

6

Name of Child	Age	Mother's Name	Father's Name
Naomi E. Grossman	4	Jill Borodin	Adam Grossman
Alexandra A. Grossman	4	Jill Borodin	Adam Grossman

7
8
9

10 **2.18 JURISDICTION OVER THE CHILDREN.**

11 This Court has jurisdiction over the children for the reasons set forth below:

12 This state is the home state of the children because the children lived in
13 Washington with a parent or a person acting as a parent for at least six
14 consecutive months immediately preceding the commencement of this
15 proceeding.

16 No other state has jurisdiction.

17 **2.19 PARENTING PLAN.**

18 The Parenting Plan signed by the Court on this date is approved and incorporated as
19 part of these Findings.

20 **2.20 CHILD SUPPORT.**

21 There are children in need of support and child support should be set pursuant to the
22 Washington State Child Support Schedule. The Order of Child Support signed by the
23 Court on this date, and the child support worksheets, are hereby approved by the Court
24 and are incorporated by reference into these Findings.

25 **2.21 OTHER.**

The court incorporates the findings made during its oral ruling on December 14, 2010.

III. CONCLUSIONS OF LAW

The Court makes the following Conclusions of Law from the foregoing Findings of Fact:

1 **3.1 JURISDICTION.**

2 The Court has jurisdiction to enter a Decree in this matter.

3
4 **3.2 GRANTING OF A DECREE.**

5 The parties should be granted a Decree.

6 **3.3 PREGNANCY.**

7 Does not apply.

8
9 **3.4 DISPOSITION.**

10 The Court should determine the marital status of the parties, make provision for a
11 Parenting Plan for the minor children of the marriage, make provision for the support
12 of the minor child of the marriage entitled to support, make provision for the
13 disposition of property and liabilities of the parties, and make provision for the
14 allocation of the children as federal tax exemptions. The distribution of property and
15 liabilities as set forth in the decree is fair and equitable.

16 **3.5 CONTINUING RESTRAINING ORDER.**

17 A continuing restraining order should be entered.

18 **3.6 PROTECTION ORDER.**

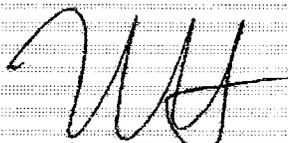
19 Does not apply.

20 **3.7 ATTORNEY'S FEES AND COSTS.**

21 Attorney's fees and costs are awarded to the wife based on the husband's
22 intransigence.

23 **3.8 OTHER.**

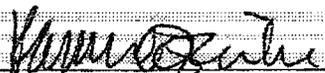
24 Dated: 12/14/10

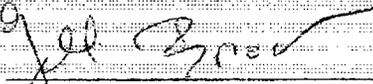
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JUDGE MARIANE SPEARMAN

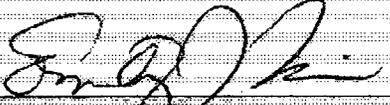
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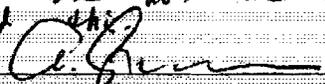
MICHAEL W. BUGNI & ASSOC., PLLC

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2
3 
4 KARMA L. ZAIKE, WSBA#31037
5 Attorney for Petitioner/Wife
6 Date: 12/14/2010


7 JILL I. BORODIN,
8 Petitioner/Wife
9 Date: Dec 14, 2010

10 Copy Received, Approved for Entry and
11 Notice of Presentation Waived by:

12 
13 EMILY J. TSAI, WSBA #21180
14 Attorney for Respondent/Husband
15 Date: 12/14/10

16 I have not had time to
17 
18 ADAM R. GROSSMAN,
19 Respondent/Husband
20 Date: 12/14/2010