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COURT OF APPEALS  
OF  
THE STATE OF WASHINGTON  
DIVISION I

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IN RE THE MARRIAGE OF:

JILL IRINA BORODIN  
*Respondent*

v.

ADAM REED GROSSMAN  
*Appellant*

APPELLATE BRIEF

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

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 first 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,

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 correctly 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 marriage and there was **not one example** of even an allegation of violence towards another person or in front of children that occurred **during** the marriage:

THE COURT: We're on the matter -- we're here for the entry of final orders today in Borodin vs. Grossman, 09-3-02955-9. Both parties are present, represented by respective counsel.

So I have gone through both -- both counsel's proposed orders and modified them in some fashion or another and came up with what I propose will be the orders that we'll sign today. So I'm going to start with probably the most contentious issue first, and that's the parenting plan. So the statute that's controlling here is RCW 26.09.184, and the objectives of the -- of the permanent parenting plan are to provide for the children's physical care, their emotional stability, their changing needs, minimize any harmful parental conflict, and to otherwise protect their best interests.

So I have carefully reviewed all of my notes regarding the testimony in this matter as well as the parenting evaluation and the exhibits related to this issue. I am finding, under RCW 26.09.191, restrictions against the father. I am finding that the father has a history of domestic violence.

The parties appeared before Commissioner Smith on August 31st of this year for a full order domestic violence protection hearing. Commissioner Smith found that the husband had engaged in domestic violence and that he had engaged -- that he had asserted power and control in his behavior and that the mother was fearful and that her fear was reasonable.

The parenting evaluator, Kelly Shanks, also found, in her very thorough evaluation, substantial evidence of a significant pattern of relentless, fixated, exacting, and controlling behavior by Adam towards Jill that is frequent, intense, and debilitating. And she also found that, while Jill has strong

opinions, there was not an indication of a pattern of controlling behavior on her part.

The petitioner testified about an incident shortly after their marriage, when they were living in Philadelphia, where they had an argument and she became scared, locked herself in the bathroom, and he kicked the door in. She also testified about an incident where she was taking wood out of the trunk of her car, when he became angry and the husband grabbed her wrists and refused to let go.

In addition to these physical incidents, the petitioner testified that she felt emotionally bullied and intimidated by the respondent due to his yelling, name-calling, criticism of her appearance, of her parenting, waking her up while she was asleep to force her to talk, playing this clip from the movie Godfe -- Goodfellas, where the wife has a gun to the husband's head, over and over.

There was also evidence presented that in July, the mother's house was broken into. The only item taken was her laptop. She then saw her husband sitting in his car parked four houses away from hers, and she saw him duck when she approached. Her home was then broken into again, and the laptop was returned. I think it's reasonable to infer from the evidence that Mr. Grossman entered his wife's home without her knowledge and permission, and in violation of temporary orders, and took her laptop.

I'm also finding that the husband has engaged in abusive use of conflict because the husband's angry and hostile behavior towards the mother often occurred in the presence of the children. In fact, the most serious incident that was testified to occurred at Camp Solomon Schechter, which involved the father wanting to swim with the two children on his

back into the middle of the lake. Mother was concerned because the girls couldn't swim, they weren't wearing any life preservers, and there were no lifeguards. Apparently, adults tried to intervene, but when the father -- but the father insisted they were his children, he could do what he wanted. The police were called. And according to Shelly Shanks' report, the officers found that the father was uncooperative and belligerent. The mother testified that the father would not release his hold on Naomi and -- and she was shrieking and having trouble breathing.

I am finding those restrictions, and I will, when I get to the decree, indicate that I am going to impose restrictions as far as a restraining order in the decree. I am not going to extend the -- the domestic violence protection order because that protection order prohibits him from having contact with the children. I think it's inconsistent. And I would like to have all of the orders in one document as opposed to referring back and forth to other documents, so today I am going to be recalling the protection order and imposing a restraining order.

The effect has enabled Respondent to decide unilaterally to alienate the children from Appellant and prevent all contact. This is nearly in direct contrast to the residential schedule recommended by the court-ordered parent evaluator, requested at Respondent's request, that the children live with Respondent sixteen (16) days per month and with Appellant fourteen (14) days per month.

The decision to mandate supervised visits through which Respondent then simply conveys that she will not make the children available has resulted in complete alienation of the children from Appellant. This is in contrast to,

- (i) the offer by Respondent in her own handwriting after the issuance of temporary orders on September 10, 2009, that the children be left with Appellant for eleven (11) days so that Respondent could attend back-to-back professional conferences; and,
- (ii) the success in establishing the schedule issued under temporary orders for one year in which the children ate 21 meals with Respondent and 21 meals with Appellant biweekly, spent Fri/Sat/Sun alternately living with each parent, spent two weekdays after preschool with each parent, and split holidays equally; and,
- (iii) the schedule recommended by the court-appointed parent evaluator referenced above; and,
- (iv) the negotiated settlement offer to which Respondent in July, 2010, referred to as an "agreement" that provided a residential schedule very similar to the ones in the

temporary orders and as recommended by the parent evaluator.

**ERROR #2 -- Requirement Of Domestic Violent Treatment**

The Trial Court erred in requiring Appellant enroll in domestic violent treatment.

**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 trust of 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, one of which does not accept new clients.

**RROR #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 erred in finding that the purchase of 20170 Glennview Drive, Cottonwood, CA was purchased during the marriage and with community funds.

**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 the issuance of orders restraining Appellant with regard to Respondent and the children.

**ERROR #24 -- Finding Appellant Refused To Provide Documentation**

The Trial Court erred in finding Appellant refused to provide documentation to financial expert Steve Kessler.

**ERROR #25 -- Finding Respondent's Net Income**

The Trial Court erred in its 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, submitting nearly \$1m of fraudulent assets rejected by the trial court.

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

The Trial Court erred in not awarded 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 his own defense.

**ERROR #31 -- Due Process -- Opportunity To Present Evidence**

The Trial Court erred by failing to allow Appellant to provide evidence in his own defense.

**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 who has continued a pattern of an abusive use of conflict and ratcheted down Appellant's time with the children so that it is currently none which she sees as her choice and not as ordered by the Court.

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

The Respondent did not provide Appellant as ordered by the court with 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 to several people who had submitted declarations to the Court or letters to the parent evaluator. Judge Spearman denied the motion to quash. Within hours, Respondent's law firm contacted most or all subpoenaed people and misled them into believing their previously scheduled time to appear for deposition was no longer scheduled. Appellant's attorney discovered that nearly all witnesses were suddenly unavailable to be deposed at their previously scheduled times and the scheduling difficulty that followed appeared not to be random.

**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. More importantly, the limitations were abused during Appellant's testimony with such fervor by opposing counsel that Appellant was, in practice, nearly entirely prevented from offering any testimony including testimony permitted according to Respondent's 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 2<sup>ND</sup> 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 it's 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 was not a case about domestic violence. There was no domestic violence. It was not a case about endangering children. The children were not in danger from the parents. It was not a case about abusive control. There was no abusive control.

This is a case about abuse of power, abuse of clergy status, and the abusive use of conflict to manufacture conflict and falsely portray Respondent as a victim without any substantiating evidence by repeating ad nauseum false statements that cannot be corroborated.

It truth, Respondent is very powerful and can command, through her employment position, vast resources which can be coordinated to portray any situation to the Courts despite having no evidence to support it. **In truth, it is only Appellant who has ever during the marriage or post-separation been kicked, hit, shoved, stomped, choked, and bitten which can be corroborated by the sworn statements of the perpetrators of this violence against Appellant who once due to such violent behaviors directed against him suffered a broken rib.** It is both

sad and ironic that the day Appellant's rib was broken the police wrote, "no crimes were committed" and it was cited by the trial Judge for justifying .191 restrictions against Appellant despite the lack of even an allegation that Appellant ever acted violently during the marriage towards another person or ever intended to cause fear in any person under any circumstances.

### **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**

From the time Respondent initially suggested she was filing for dissolution until the results from the motion for reconsideration were heard was two years. During the two years Respondent twice obtained ex parte Domestic Violence Protection Orders (DVPOs) against Appellant and twice were the DVPOs terminated.

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 admitted 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" she could not write a single incident. Where the petition asked to describe "any violence or threats towards the children" she could not write anything related to the children. A permanent order was denied for "lack of evidence." While married 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 the wife *not the father* 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 to Ecuador for

over a week 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, the wife filled out a questionnaire shortly before filing for dissolution in which she was asked very specific and very detailed questions about domestic violence, fear, sexual abuse or coercion, and she denied that *any of these were issues in the marriage.* While she further tried to recant that position at trial, only two weeks earlier she testified under oath that when in answering the questions, her 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 even opened.

Contradictory testimony Respondent included representations on September 10, 2009 in the court room at 10:00 AM that the Appellant should only see his 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. The wife presented no independent evidence by a single witness 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 wife's witnesses and references had no personal knowledge of the representations they made and, under oath,

could not corroborate a single instance supporting claims of violence except one allegation of hitting a wall that Respondent never alleged.

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 an attorney to the trial Judge 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 esstoppel.

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.

## **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.

By far 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:** We're on the matter -- we're here for the entry of final orders today in Borodin vs. Grossman, 09-3-02955-9. Both parties are present, represented by respective counsel.

So I have gone through both -- both counsel's proposed orders and modified them in some fashion or another and came up with what I

propose will be the orders that we'll sign today. So I'm going to start with probably the most contentious issue first, and that's the parenting plan. So the statute that's controlling here is RCW 26.09.184, and the objectives of the -- of the permanent parenting plan are to provide for the children's physical care, their emotional stability, their changing needs, minimize any harmful parental conflict, and to otherwise protect their best interests.

So I have carefully reviewed all of my notes regarding the testimony in this matter as well as the parenting evaluation and the exhibits related to this issue. I am finding, under RCW 26.09.191, restrictions against the father. I am finding that the father has a history of domestic violence.

The parties appeared before Commissioner Smith on August 31st of this year for a full order domestic violence protection hearing. Commissioner Smith found that the husband had engaged in domestic violence and that he had engaged -- that he had asserted power and control in his behavior and that the mother was fearful and that her fear was reasonable.

The parenting evaluator, Kelly Shanks, also found, in her very thorough evaluation, substantial evidence of a significant pattern of relentless, fixated, exacting, and controlling behavior by Adam towards Jill that is frequent, intense, and debilitating. And she also found that, while Jill has strong opinions, there was not an indication of a pattern of controlling behavior on her part.

The petitioner testified about an incident shortly after their marriage, when they were living in Philadelphia, where they had an argument and she became scared, locked herself in the bathroom, and he kicked the door in. She also testified about an incident where

she was taking wood out of the trunk of her car, when he became angry and the husband grabbed her wrists and refused to let go.

In addition to these physical incidents, the petitioner testified that she felt emotionally bullied and intimidated by the respondent due to his yelling, name-calling, criticism of her appearance, of her parenting, waking her up while she was asleep to force her to talk, playing this clip from the movie Godfe -- Goodfellas, where the wife has a gun to the husband's head, over and over.

There was also evidence presented that in July, the mother's house was broken into. The only item taken was her laptop. She then saw her husband sitting in his car parked four houses away from hers, and she saw him duck when she approached. Her home was then broken into again, and the laptop was returned. I think it's reasonable to infer from the evidence that Mr. Grossman entered his wife's home without her knowledge and permission, and in violation of temporary orders, and took her laptop.

I'm also finding that the husband has engaged in abusive use of conflict because the husband's angry and hostile behavior towards the mother often occurred in the presence of the children. In fact, the most serious incident that was testified to occurred at Camp Solomon Schechter, which involved the father wanting to swim with the two children on his back into the middle of the lake. Mother was concerned because the girls couldn't swim, they weren't wearing any life preservers, and there were no lifeguards. Apparently, adults tried to intervene, but when the father -- but the father insisted they were his children, he could do what he wanted. The police were called. And according to Shelly Shanks' report,

the officers found that the father was uncooperative and belligerent. The mother testified that the father would not release his hold on Naomi and -- and she was shrieking and having trouble breathing.

I am finding those restrictions, and I will, when I get to the decree, indicate that I am going to impose restrictions as far as a restraining order in the decree. I am not going to extend the -- the domestic violence protection order because that protection order prohibits him from having contact with the children. I think it's inconsistent. And I would like to have all of the orders in one document as opposed to referring back and forth to other documents, so today I am going to be recalling the protection order and imposing a restraining order.

which referred to manufactured claims that Appellant was instructed not to address, 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 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 that her report in January, 2009, of no domestic violence was incorrect. 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 also 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. 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, it 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 in a very negative light 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.

#### **SUPPRESSION OF FINANCIAL EVIDENCE AND TESTIMONY**

The trial Judge also 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.

#### **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. 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. 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.

## V. CONCLUSION

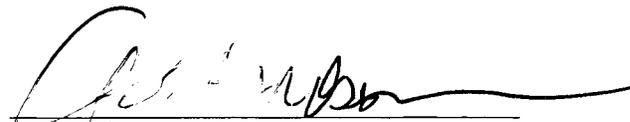
This Court should not tolerate the conspiracy to <sup>misappropriate</sup> ~~the~~ assets from the customers of one spouse, partially successful, by the other spouse under the guise of being a normal part of dissolution proceedings. An "equitable distribution" may, depending on the fact pattern, be correctly 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 to return misappropriated assets belonging to other people to their rightful owners.

This Court should not tolerate the unethical and unlawful behavior 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, to establish the validity of statements upon which the Court then relies to make life altering decisions affecting 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.

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 a strong relationship with the other parent, who while divorced from their former spouse, is not divorced from the children.

Respectfully submitted on the 4<sup>th</sup> day of August, 2005.



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**VI. APPENDIX**  
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