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No. 70249-1-I

WASHINGTON STATE COURT OF APPEALS
DIVISION I

In re the Marriage of:

KARLA MAIA
(fka Karla Maia-Hanson),

Appellant,

v.

BRADLEY HANSON,

Respondent.

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ON APPEAL FROM KING COUNTY SUPERIOR COURT

KARLA MAIA'S OPENING BRIEF

Gregory M. Miller, WSBA No. 14459
Christine D. Sanders, WSBA No. 40736
Attorneys for Appellant

CARNEY BADLEY SPELLMAN, P.S.
701 Fifth Avenue, Suite 3600
Seattle, Washington 98104-7010
(206) 622-8020

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I. INTRODUCTION

This appeal arises out of contempt proceedings generated by enforcement of a parenting plan for twin boys, now 13. The mother, Karla Maia (“Karla”), seeks vacation of the contempt orders and to have stricken those portions of the final and other associated orders which contain prior restraints against her making reports to CPS to protect her sons, either directly or indirectly. As prior restraints on her freedom of speech, the provisions are contrary to settled federal and state constitutional law, as articulated by *In re Marriage of Suggs*, 154 Wn.2d 74, 93 P.3d 161 (2004) and *In re Marriage of Meredith*, 148 Wn. App. 887, 201 P.3d 1056 (2009). The illegal provisions must be stricken and the contempt orders vacated.

The contempt orders also are infected by a failure to be supported by substantial evidence. One failure shows vividly the trial judge recognized, but ignored, the fact Karla could not have complied with the court order requiring use of a case manager before making a report to a mandatory reporter because one was not yet retained, so Karla could not have violated the order. Nevertheless, the judge still held her in continuing contempt pending a “review” hearing six months later so the judge could personally monitor the case. But at that review, the trial judge refused to “purge” the contempt, even though no new violations of the order had occurred, then continued the contempt for another year. These and other circumstances show both the need to vacate the orders and to remand to a new judge.

II. ASSIGNMENTS OF ERROR & ISSUES ON APPEAL

A. Assignments of Error.

1. The trial court erred in entering the March 29, 2013, order (CP 850-57, App. D) confirming its oral ruling of May 31, 2012, that found Karla in continuing contempt and extended the November 4, 2011, order finding that Karla was in contempt and subject to prior restraint until the next “review” hearing in a year.

2. The trial court erred in restraining Karla from reporting her children’s allegations of abuse to CPS or law enforcement in its November 5, 2011, contempt order (CP 116-123, App. C), which underlies and prejudicially affects the May 31, 2012 oral ruling and the March 29, 2013 order.

3. The trial court erred in entering its June 24, 2011, Order: “The mother is not permitted to make independent referrals to CPS or law enforcement, either directly or through mandated reporters, independent of the parenting coach or Case Manager.” CP 36-47, App. B.

4. The trial court erred in entering the following finding in its November 4, 2011 order: ¶ 2.1: “Karla intentionally failed to comply with lawful court orders of the Court dated August 19, 2010 as well as the Court’s oral ruling of May 31, 2011.” CP 117, App. C.

5. The trial court erred in entering ¶ 2.4 of its November 4, 2011 order and the following findings therein: “Petitioner had the past ability to comply with the August 19, 2010 & the court [sic] oral ruling of May 31, 2011. . . . and report any new allegations to the parties’ Case Manager, Jennifer Keilin, MSW.” CP 117, App. C.

6. The trial court erred in entering ¶ 2.5 and the finding in its November 4, 2011 order that “Karla does not have the present willingness to comply with the order as follows: Petitioner knowingly and intentionally and willfully failed to follow the Court ordered reporting process for new allegations and continues to provide such information to mandatory reporters.” CP 118, App. C.

7. The trial court erred in entering the finding in ¶2.7 of its November 4, 2011, order: “Petitioner has the ability to comply with the terms of the parenting plan and has chosen not to do so.” CP 118, App. C.

8. The trial court erred in entering its March 29, 2013, order: “[D]ue to the finding above [other contempts] and the yet outstanding referral to Child Protective Services, it is appropriate that the Court give [Karla] more time to purge the contempt order.” CP 854, App. D.

9. The trial court erred in entering its April 22, 2013, order which did not accept the proffered summary of the May 31, 2012, hearing as a narrative report or require such changes it deemed necessary to make it accurate. CP 859, App. E.

B. Issues on Appeal.

1. Did the trial court exceed its jurisdiction when it made its oral ruling of contempt on May 31, 2012, which it later confirmed in writing on March 29, 2013?

2. Did the trial court exceed its jurisdiction in entering the November 4, 2012 contempt order, which underlies the 2013 order?

3. Must the March 29, 2013, order confirming and extending the May 31, 2012, oral ruling of contempt be vacated because it is not supported by substantial evidence?

4. Must the trial court’s several orders threatening Karla with contempt if she made reports of alleged child abuse all be vacated as unconstitutional prior restraints under *In re Marriage of Suggs*, 154 Wn.2d 74, 93 P.3d 161 (2004) and *In re Marriage of Meredith*, 148 Wn. App. 887, 201 P.3d 1056 (2009)?

5. Did the trial court err in finding Karla in contempt for failing to contact the appointed case manager before AH made a disclosure of abuse to a mandatory reporter where it acknowledged that the case manager was not in place at the time of the alleged report and that “we didn’t in fact have any useful way for anybody to make use of [the case manager]?” RP (11/4/11) at 32:6-8.

6. Where the trial court was presented with trial counsel's "best effort" to provide a narrative report of proceedings of a hearing, and the court considered that narrative report and believed it to be "pretty accurate" though incomplete, did the trial court err by failing to make corrections to any inaccuracies or material omissions in the submission in order to assure a proper record for purposes of appellate review?

7. Where the trial court has stated it did not believe a party or find it credible in the contempt matters, made findings without a factual basis in the evidence, and imposed orders in excess of its authority and in violation of the State and Federal Constitutions all because the trial court stated its personal interest in closely monitoring the parenting plan, in the context of a continuing and highly discretionary matter of enforcement of a parenting plan, and where there are dozens of other judges available in the county, should the appellate court consider remanding to a different judge to insure a decision-maker who does not appear to be personally over-involved and micro-managing the case, and thus insure compliance with the appearance of fairness doctrine going forward?

III. STATEMENT OF THE CASE

A. Procedural Overview.

Appellant Karla Maia ("Karla", formerly known as Karla Maia-Hanson) filed a petition for marital dissolution on October 30, 2009. CP 1-5. The parties arbitrated the temporary parenting plan, which was entered on June 25, 2010. CP 6-13. An amended temporary parenting plan was filed that same day. On August 19, 2010, Respondent Bradley Hanson ("Brad") moved to modify the parenting plan which was denied by a commissioner. CP 1065-1066. The order also appointed Jennifer Keilin, MSW, as the case manager.

CP 1065-66. Judge Spearman revised the ruling and entered Brad's Parenting Plan on September 22, 2010. CP 1564-1565.

Trial was held before Judge Shaffer in April and May, 2011, with an oral decision on May 31, 2011, including the parenting plan involving the twin boys AH and PH. CP 874-940 (sealed) ("2011 Oral Ruling"). This ruling was reduced to writing in the Findings of Fact and Conclusions of Law (FOF/COL) filed June 24, 2011. CP 14-35. The trial court also entered an Order Appointing Case Manager Re Parenting Plan (CP 36-42), an Order Appointing Parenting Communication Coach (CP 43-48), the Final Parenting Plan (CP 1067-1084) and a Decree of Dissolution (CP 49-56).

On November 4, 2011, on Brad's motion, Judge Shaffer found Karla in contempt of the August 19, 2010 temporary parenting plan and of her oral ruling on the parenting plan,¹ awarded Brad \$3,000 in attorney's fees, and set a review hearing for six months later on May 10, 2012. CP 116-123. At the review hearing held May 31, 2012, Judge Shaffer refused to purge the contempt despite the fact there had been no "violations" after the November 4 hearing. Instead, she ruled Karla would be "allowed" to note a review hearing in one year to (potentially) purge the contempt. CP 59-63.² *See also*, CP 854, 856.

¹ The alleged contempt occurred after the oral ruling and before entry of the final orders.

² Judge Shaffer's 2012 decision was an oral ruling. The ruling was not reduced to writing until March 29, 2013, leaving the question of what order was in place during the interim. *See* CP 399. In its April 22, 2013 order, the court denied Karla's motion to file her attorney's May 31, 2012 hearing notes as a "verbatim report", but stated she "considered them for what they are, which is pretty good notes, but not quite what the Court said. The Court remembers what it said.", CP 859, but made no changes or corrections. This

Ten months after the 2012 review hearing, on March 29, 2013, Judge Shaffer finally entered a written order as to the May 2012 contempt order. CP 850-857. Based on several “findings” of non-compliance with the parenting plan, as well as a September 2011 report with CPS, Judge Shaffer ruled Karla had not purged the contempt as of the May 2012 review hearing and that in May, 2012, the court had given gave her another year to do so. CP 856. Judge Shaffer’s 2013 order then ruled that Karla *had* purged the contempt as of March 29, 2013 —10 months after the review hearing and seventeen months after the original contempt order was entered in November, 2011. CP 856. It also awarded Brad’s fees “incurred to the airgun, the TSA, and the James dissolution.” CP 857.

On April 22, 2013, Judge Shaffer denied Karla’s motion for reconsideration of the May 31, 2012 order. CP 858-859. She also denied Karla’s motion to file her attorney’s May 31, 2012 hearing notes, and awarded Brad \$951.50 for fees related to the James dissolution, the air gun incident and Karla’s TSA allegation. CP 859.

B. The Trial Court’s Rulings Regarding Reports to CPS.

Before this case went to trial, Brad was the subject of four claims to CPS that he abused AH and PH. CP 881. All were

overlooked the fact that Karla’s attorney stated she was filing the “Verbatim Report” as a narrative report of proceeding for purposes of later appeal, pursuant to RAP 9.3. *See* CP 835-36. Where there is an objection to the narrative report, the trial judge is to review any objections and settle and approve a final report. *See* RAP 9.5(c).

determined by the agency to be unfounded. CP 881. The trial court entered several orders on Brad's motions to address the issue.

First, a commissioner's August 19, 2010 order provided with regard to CPS allegations as follows at CP 1066, App. A:

- (a) If either parent has a concern that the other parent is abusing the boys, it shall be reported only to the case manager who shall determine if it rises to the level that should be reported to CPS.
- (b) The parents agree that Jennifer Keilen shall be appointed as case manager.
- (c) [Brad] shall advance the retainer[.]³

Second, in her May 31, 2011, oral ruling on the dissolution, Judge Shaffer made rulings regarding the final parenting plan. CP 874-940.⁴ In her 2011 oral ruling, Judge Shaffer found that Brad did not pose a danger to his children and therefore did not impose any § 191 restrictions against him. CP 882-883. With regard to Karla, Judge Shaffer viewed the CPS allegations as something bordering on "abusive use of conflict" between the parents. CP 883. She surmised that Karla "is really, really angry at [Brad]" and "I think that piled up for years and years and years." CP 884. Judge Shaffer also said she thought that Karla's anger informed the way she handled the

³ Brad failed to timely advance the funds for Ms. Keilen so that she was not engaged and in place at the time of the alleged contempt in September 2011, but only as of October 9, 2011. *See* CP 1311 (sealed), Keilin report, ¶ 1.

⁴ In their proposed parenting plans, both sides had made § 191 allegations regarding risks to the children. CP 875. Relevant to the CPS claims, Karla alleged that Brad engaged in a pattern of domestic violence against her and their boys (CP 875-880) and sexual assault against their boys (CP 880-888).

allegations of abuse against Brad, and caused her to misconstrue the facts:

I think that she's been sitting on such a big amount of anger that it's really informed a lot of her perception and her behavior in this case. And I don't really think that she's been completely appropriate in how she's expressed it because she hasn't done a good job of insulating the boys from her anger.

Instead what's happening is something that's not that uncommon which is that [Karla] has seen herself as being very much victimized over time and not supported, and the boys have picked up on that sense of victimization and have tried to support it. . . . And she hasn't found good ways of establishing a barrier between her own feelings and what the boys are experiencing.

[. . .]

So I think that's some of what's been happening here in terms of the CPS allegations that have been surfacing. I don't think it's as direct as Mr. Hanson does. I don't believe [Karla] has been cooking up bad things to accuse [Brad] of and manipulating the boys to sell those things through the therapists and other people. I think it's been more like the sexual abuse allegation; something that started off sort of reasonable and escalated fast in part because of the dynamic that's going on between the boys and [Karla], which is that the boys I think are really, really attuned to how their mother is feeling.

[. . .]

I also think that [Karla]'s anger and her feeling of being misused during this relationship and under – not appreciated, not loved, not supported has informed her suspicion of [Brad], her belief that he is not a safe dad, that he's a dangerous dad. I don't think she's made anything up. I think she has misconstrued, and she's put a lot of weight on what she hears from her boys that she shouldn't do.

[. . . .]

I will say this: Although I don't believe that [Karla] engaged in abusive use of conflict, I do believe that if I was going to look at one person who was driving the conflict more than the other, it would be [Karla]. That I will say. But that's as much as I'm willing to say for purposes of [§] 191 at this point.

2011 Oral Decision, CP 885-887. In order to deal with the “negative dynamics I see here and bring them to a stop in the parenting plan[,]” CP 888, the judge said she would impose restrictions and limitations that she would not impose in a case without this “high level of conflict.” CP 889.

Thus the permanent parenting plan required that any referral to CPS or law enforcement, by mother, therapists or teachers, go through the case manager. CP 897. It would then be up to the case manager to decide whether there is a basis to report to CPS or law enforcement. This was to be the case manager's only function. CP 897. If a party disagreed with the case manager's decision, it could bring the issue before Judge Shaffer. CP 897. Failure to go through the case manager would result in suspension of residential time unless the judge decided otherwise. CP 937. Judge Shaffer emphasized that she viewed this condition “really seriously”:

There has better be a damn good reason for contacting CPS or the police to go around the case manager, I mean, an incredibly serious and well-founded reason. This needs to stop. I get where everybody was coming from while this case was underway. We are at the end. And in my view, these twins deserve the best from their parents, your very best parenting

skills and your very best co-parenting skills if they are to continue to grow up as healthy, well-adjusted, loving boys.

CP 937-938. This condition was to continue for six months, at which time Judge Shaffer would review further need for the case manager. CP 897; CP 39.

Third, Judge Shaffer's oral ruling was incorporated by reference into the June 24, 2011 Final Parenting Plan, in which Jennifer Keilin, MSW, was re-appointed as the case manager.⁵ CP 1079. *See also* CP 20 (FOF/COL § 2.19). In the plan, Judge Shaffer specifically retained jurisdiction over the issues with authority to conduct all reviews as needed in this matter, and allowed the parties to note the matter on the court's calendar as needed by contacting the bailiff. CP 21.

Fourth, on June 24, 2011, the judge entered a separate order appointing a case manager. CP 36-42. This order mirrors the requirements laid out in the oral ruling. Specifically, it requires of Karla that "[i]f the mother should become aware of information related to new allegations of abuse by the father, she should immediately report this information to the Case Manager." CP 37. The order also leaves it to the case manager to determine whether the allegations should be reported to CPS. *Id.* It prohibits Karla from independently referring any claims to CPS or law enforcement, either independently or through mandatory reporters. CP 37.

⁵ As described in detail below, this was the first time that Keilin was made aware of her role although she was originally appointed in the August 2010 order.

The case manager was to be appointed for at least six months and up to two years following implementation of the Final Parenting Plan. CP 37. Under the order, the earliest either party was authorized to note a review hearing regarding the case manager was *after* the first six months. CP 37. If either party violated the order, the case manager has authority under the order to suspend residential time pending court review of the issue. CP 39.

C. The Post-Trial Contempt Proceedings Against Karla.

A post-trial report to CPS by mandatory reporters – AH’s school nurse and counselor in early June, 2011 – was alleged in order to bring contempt proceedings against Karla claiming she violated the court’s orders from August 2010 and May, 2011. On September 28, 2011, Brad filed a motion for an order to show cause regarding Karla’s non-compliance with the trial court’s August 19, 2010 order and the parenting plan based on the report to the school nurse and counselor. CP 1085-1105. In his reply briefing, Brad also alleged that an additional report to CPS was made by Dr. Greenberg on September 27, 2011. Brad claimed that he learned about the allegation at a counseling session with Dr. Greenberg and AH in October, 2011. At that time, Dr. Greenberg told Brad he made the CPS report and gave CPS his opinion of the allegation. CP 1661.

On November 4, 2011, after a hearing, an order was entered finding Karla in contempt. CP 116-123. In this order, Karla was found to have violated the court’s August 19, 2010 temporary order

and May 31, 2011 oral ruling regarding the parenting plan when she “personally participated” in a report against Brad to mandatory reporters (elementary school nurse and counselor) on June 8, 2011. CP 117.⁶ Dr. Greenberg’s report was also discussed at the hearing (RP (11/4/11) p. 4:17-05:14), although the report was not at that time determined to be a basis for a finding of contempt.

Judge Shaffer found that Karla knew of the allegation prior to seeing the school nurse and determined that, under the order, she had an obligation to report it to the case manager at that time. CP 122. The court found that Karla did not report the allegation to the case manager until after it was reported to the mandatory reporters at AH’s school. CP 117-118. However, Judge Shaffer expressly recognized at the hearing that Karla’s attempts to comply with the original order at the time of AH’s June 8, 2011 report would have been unsuccessful. Although the court ordered Keilin be appointed case manager in August 2010, Keilin was not aware that she was appointed case manager until Karla contacted her regarding the June 8, 2011 CPS report.⁷ According to Brad’s trial attorney, the case manager was not

⁶In this report, AH told his school nurse that he injured his neck when Brad shoved him against a wall. CP 1106-1183; 1184-1188. Karla then took AH to see his school counselor who then reported the claim to CPS. CP 1579; 1647-1648. CPS determined that the allegations were unfounded. CP 1302-1308.

⁷**Ms. Moore-Wulsin** [Karla’s trial attorney]:

“I have emails from Jennifer Keilin saying that she has no knowledge of this case, she was never made aware of it, she was not a resource for [Karla] to go to on this particular issue.”

RP (6/13/11) p. 14:10-13. *See also* Keilin’s Statement at CP 1313, ¶ 24 (sealed). Under the August 2010 order, Brad was responsible for advancing Keilin’s retainer. CP 1065-1066.

“in place” until October 14, 2011. RP (11/4/11) p. 6:3-4. As Judge Shaffer stated, “[i]n other words, had [Karla] done what we all wanted her to do and picked up the phone to call the case manager, she would, in fact, have found out there was no case manager.” RP (11/4/11) p. 32:8-11. Thus, there was no practical way for Karla to comply with the court’s orders until long after the alleged contempt, and long after the alleged report to Dr. Greenberg.

Judge Shaffer stated she did not believe the allegation of abuse was credible and that “the allegation increased from the nurse, to the counselor to her counselor’s representation in court at the presentation hearing” (CP 122), apparently blaming Karla for the “increase” in the report. Judge Shaffer then concluded that Karla “knowingly violated this court’s order by going intentionally to mandatory reporters.” CP 123. Although this finding arguably would have allowed the judge the discretion to impose jail time, she imposed a monetary sanction of three thousand dollars for Brad’s fees and imposed a so-called “purge clause” requiring Karla to comply with the court’s orders in the future. *See App. C.*

Under this clause, Karla could purge the finding of contempt by (1) complying with the terms of the trial court’s June 24, 2011 order appointing case manager; (2) first reporting any allegation that she is aware of to the case manager before she takes the children to a mandatory reporter; and (3) the case manager must then approve

Karla taking the children to a mandatory reporter. CP 119. The order set a review hearing for six months later, on May 10, 2012. CP 123.

In early May 2012, Karla filed a declaration seeking review of the contempt order. CP 1189-1268. In that declaration, Karla addressed the September 26, 2011 disclosure that AH made to his therapist, Dr. Greenberg, on September 26, 2011, which Dr. Greenberg then reported to CPS. Karla testified that she had no part in the report. The report was based on information told by AH to Dr. Greenberg at his regularly scheduled appointment while on Karla's residential schedule. CP 1271-72. Karla did not tell AH to disclose any facts to Dr. Greenberg and, when asked by Dr. Greenberg about the allegations, Karla told Dr. Greenberg that she had no comment and all reports had to go through the case manager. *Id.*

A review hearing was held on May 31, 2012. CP 59-63. At the hearing, the trial court indicated it was "sympathetic" to Karla's position on the contempt and would have purged the contempt but for the CPS report made by Dr. Greenberg more than a month *before* the trial court's November 4, 2011 contempt order. CP 62.⁸ There is no evidence of any CPS report since November 2011. Moreover, although Karla admitted that she knew about AH's bruises, there is no

⁸ When the court's oral ruling was reduced to writing in March 2013, the order regarding the contempt stated that "*due to the finding above and the yet outstanding referral to Child Protective Services, it is appropriate that the Court give [Karla] more time to purge the contempt order.*" CP 854 (emphasis added). It is unclear what "the finding above" refers to, as the findings describe a litany of disputes between the parties, including the children's counseling, their last name, passports, passwords, decision making for the children and their extracurricular activities. *See* CP 851-853.

evidence in the record that Karla knew that these bruises were to be the basis of AH's allegation of abuse before taking him to his appointment with Dr. Greenberg.

Brad argued that the Dr. Greenberg report was a further instance of contempt. In his May 21, 2012 declaration, Brad asserted that "we now know again from Ms. Keilin that [Karla] knew of this issue and again failed to report it to Ms. Keilin before taking it to Dr. Greenberg as required by the Court until after speaking with Dr. Greenberg." CP 1442 at 5:19-21. But that is not what Keilin's declaration says. CP 1309-1319 (sealed). According to her declaration, Keilin learned about the report through Dr. Greenberg on November 7, 2011. CP 1312. When Keilin spoke with Karla about the allegations, Karla reported to her that she had spoken with Dr. Greenberg about the report. CP 1313. According to Keilin's notes, Karla said,

He asked me about [AH]'s bruise. He asked me if I knew, and what did I do. I said he had read the rulings, that [Jennifer Keilin] was in place. I said that JK was not in place.

CP 1313.

In his May 25, 2012 reply declaration Brad stated, "it is clear from Petitioner's own statement that she was aware of the 6th CPS allegation before she brought [AH] into Dr. Greenberg's office." CP 1524 at 6:9-10. But her declarations say no such thing. According to Karla's declarations, she was responsible for taking AH to his

regular appointment with Dr. Greenberg that day. *See* CP 397-601; CP 1323; CP 1269-1301. She and AH did not discuss the allegations at the appointment or on the way to the appointment. CP 411. After meeting with AH, Dr. Greenberg asked Karla if she knew about AH's bruises. *Id.* Karla answered that she could not say anything to him unless she said something to Jennifer Keilin first. CP 411; CP 1323. Karla also reiterated that the requirement under the trial court's orders is not that she call the Case Manager every time one of her sons had a bruise:

I did not tell Andrew to disclose to Dr. Greenberg, and the only comment I made to Dr. Greenberg was that I had no comment as all comments had to go through Jennifer Keilin. I did not report to Jennifer Keilin and there is no requirement that I report every statement that the boys make to Jennifer Keilin.

CP 1270.

Although the May 2012 review hearing was not transcribed or recorded, according to Karla's attorney's notes from the hearing, Judge Shaffer stated, in effect,

I am very sympathetic to [Karla's] position on the contempt issue. ***I would purge the contempt today but for the CPS report made by Dr. Greenberg.*** There is a pattern of the boys reporting a bad act, and I want to see one more year. I think that the contempt serves the purpose of holding something over [Karla's] head. If there are no new reports for a year, then I will purge the contempt.

CP 62-63 (emphasis added). Not only was this finding based on a so-called additional contempt that occurred *before* the original order,

which by its terms could not violate the court’s purge condition regarding *future* compliance, but Karla could not ask the trial court to purge the contempt until the next review hearing an entire year later. This effectively placed Karla under a sentence (or “in jail”) for contempt, from November 4, 2011 until May 31, 2013.

The parties were unable to agree to the form of a written order on the court’s ruling. CP 605. On March 21, 2013, Karla moved for reconsideration of the trial court’s May 2012 ruling and to purge the finding of contempt. CP 364-365. Among other things, in her motion for reconsideration, Karla argued that the trial court improperly held her in continued contempt, based on a report that occurred before the original contempt, at CP 365:⁹

In essence, despite her good faith and good behavior [since the November 4, 2011 contempt order] she remained under the contempt order unable to purge it by the behavior previously requested of the court. In essence, the court changed the lock of the door out of contempt so the key it previously issued [to Karla] no longer worked; she paid, but she still stayed.

That same day, Brad moved the trial court for entry of an order on the May 31, 2012 review hearing. CP 70. On March 29, 2013 – 10 months after its oral ruling – the trial court entered a written order on the May 2012 review hearing, which refused to purge Karla of the contempt as of May 31, 2012, gave her “more time to purge the

⁹ Karla also argued that Brad either was aware of, or should have been aware of, the report at the time of his original motion for contempt, CP 402, but did not rely on it as the basis for his contempt motion. CP 364-65, 382.

contempt”, and found the contempt was purged as of March 29, 2013. CP 850-857. At the same time, the trial court summarily denied Karla’s motion for reconsideration. CP 858-859.

IV. ARGUMENT

A. Standard of Review.

- 1. Abuse of discretion: the trial court is not given free rein even in family law matters, but must make decisions that apply the applicable law based on the actual facts.**

A trial court’s decision in a contempt proceeding is reviewed for abuse of discretion. *In re Marriage of James*, 79 Wn. App. 436, 439–40, 903 P.2d 470 (1995). A court abuses its discretion when its decision is manifestly unreasonable or based on untenable grounds. *Id.* Thus, a trial court abuses its discretion when it applies an incorrect legal standard,¹⁰ the record does not support the court’s findings, or the facts do not meet the requirements of the correct standard. *In re Marriage of Horner*, 151 Wn.2d 884, 894, 93 P.3d 124 (2004) (reversing relocation decision, quoting *In re Marriage of Littlefield*, 133 Wn.2d 39, 47, 940 P.2d 1362 (1997), *superseded by statute on other grounds*, Laws of 2000, ch. 21, § 1 (reversing relocation decision). As the Supreme Court explained, review of discretionary decisions uses a three-part analytical test:

¹⁰ “A trial court would necessarily abuse its discretion if it based its ruling on an erroneous view of the law.” *Washington State Physicians Insurance Exchange & Ass’n v. Fisons Corp.*, 122 Wn.2d 299, 339, 858 P.2d 1054 (1993) (footnotes omitted) (reversing trial court). *Accord, Mayer v. Sto Indus., Inc.*, 156 Wn.2d 677, 684, 132 P.3d 115 (2006).

A court’s decision is manifestly unreasonable if it is [1] outside the range of acceptable choices, given the facts and the applicable legal standard; [2] it is based on untenable grounds if the factual findings are unsupported by the record; [or 3] it is based on untenable reasons if it is based on an incorrect standard or the facts do not meet the requirements of the correct standard.

Littlefield, 133 Wn.2d at 47 (emphasized numbers added).

Moreover, “a trial court must articulate on the record the reasons behind its determinations,” *Horner*, 151 Wn.2d at 894, so that a reviewing court can engage in meaningful review “of the trial court’s application of the facts” to the correct legal standard. *Id.* at 897. The record thus must be sufficient to demonstrate that the trial court did exercise its discretion and how it did so, since the “[f]ailure to exercise discretion is an abuse of discretion.” *Bowcutt v. Delta North Star Corp.*, 95 Wn. App. 311, 320, 976 P.2d 643 (1999).

The abuse of discretion standard thus is both substantive and well established: discretionary rulings must be grounded in **both** the correct legal rules **and** the actual facts; they must be founded on principle (the applicable legal rules), reason, and the facts. The trial judge thus is not an untethered “knight errant” who may do whatever “justice” in a case she deems fit.¹¹ Rather, the trial court always is tied to the applicable legal rules and actual facts of the case. *Horner*; *Littlefield*. This is necessary because unbridled discretion means no

¹¹ See *Coggle v. Snow*, 56 Wn. App. 499, 505-07, 784 P.2d 554 (1990) (quoting and discussing Justice Benjamin Cardozo’s famous reflection on the nature of judicial discretion in *THE NATURE OF THE JUDICIAL PROCESS* (1921) and vacating discretionary decision).

rules, no accountability, and no predictability for counsel and their clients. It obviates the appellate courts.

2. Findings of fact: substantial evidence is required.

Challenged findings of fact will be upheld only if they are supported by substantial evidence. *In re Marriage of Rideout*, 150 Wn.2d 337, 350, 77 P.3d 1174 (2003). In reviewing a contempt finding, the appellate court looks for facts constituting a plain order violation and *also* strictly construes the order. *In re Marriage of Humphreys*, 79 Wn. App. 596, 599, 903 P.2d 1012 (1995).

B. The Trial Court’s Prohibition on Karla’s Ability to Report her Children’s Allegations to CPS and the Associated Contempt Orders Must be Vacated as an Unconstitutional Prior Restraint on Karla’s First Amendment and State Rights to Free Speech and to Petition the Government for a Redress of Grievances.

The First Amendment of the U.S. Constitution prohibits the government from interfering with a person’s “freedom of speech” and “right ... to petition the Government for a redress of grievances.” *See also* U.S. Const., amend. 14, § 1 (making First Amendment applicable to states). Although the right to free speech and the right to petition are separate guarantees, they are related and generally subject to the same constitutional analysis. *Wayte v. United States*, 470 U.S. 598, 611 n. 11, 105 S.Ct. 1524, 84 L.Ed.2d 547 (1985) (citing *Nat’l Assoc. for the Advancement of Colored People v. Claiborne Hardware*

Co., 458 U.S. 886, 911–15, 102 S.Ct. 3409, 73 L.Ed.2d 1215 (1982)). This precludes prior restraints in most cases.

Under the trial court’s orders, Karla was prohibited from herself reporting (or allowing her children to report) an allegation to *any* mandatory reporter or government agency without first reporting that allegation to the court-appointed case manager. Karla could not provide immediate protection for her children had actual harm occurred. She was limited, by these orders, from obtaining immediate relief had Brad, in fact, harmed the children. She risked, every time she took the children to the doctor or to their therapists, the inference that any reports the children made to their providers would be inferred as an indirect report by Karla. The trial court’s order is a clear prior restraint on Karla’s First Amendment and state constitutional rights to free speech and to petition the government for a redress of grievances. Since the Washington Constitution provides, at minimum, no less protection of speech as the First Amendment, and that level as applied in state decisions is ample to protect Karla’s rights, a separate state constitutional analysis is not necessary.¹²

¹² See *In re Marriage of Suggs*, 152 Wn.2d 74, 80-81 & n. 4, 93 P.3d 161 (2004) (for purposes of prior restraint by anti-harassment injunction, the analysis under the federal constitution fully protects against prior restraints, requiring vacation of anti-harassment order forbidding the making of reports of claimed harassment to third parties).

1. **Because the trial court’s order does not distinguish between a contact that involves protected or unprotected speech, the order is not specifically crafted to prohibit only unprotected speech and, as such, it is an unconstitutional prior restraint.**

The United States Supreme Court defines prior restraints on free speech as:

administrative and judicial orders *forbidding* certain communications when issued in advance of the time that such communications are to occur. Temporary restraining orders and permanent injunctions — *i.e.*, **court orders that actually forbid speech activities — are classic examples of prior restraints.** This understanding of what constitutes a prior restraint is borne out by our cases, . . .

Alexander v. United States, 509 U.S. 544, 550, 113 S. Ct. 2766, 2771, 125 L. Ed. 2d 441 (1993) (emphases added).

Our Supreme Court has recognized and applied these principles to strike improper orders in the context of prior restraints contained in orders in marriage dissolutions, *see In re Marriage of Suggs*, 152 Wn.2d 81, 93 P.3d 161 (2004), as has this Court. *See In re Marriage of Meredith*, 148 Wn. App. 887, 201 P.3d 1056 (2009). As the Court noted in *Suggs*, “Prior restraints carry a heavy presumption of unconstitutionality.” *Suggs*, 152 Wn.2d at 81 (citing *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 70, 83 S.Ct. 631, 9 L.Ed.2d 584 (1963)). Accordingly, prior restraints are permitted **only** in “exceptional cases such as war, obscenity, and ‘incitements to acts of violence and the overthrow by force of orderly government.’” *Id.*,

(quoting *Near v. Minnesota ex rel. Olson*, 283 U.S. 697, 716, 51 S.Ct. 625, 75 L.Ed. 1357 (1931)).

The Supreme Court applied these principles to invalidate prior restraints which have no meaningful difference from the prior restraint at issue here. The Court described the situation in *Suggs*:

This antiharassment order is a prior restraint because *it forbids Suggs' speech before it occurs; it forbids her from "knowingly and willfully making invalid and unsubstantiated allegations or complaints to third parties which are designed for the purpose of annoying, harassing, vexing, or otherwise harming Andrew O. Hamilton and for no lawful purpose."*

Marriage of Suggs, 152 Wn.2d at 81 (emphasis added). The trial court's orders in this case contain the same unconstitutional prior restraint on Karla's First Amendment and Washington Constitutional rights to free speech and to petition the government as was prohibited in *Suggs* and applicable federal law. They therefore must be stricken as void, all associated past penalties vacated, and such provisions stricken from any future application.

Here, the trial court's contempt order, and all the orders underlying that order requiring that Karla report any allegations of abuse only through the case manager, are prior restraints that forbid Karla from speaking in the future. *Suggs* states our Supreme Court's authoritative application of these principles in a way that demonstrates the contempt orders must be vacated here.

In *Suggs*, the trial court found that Shawn Suggs harassed her former husband, Andrew Hamilton, and then permanently restrained her from “knowingly and willfully making invalid and unsubstantiated allegations or complaints to third parties which are designed for the purpose of annoying, harassing, vexing, or otherwise harming Andrew O. Hamilton and for no lawful purpose.” 152 Wn.2d at 77–79. Upon review, the Court noted that some of the speech the order prohibited might be unprotected libelous speech, but the order also prohibited speech protected under the First Amendment. *Id.* at 83–84. Because the order was drafted too broadly, the Court reasoned, it chilled Suggs from making communications that the First Amendment protects. *Id.* at 84. Accordingly, the Supreme Court vacated the order as violating the prohibition on prior restraints. *Id.* *Accord, In re Marriage of Meredith*, 148 Wn. App. 887, 896, 201 P.3d 1056 (2009) (relying on *Suggs*, vacating a family court order retraining Meredith from contacting any agency regarding Muriel’s immigration status without first obtaining approval from the court).

Similarly, here, the trial court’s January 24, 2011 order appointing case manager, incorporated by reference into the purge condition, prohibits Karla from contacting CPS or law enforcement, either directly or through mandated reporters, without prior approval of the court-appointed case manager. Not only does this prohibit Karla from making a legitimate criminal report, an issue discussed *infra*, the order does not distinguish between a contact that involves

protected or unprotected speech. As a result, the order is not specifically crafted to prohibit only unprotected speech and, as such, it is an unconstitutional prior restraint under *Suggs*.

2. Because the trial court’s order denies Karla access to the government based on speculation that she will use such access to harass or commit libel, it is a sweeping prior restraint of government petitions based on Karla’s past (allegedly) bad deeds and an unconstitutional prior restraint.

“[T]he right to petition extends to all departments of the [g]overnment.” *Cal. Motor Transp. Co. v. Trucking Unlimited*, 404 U.S. 508, 510, 92 S.Ct. 609, 30 L.Ed.2d 642 (1972). Thus, the right to petition includes the rights to (1) “ ‘complain to public officials and to seek administrative and judicial relief,’ ” *Jackson v. New York State*, 381 F. Supp. 2d 80, 89 (N.D.N.Y. 2005) (quoting *Gagliardi v. Village of Pawling*, 18 F.3d 188, 194 (2d Cir.1994)); (2) petition “any department of the government, including state administrative agencies,” *Ctr. for United Labor Action v. Consol. Edison Co.*, 376 F. Supp. 699, 701 (S.D.N.Y. 1974); and (3) file a legitimate criminal complaint with law enforcement officers. *Jackson*, 381 F. Supp. 2d at 89 (law enforcement); *Gagliardi*, 18 F.3d at 194 (public officials, administrative and judicial relief); *United States v. Hylton*, 558 F. Supp. 872, 874 (S.D. Tex. 1982) (law enforcement), *aff’d*, 710 F.2d 1106 (5th Cir. 1983); *Ctr. for United Labor Action*, 376 F. Supp. 699 (administrative agencies); *In re Pers. Restraint of Addleman*, 139 Wn.2d 751, 753–54, 991 P.2d 1123 (2000) (access to courts).

This right to petition the government is not lost merely because a communication to the government contains some harassing or libelous statements. *Marriage of Meredith, supra*, illustrates the point. In *Meredith*, the family court entered a permanent domestic violence protection order based on its finding that Meredith committed domestic violence and was a credible threat to the physical safety of Muriel. 148 Wn. App. at 894-95. On review, the Court of Appeals held that the order was both an improper restraint on Meredith’s speech, but also on his right to petition the government. Although it was possible that Meredith would make harassing or libelous statements about Muriel if he contacted a government agency about her immigration status,

the First Amendment’s petition clause prohibits courts from denying a citizen access to the government based on speculation that the citizen will use such access in order to harass or commit libel.

[. . .]

Similarly, a lower court may not institute a sweeping prior restraint of government petitions based on Meredith’s past bad deeds.

Id. at 901. As the Court noted, “government agencies are tasked with addressing citizens’ petitions and may freely weigh any complaint that Meredith may make against evidence that the family court concluded that Meredith repeatedly committed domestic violence and made false accusations against Muriel.” *Id.* at 902. This Court held that the order was a prior restrained that violates both the free speech

and petitions clauses of the First Amendment and vacated it. *Id.* at 901.

The court’s statement in *Meredith* can readily be modified here to substitute “Karla” and “Brad” and demonstrate that the principles which required vacation of the illegal order in *Meredith* also require the contempt orders at issue in this case be vacated:

the court may not enter a prior restraint on protected speech nor deny [Karla] access to the government simply because it fears [s]he will engage in unprotected communications. Government agencies are tasked with addressing citizens’ petitions and may freely weigh any complaint that [Karla] may make against evidence that the family court concluded that [the children] repeatedly . . . made false accusations against [Brad]. Moreover, such agencies are fully capable of sanctioning Karla should [s]he commit libel, perjury, or attempt to use government complaints to harass [Brad].

See id. at 902.

C. The Trial Court Exceeded the Scope of Its Civil Contempt Authority and Erred in Continuing Its Contempt Order and Review Process in May 2012, Which Held Karla in Continued Contempt and Punished Karla, But Which Did Not Have an Immediate Purge Clause and Therefore Was Not Civil Coercive Contempt, But Kept Her From Being Released From the Contempt Until the Specified Review Period Had Expired.

The trial court erred as a matter of law under the settled law of contempt when, without providing for any due process and other criminal defendant protections, it punished her for allegedly disobeying prior orders without sufficient evidence, then put in a so-called “purge clause” which failed to provide for the *immediate* purge

of the contempt by Karla's taking a specified action. The order thus failed to provide her with a "key" that she could use at the time of her choosing to "release" her from "jail", the bonds of the contempt.¹³ As will be discussed, these principles apply no less in family law cases as in juvenile dependencies, truancies, mental health proceedings, and general civil matters. The requirements for contempt, in short, apply equally to all cases.

1. Because the trial court made no specific finding that the statutory contempt sanctions under RCW 26.09.106 were inadequate, its authority was limited to the sanctions contained under the Act.

A court may only resort to its inherent power if there is no applicable contempt statute or it makes a specific finding that statutory remedies are inadequate. *In re the Marriage of Farr*, 87 Wn. App. 177, 187, 940 P.2d 679 (1997). In this case, the trial court made no such finding. Its authority was therefore confined to the scope of the court's contempt power under the Marriage Dissolution Act, RCW 26.09.160, governing the enforcement of parenting plans and related matters. *Id.* If any part of the court's sanction exceeds the scope of this authority, the order must be vacated. *Id.*

"The act allows contempt proceedings solely for the purpose of coercing compliance with a parenting plan. . . . It does not authorize punishment and unavoidable jail time." *Id.* See also RCW

¹³ This punitive action was imposed despite finding that Karla had done well and that, aside from the alleged September 2011 Dr. Greenberg report, she had complied with all prior court orders.

26.09.160(6) (authorizing imposition of remedial sanctions only). A parent seeking a contempt order to compel another parent to comply with a parenting plan must establish the contemnor's bad faith by a preponderance of the evidence. *In re Marriage of Rideout*, 110 Wn. App. 370, 376, 40 P.3d 1192 (2002), *aff'd*, 150 Wn.2d 337 (2003) (citing RCW 26.09.160(2)(b) and *Marriage of James*, 79 Wn. App. at 442). Once this burden is met, under the statutory scheme the parent is "deemed to have the present ability to comply with the order establishing residential provisions unless he or she establishes otherwise by a preponderance of the evidence." RCW 26.09.160(4). The burden of proof then shifts to the non-moving parent who must "establish a reasonable excuse for failure to comply with the residential provision of a court-ordered parenting plan by a preponderance of the evidence." RCW 26.09.160(4).

If a trial court finds after a hearing that a parent has "not complied with the order establishing residential provisions" of a parenting plan in "bad faith," the court "shall find" the parent in contempt of court. RCW 26.09.160(2)(b). *Marriage of Rideout*, 150 Wn.2d at 352-53. Then, "[u]pon a finding of contempt, the court shall order" the contemnor (1) to provide additional visitation time to make-up for the missed time, (2) pay the other parent's attorney fees and costs, and (3) pay the other parent a penalty of at least one hundred dollars. RCW 26.09.160(2)(b)(i)-(iii) (emphasis added). At its discretion, "[t]he court may also order the parent to be

imprisoned.” RCW 26.09.160(2)(b). A contemnor may be imprisoned until the contempt has been purged, but for no more than 180 days. *Id.*

Other than sending a parent to jail, punishment for contempt in this context is mandatory, not discretionary. *In re Marriage of Myers*, 123 Wn. App. 889, 893, 99 P.3d 398, 400 - 401 (2004).

2. The trial court exceeded its authority under RCW 26.09.106 by depriving Karla of an immediate opportunity to purge her contempt, making the order punitive as opposed to remedial.

In addition to failing to find Karla’s promise of future compliance demonstrably unreliable, Judge Shaffer’s so-called purge condition deprived Karla of an immediate opportunity to purge her contempt, making the order punitive as opposed to remedial. Not only is this outside the court’s authority under the terms of RCW 26.09.106, the trial court made none of the findings that would allow it to act on its inherent power of contempt. Because the order is punitive, the sanction is criminal in nature and must satisfy the stringent requirements of due process.

A purge condition for civil contempt must meet three requirements: (1) it must serve remedial aims; (2) it must be capable of fulfillment by the contemnor; (3) its clause must be reasonably related to the cause or nature of the contempt. *In re M.B.*, 101 Wn. App. 425, 447-48, 3 P.3d 780 (2000), *review denied*, 142 Wn.3d 1027 (2001). Thus, the contemnor who has failed to comply with a

parenting plan may be required to draft a written plan explaining how he or she plans to comply in the future with the court order. *See Farr*, 87 Wn. App. at 188.

If the purge clause does not contain permissible purge conditions, it will be treated as punitive contempt which an appellate court will uphold only if the more rigorous due process requirements of criminal contempt are met. *See In re M.H.*, 168 Wn. App. 707, 278 P.3d 1145 (2012). This includes initiation of a criminal action by filing of charges by the prosecutor, assistance of counsel, privilege against self-incrimination, and proof beyond a reasonable doubt. *International Union, United Mine Workers of America v. Bagwell*, 512 U.S. 821, 826-27, 114 S.Ct. 2552, 129 L.Ed.2d 642 (1994); *State v. Buckley*, 83 Wn. App. 707, 713, 924 P.2d 40 (1996).

Although Judge Shaffer set a review hearing for six months later on May 10, 2012, the November, 2011 contempt order established no timeframe in which Karla's compliance would allow her to purge her contempt. As a result, the order kept Karla under an ongoing and indefinite finding of contempt. Even if Karla complied with the court's orders for six months, which she did, the most she was entitled to was a review hearing at which the trial court may, or may not, purge her contempt. Indeed, at the May 2012 review hearing, Judge Shaffer decided Karla had not purged her contempt and extended the ongoing contempt for at least another year, until a second review hearing in 2013 — a review hearing where, once again,

the trial court might – or might not – purge her contempt. Because Karla could not immediately satisfy the purge conditions, she remained in contempt for more than 16 months total, all the while under the constant threat of possible incarceration or further sanction under RCW 26.09.106.¹⁴

The punitive nature of the court’s order is clear. Washington’s general contempt statute provides for either “punitive” or “remedial” sanctions. A punitive sanction is imposed to punish a past contempt of court for the purpose of upholding the authority of the court. RCW 7.21.010(2); *In re Silva*, 166 Wn.2d 133, 141, 206 P.3d 1240 (2009); *In re Dependence of AK*, 162 Wn.2d 632, 645-46, 174 P.3d 11 (2007), citing and quoting the current seminal decision of *Bagwell, supra*. A remedial sanction is imposed for the purpose of coercing performance when the contempt consists of failure to perform an act that is yet in the person’s power to perform. RCW 7.21.010(3); *Id.* Remedial sanctions are civil rather than criminal and do not require criminal due process protections. *See id.*, and *King v. Department of Soc. & Health Servs.*, 110 Wn.2d 793, 799–800, 756 P.2d 1303 (1988).

As the Supreme Court pointedly warned, “the contempt power also uniquely is liable to abuse.” *Bagwell*, 512 U.S. 821 at 827. But even a contempt sanction involving imprisonment remains coercive, and therefore civil, if the contemnor is able to purge the contempt and

¹⁴ The trial court did not state that it would forgo jailing Karla until its May 2013 oral ruling. RP (3/29/11) p. 11:4-7.

obtain his *immediate* release by committing an affirmative act. *Bagwell*, 512 U.S. 821 at 828. In other words, the contemnor “carries the keys of his prison in his own pocket” and can let himself out *immediately* simply by obeying the court order. *Gompers v. Bucks Stove & Range Co.*, 221 U.S. 418, 442, 31 S.Ct. 492, 55 L.Ed. 797 (1911) (citation omitted); *King*, 110 Wn.2d at 800.¹⁵

An example is a news reporter jailed for contempt for refusing to disclose per court order the name of the source who leaked confidential papers. The reporter holds the keys to her immediate release at the time of her choosing because she can choose when to provide the information and has it in her power to make the disclosure. This contrasts with Karla’s situation, where she was held in contempt for a year for an asserted past transgression and she had no power to be released from being in contempt when she chose; there was nothing she could do the day after the order was entered to purge the contempt, she had to wait for her next court-ordered review hearing.

Thus, purge conditions are valid only if they are in the contemnor’s capacity to *immediately* purge. *In re Silva*, 166 Wn.2d at

¹⁵ Similarly, as long as there is in the contemnor’s control an opportunity to purge *immediately*, the fact that the sentence is determinate does not render the contempt punitive. See *Shillitani v. United States*, 384 U.S. 364, 370 n. 6, 86 S.Ct. 1531, 16 L.Ed.2d 622 (1966) (upholding as civil a determinate (two-year) sentence which included a purge clause). On the other hand, a prison term of a determinate length which does not provide the contemnor an opportunity to purge is generally considered punitive, and thus criminal. *Hicks v. Feiock*, 485 U.S. 624, 632, 108 S.Ct. 1422, 99 L.Ed.2d 721 (1988); *King*, 110 Wn.2d at 799.

142 n. 5 (citing *In re J.L.*, 140 Wn. App. 438, 447, 166 P.3d 776 (2007) (“To be valid, a purge condition must be within the contemnor’s capacity to complete at the time the sanction is imposed.”)).

Several Court of Appeals decisions are on point. In *In re M.B.*, this court vacated a contempt order which allowed D.M., a foster child who repeatedly ran away from home, to purge contempt by remaining in placement and complying with court orders. After a review hearing the trial court ordered that D.M. be placed in an “ongoing” finding of contempt because the statutory remedies were insufficient to ensure her compliance and that D.M. could purge the contempt by remaining in placement and complying with court orders. *In re M.B.*, 101 Wn. App. at 465. Much like the trial court in this case, the court emphasized that “only time will tell” if D.M. would “follow the rules.” *Id.* at fn. 108.

On review, in addition to finding that the trial court’s order was insufficient to show it properly relied on its inherent powers, the Court of Appeals vacated the order because the sanction kept D.M. under an “ongoing” finding of contempt, which she could only purge by remaining in placement. The Court of Appeals found error in the fact that D.M. was not allowed purge review hearings on a reasonably prompt basis, and held that “when judicial officers retain jurisdiction, some means must still exist for contemnors to achieve release in a ***reasonably prompt manner.***” *In re M.B.*, 101 Wn. App. at 465

(emphasis added). The Court of Appeals also held that the “ongoing” finding of contempt was deficient because it did not specify how long D.M. must refrain from running away in order to purge the contempt:

The contemnor must be able to purge the contempt (and the threat of a detention sanction) within some definite time frame. Instead, the order appears to contemplate the possibility of keeping D.M. in detention periodically throughout her adolescence, so long as the commissioner believes she is likely to run away from placement. But if there is no basis for believing the continued detention will produce the desired result, then the justification for detention as a civil remedy has disappeared.

Id. at 466-67 (emphasis added).

Similarly, in *In re Marriage of Didier*, 134 Wn. App. 490, 504, 140 P.3d 607 (2006) the Court of Appeals vacated a contempt order which contained a purge provision stating that Didier could avoid jail time by paying child support before June 17, 2005. If the contemnor paid his child support obligation while in jail, however, he was not entitled to immediate release but merely permitted to file a motion to modify the order on the 30-day sentence, which the court may or may not grant. *Id.* at 504. Thus, like Karla, Didier did not hold the keys to his own release; rather, the court held the keys. The Court vacated the order on the grounds that the second part of the condition was punitive, holding that a “[p]enalty is coercive if and only if the contemnor has **at all times** the capacity to purge the contempt and obtain his release.” *Id.* (italics in original; bold added).

3. Because Karla was allowed none of the due process rights afforded criminal defendants, the contempt order must be vacated.

No court may impose punitive contempt sanctions unless the contemnor has been afforded the same due process rights afforded other criminal defendants. *King*, 110 Wn.2d at 800; *Bagwell*, 512 U.S. at 526-27. Because the purge clause was punitive rather than civil, Karla had the same rights as a person charged with a crime. These protections include notice of the charges, a reasonable opportunity to respond, the presumption of innocence, the right to have guilt proved beyond a reasonable doubt, the right to refuse to testify, the right to call witnesses and to cross-examine, the assistance of counsel, and the right to a trial before an unbiased jury. *M.B.*, 101 Wn. App. at 440, 3 P.3d 780, citing *Bagwell*, 512 U.S. at 826–27; *State v. Buckley*, 83 Wn. App. 707, 713, 924 P.2d 40 (1996). Karla was not afforded these due process rights and her “sentence” for contempt, from November 4, 2011 until May 31, 2013, was unlawful. All the contempt orders must be vacated, and the so-called purge provision stricken from the parenting plan and related continuing orders.

D. The Court’s November 2011 and May 2013 Orders on Contempt are Not Supported by Substantial Evidence.

Punishment for contempt of court requires that the trial court’s factual findings be supported by substantial evidence to be upheld. *Myers*, 123 Wn. App. at 893. Substantial evidence is evidence

sufficient to “persuade a fair-minded, rational person of the truth of the declared premise.” *Bering v. SHARE*, 106 Wn.2d 212, 220, 721 P.2d 918 (1986). It did not exist here.

1. **The trial court abused its discretion in its November 2011 order by finding that Karla had the present ability to comply with the court’s orders when, at the time of the alleged contempt, the trial court’s order appointing case manager had not been implemented and the case manager was not yet in place.**

A court may impose remedial contempt sanctions only if it finds that the person “has failed or refused to perform an act that is yet within the person’s power to perform.” *Moreman v. Butcher*, 126 Wn.2d 36, 40, 891 P.2d 725 (1995). Thus, a contempt sanction is appropriate only when the contemnor has the present ability to purge the contempt by complying with the order; thus, the inability to comply is an affirmative defense. *See Britannia Holdings Ltd. v. Greer*, 127 Wn. App. 926, 932, 113 P.3d 1041 (2005) (court may only exercise contempt power on a finding that a person has failed to perform an obligation actually within their power to perform). In order to comply with the court’s August 2010 order, there must have been in the first instance a case manager for Karla to contact. Here, there is no evidence supporting the trial court’s finding that Karla had a present ability to comply with the trial court’s orders at the time of the alleged contempt in June 2011. The only evidence is that no case

manager was in place until October 14, 2011.¹⁶ Karla thus met her burden under RCW 26.09.160(4) of showing a reasonable excuse for failing to comply with the order. As the trial court stated,

Although we had the requirements that the commissioner imposed and the requirement that I imposed at the time of the hearing, we didn't in fact have any useful way for anybody to make use of those resources. In other words, had [Karla] done what we all wanted her to do and picked up the phone to call the case manager, she would, in fact, have found out there was no case manager.

RP (11/4/11) p. 32:8-11. Because the record is clear that there was no case manager in place at the time of Karla's alleged contempt, the trial abused its discretion by finding Karla in contempt and the order must be vacated.

2. The Trial Court abused its discretion in its November 2011 order when it imposed a purge condition intended to coerce future compliance without first making a finding that Karla's promise to comply was demonstrably unreliable.

In its November 2011 contempt order, the trial court found Karla intentionally failed to comply with the court's written order of August 19, 2010 and oral ruling of May 31, 2011.¹⁷ The court also found that Karla did not have the willingness to comply with the orders although she had the ability to do so. Although these findings

¹⁶Jennifer Keilin was not "in place" until October 14, 2011. RP (11/4/11) p. 6:3-4.

¹⁷ Oral rulings are not final until reduced to a written order. *State v. Martinez*, 76 Wn. App. 1, 3-4 n. 3, 884 P.2d 3 (1994), *review denied*, 126 Wn.2d 1001 (1995). Because the oral ruling was subject to change until reduced to writing, it is unclear how Karla could be found in contempt of that order.

would have been sufficient to allow the court to imprison Karla under RCW 26.09.160(2)(b), no jail time was ordered. Instead, in addition to a monetary judgment of three thousand dollars in attorney's fees, the court's order contained a condition which allowed Karla to "purge" the contempt by complying with the terms of the case manager order and the parenting communication coach order. However, the trial court completely failed to address whether Karla's promise to comply with the orders in the future would be sufficient to purge this first-time contempt, and whether additional conditions would be necessary. This failure is reversible error.

Permissible purge conditions typically order the contemnor to do that which the court originally ordered the contemnor to do — to "bring current" a delinquent performance under the original order. A parent who has failed to pay his or her court-ordered child support obligations can pay past-due amounts. A witness who failed to respond to a valid trial subpoena can appear and give the requested testimony. However, in a situation such as this involving a violation of a parenting plan, there is no performance to immediately bring current. Karla could not retroactively comply with the requirement that she report AH's June 8, 2011 allegations to Jennifer Keilin.

This Court as held that under these circumstances, where compliance with the original order is not possible, a trial court is not limited to the four corners of the violated order when fashioning a purge clause. It can craft a purge condition designed to ensure future

compliance. *In re M.B.*, 101 Wn. App. At 447-450 (extended discussion, with emphasis on enforcement of juvenile court orders). However, before it imposes a purge condition, the trial court must find that the parent's promise of future compliance is "demonstrably unreliable." Only after that promise of future compliance is shown to be demonstrably unreliable is the court "entitled to reject the bare promise as insufficient because unpersuasive and impose a purge condition aimed at reassuring the court that compliance with the original order will indeed be forthcoming." *Id.* at 450.

Thus, "[a] *contemnor's promise of compliance is the first step.*" *M.B.*, 101 Wn. App. at 448 (emphasis added). If and only if the trial court does not believe the contemnor's sincerity, evidenced by his or her "demonstrated unreliability", the court may specify other requirements of the contemnor prior to vacating the finding. Under this well-established authority, a finding that Karla's promise to comply was demonstrably unreliable was a legal predicate to the court's imposition of a purge condition aimed at ensuring Karla's future compliance with the original order. The trial court completely skipped this step and immediately imposed a purge condition. It made no finding whatsoever that Karla's promise to comply was "demonstrably unreliable." Moreover, the evidence in the record does not support such a conclusion.

The November 2011 contempt finding was the first of its kind against Karla. Although the court in *M.B.* acknowledged that the

promise of a first time contemnor *may* be found to be unreliable, *id.* at 450, there is no evidence in the record that the court even *considered* whether Karla's promise to comply in the future would be reliable. Because there is no evidence that the trial court even considered whether Karla's promise to comply was demonstrably unreliable, the trial abused its discretion by imposing a purge condition aimed at future compliance.

3. The trial court abused its discretion in its May 2013 order on review by holding Karla in ongoing contempt based on a September 2011 CPS report by Dr. Greenberg which pre-dates the original finding of contempt.

In the context of a parenting plan, coercive sanctions and purge conditions are designed to ensure *future* compliance. Thus, it is implicit in the trial court's November 4, 2011 contempt order that, at the next review hearing, it would consider whether any *new* reports had been made to CPS. The trial court explicitly stated at the hearing that it wanted to see no additional CPS reports: "I'm giving her a really clear warning. *No more contempts.*" RP (11/4/11) p. 35:6-7 (emphasis added). Thus, in order to purge her contempt, there needed to be no *new* CPS reports from November 4, 2011 to the review hearing date in May 2012. The record shows no reports were made during this time.

However, in May 2012 the trial court refused to purge Karla's contempt because of a CPS report by Dr. Greenberg made on

September 27, 2011 — one day before Brad filed his motion for an order to show cause on the alleged contempt and six weeks before the original finding of contempt. It is basic common sense that Karla cannot be found in further contempt for *future* actions based on a report that occurred *before* the original finding of contempt. Moreover, Judge Shaffer was aware of the report in November, 2011. The record clearly shows that both Brad and Judge Schaffer were aware of Dr. Greenberg's CPS report before the trial court's original finding of contempt:

Ms. McNally: The only thing we know, because CPS has not contacted my client, is he learned that in the last – from Dr. Greenberg, that in the last counseling session with Ms. Maia and Andrew – we don't know what happened, we don't know the configuration of that at this point in time – that a disclosure was made, and the his knowledge of the disclosure comes from Dr. Greenberg.

The Court: Okay, But what is that allegation that I assume Dr. Greenberg reported?

Ms. McNally: The allegation, as we understand it, is that the child was sat down on a seatbelt buckle too hard, and it was disclosed a month later, and he says a bruise existed.

RP (11/4/11) p. 4:17-5:14.

- 4. The court abused its discretion in finding Karla in ongoing contempt in May 2012 when there is no evidence that Karla knew of AH's allegation of abuse before she took him to see Dr. Greenberg.**

The order required Karla to report to the case manager information related to an allegation of abuse before taking AH to a

mandatory reporter. If she did not believe an allegation of physical abuse was being made, she did not need to contact the case manager. Factually, the issue is whether there was substantial evidence showing that Karla thought that she heard an act of physical abuse:

Anytime these children are going to be in contact with a mandating reporter at a time when you know that they are making assertions to you that their father has done something physical to them that you view as inappropriate, you talk to the case manager first before the child talks to a mandated reporter. First.

RP (11/4/11) p. 28:21-29:4 (emphasis added). Thus, unless Karla was to be held in contempt for an inference that her children's allegations were her own, in order to be found in contempt of the order there must be evidence that Karla knew not only of AH's bruise, but also that bruise was the basis for an allegation by AH against Brad before she took him to see Dr. Greenberg. There is simply no such evidence in the record. Nor is there any evidence that the trial court reached its conclusion on the basis of anything other than speculation and a "gut feeling" that Karla was promoting the allegation.

E. The Court Erred by Failing to Make the Corrections it Deemed Necessary to the Proffered "Transcript" of the May 31, 2011 Hearing.

At the 2013 hearing, Karla's trial counsel offered a "transcript" of Judge Shaffer's 2012 oral decision so there would be a record of the rationale for the rulings made that day, since the hearing was not reported, which contained a photocopy of counsel's handwritten

notes. *See* CP 835-36. Judge Shaffer affirmed that counsel's notes were pretty accurate and that she considered them, stating at the March 2013 hearing that she "considered them for what they are, which is pretty good notes, but not quite what the Court said. The Court remembers what it said." RP (3/29/13) p.3-4; CP 859.

At the hearing and on reconsideration, Karla's counsel made certain the trial court knew the purpose of the submission was to serve as a "narrative report of proceedings" as provided for in RAP 9.3, which of course is necessary in order to conduct a proper appellate review of the court decision at issue. *See* CP 835-36.

The appellate rules provide for the trial court to "settle the record" where there are objections to a narrative report, *see* RAP 9.5(c), so that there is a proper basis for further review. Nevertheless, Judge Shaffer refused to formally "accept" the proffered "transcript" or to make corrections to make it accord with her recollection or notes of the hearing. Rather, the record was left with her statements that the notes were "considered for what they are," which the court considered to be "pretty good notes" and no corrections. *Id.*

Under these circumstances, the substance of the notes should be considered to be the record of the May 31, 2012 oral decision since the trial court, when given the opportunity, did not see fit to make any corrections and, thus, must be presumed to believe there were no ***material*** errors or omissions. As our Supreme Court has pointed out in the context of a marital dissolution, "a trial court must articulate on

the record the reasons behind its determinations” so that a reviewing court can engage in meaningful review “of the trial court’s application of the facts” to the correct legal standard. *Marriage of Horner*, 151 Wn.2d at 894, 897. Otherwise a trial court decision could evade review. This is consistent with a fair reading of the appellate rules.

RAP 9.3 and 9.5(c), taken together with the long-established principles stated in *Horner* show a party has the right to prepare a narrative report when the hearing is otherwise unreported and the basis for the ruling is necessary for review. The role of the trial court in that context becomes limited to making corrections to the narrative report, but not to wholly exclude it. Allowing the trial court such authority would eliminate the right of the party under RAP 9.3 and could also allow a trial court to evade review of a decision, whether intentional or not. Since the provisions of RAP 9.5(c) limit the trial court’s role to settlement (but not exclusion) of the *substance* of the narrative report (objections as to form are reserved for the appellate court); and since *Horner* and long-settled law provide for review of a trial court’s discretionary decisions based on its rationale; and since in this case the trial court stated its general approval of the substance of the “transcript” and considered it “for what it is worth” but did not specify any changes or additions necessary to make it accurate, the court’s ruling that it was not permitted should be vacated and it should be considered as the report of the May 31, 2012 oral decision.

F. The Court Should Consider Remanding to a New Trial Court to Insure the Appearance of Fairness for Future Proceedings Because This Judge 1) Found Karla Not Credible and in Contempt Contrary to the Actual Evidence and the Trial Court's Own Comments on the Evidence; and 2) Imposed and Applied and Extended an Unlawful Order Well in Excess of its Jurisdiction in Order to Keep Karla Under the Trial Court's Personal Control.

Impartiality is the cornerstone of judicial behavior. *State ex rel. Barnard v. Board of Education*, 19 Wash. 8, 17-18, 52 Pac. 317 (1898). Not only must a judge act without prejudice, she must in all ways give the appearance of fairness and of being impartial. *State v. Romano*, 34 Wn. App. 567, 662 P. 2d 406 (1983). *Accord, In re Custody of R.*, 88 Wn. App. 746, 754, 947 P.2d 745 (1997) (remanding to a different judge to insure appearance of fairness); *Brister v. Council of City of Tacoma*, 27 Wn. App. 474, 487, 619 P.2d 982 (1980). Where a judge's impartiality might reasonably be questioned by an objective outside observer, recusal (or, as here, remand to a different judge) is required. *See In re Discipline of Sanders*, 159 Wn.2d 517, 524-25, 145 P.3d 1208 (2006); *Sherman v. State*, 128 Wn.2d 164, 205-206, 905 P.2d 355 (1995).

The Supreme Court stated the proper analysis in *Sherman* relying on federal law since the applicable requirement is tied to a party's due process right to not only a fair trial, but one that appears to be fair:

. . . in deciding recusal matters, actual prejudice is not the standard. The CJC recognizes that *where a trial judge's decisions are tainted by even a mere suspicion of partiality, the effect on the public's confidence in our judicial system can be debilitating*. The CJC provides in relevant part: "Judges should disqualify themselves in a proceeding in which their impartiality might reasonably be questioned..." CJC Canon 3(D)(1) (1995). The test for determining whether the judge's impartiality might reasonably be questioned is an objective test that assumes that "a reasonable person knows and understands all the relevant facts." *In re Drexel Burnham Lambert Inc.*, 861 F.2d 1307, 1313 (2d Cir.1988) (emphasis omitted), *cert. denied*, 490 U.S. 1102, 109 S.Ct. 2458, 104 L.Ed.2d 1012 (1989); *see also United States v. Murphy*, 768 F.2d 1518, 1538 (7th Cir.1985), *cert. denied*, 475 U.S. 1012, 106 S.Ct. 1188, 89 L.Ed.2d 304 (1986).

Sherman v. State, 128 Wn.2d at 205-06.

The Supreme Court thus directed that the remand go to a different judge in *Sherman* because a reasonable person might question the judge's impartiality given all the facts.

Custody of R is an example of when remand after appeal to a new judge is appropriate, even though no recusal had been sought before. In that case, which involved child custody and allegations of abduction against the mother, the trial judge stated in court that he and other judges did not like what the mother had done, making the remarks personal as to her. Judge Hunt's summary of why remand was appropriate is equally applicable for this case, where one can anticipate continuing issues may arise under the parenting plan here given how Brad has taken minor or old, outdated incidents and turned them into excuses to seek contempt. Judge Hunt held:

Here, Ms. Abdulla spontaneously responded to the trial court's questioning of her with this question, "Are you mad at me, your honor?" To which the judge replied, "I don't like what you did. . . . We don't like that as judges." Based on this dialogue, coupled with the trial court's denial of Ms. Abdulla's requested continuance, we remand for a hearing before a different judge to promote the appearance of fairness.

In re Custody of R., 88 Wn. App. at 763. , 947 P.2d 745, 754 (1997).

The same is appropriate in this case, as the trial court here made amply clear it did like what it had decided Karla had done, even though that did not square with the evidence.

Due process, the appearance of fairness doctrine, and the Code of Judicial Conduct all require a judge to disqualify herself if she is biased against a party or her impartiality reasonably may be questioned. *In re Matter of Murchison*, 349 U.S. 133, 136, 75 S.Ct. 623, 99 L.Ed. 942 (1955); *State v. Post*, 118 Wn.2d 596, 618, 826 P.2d 172, 837 P.2d 599 (1992); CJC 3(A)(5); CJC 3(D)(1). The test is objective: whether a reasonable person with knowledge of the relevant facts would question the judge's impartiality. *Sherman v. State*, 128 Wn.2d at 206. Prejudice is not presumed, and the party claiming bias or prejudice must support the claim with evidence of the judge's actual or potential bias. *State v. Dominguez*, 81 Wn.App. 325, 328–29, 914 P.2d 141 (1996). These principles apply and counsel remand to a different judge when necessary to protect the appearance of the judicial process. *See, e.g., Sherman*, 128 Wn.2d at 204-06 (new judge required following improper *ex parte* contacts to insure "the

safest course” is followed on remand); *Custody of R, supra*. See also *Tatham v. Rogers*, 170 Wn. App. 76, 283 P.3d 583 (2012) (vacation of property division orders and remand to new judge required where trial judge failed to disclose extent of personal relationship with one party’s trial attorney, implicating the appearance of fairness of the original proceedings). This includes where, as here, remand to a different judge becomes necessary because of the animosity that developed between the parties and the trial judge, as has been required in unpublished decisions.

V. CONCLUSION

Appellant Karla Maia respectfully requests the Court to vacate each of the contempt orders entered against her, including all associated penalties and fee awards, and strike the prior restraint provision that remains in the parenting plan and any associated orders. In addition, Karla respectfully asks the Court to remand the case to a different trial judge for all further proceedings under the parenting plan.

DATED this 18th day of December, 2013.

CARNEY BADLEY SPELLMAN, P.S.

By: 
Gregory M. Miller, WSBA No. 14459
Christine D. Sanders, WSBA No. 40736
Attorneys for Appellant Karla Maia

NO. 70249-1-I

WASHINGTON STATE COURT OF APPEALS
DIVISION I

In re the Marriage of:

KARLA MAIA-HANSON,

Appellant,

v.

BRADLEY HANSON,

Respondent.

CERTIFICATE OF SERVICE

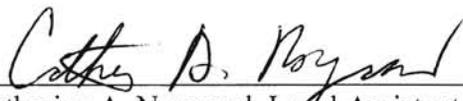
I declare under penalty of perjury under the laws of the State of Washington that on the date stated below, I caused to be delivered in the manner indicated a copy of *APPELLANT'S [CORRECTED] OPENING BRIEF*, and this certificate of service on the following parties:

Teresa Carroll McNally
The Law Office of Teresa C.
McNally PLLC
1424 4th Ave., Ste. 1002
Seattle, WA 98101-4604
Phone: 206-374-8558
Fax: 206-441-1869
Email: teresa@mcnallylegal.com

- U.S. Mail, postage prepaid
 Messenger
 Fax
 email
 Other

<p>Ms. Catherine Wright Smith Valerie A. Villacin Smith Goodfriend, P.S. 1619 8th Ave. N Seattle, WA 98109-3007 Phone: (206) 624-0974 Fax: (206) 624-0809 Email: cate@washingtonappeals.com Email: valerie@washingtonappeals.com</p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Messenger <input type="checkbox"/> Fax <input type="checkbox"/> email <input type="checkbox"/> Other</p>
<p>Alexandra Moore-Wulsin Strata Law Group 600 University Street, Ste. 1020 Seattle, WA 98101-4107 Phone: 206-682-6826 Fax: 206-299-3556 Email: amoore-wulsin@stratalawgroup.com</p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Messenger <input type="checkbox"/> Fax <input type="checkbox"/> email <input type="checkbox"/> Other</p>
<p>Richard D. Johnson, Court Administrator/Clerk Washington Court of Appeals, Div. I 600 University Street Seattle, WA 98101-1176 Phone: (206) 464-7750</p>	<p><input type="checkbox"/> U.S. Mail, postage prepaid <input type="checkbox"/> Messenger <input type="checkbox"/> Fax <input type="checkbox"/> email <input checked="" type="checkbox"/> Other <i>delivered</i></p>

DATED this 18th day of December, 2013.


Catherine A. Norgaard, Legal Assistant

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APPENDIX A

FILED

2010 AUG 19 PM 2:03

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA.



Superior Court of Washington
County of King

KARLA MAIA-HANSON

v.

BRAD HANSON

No. 09-3-07239-0 SEA

ORDER ON FAMILY LAW MOTION

RE: Father's Motion to Adopt
Country's Evaluation's
Recommendation

Clerk's Action Required

THE ABOVE-ENTITLED COURT, HAVING HEARD A MOTION

IT IS HEREBY ORDERED The court finds:

It was the father's burden on modification which
this motion is, to prove a substantial change in
circumstances from the original parenting plan.
A parenting evaluation is not a substantial change
in circumstances. The report was prepared for
trial. The father is attempting to pre-empt trial
issues. Having received the parenting evaluation

Date: _____

Presented By: _____

Attorney For Petitioner

FAMILY COURT COMMISSIONER

Copy Received: _____

Attorney For Respondent

Order on Family Law Motion
SCForm FL 11) Rev 7/02

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is not a reason to modify the parenting plan of itself

~~The court to CPS with the information provided by the level of concern argued by the father as a basis to modify the father's custody~~

Order: (1) The court denies the father's motion ~~to appoint~~ ^{to appoint} ~~the~~ ^{case} manager

(2) The court will appoint a case manager. ~~The court will not appoint the case manager the court has appointed by the father and it is not an appropriate use of a case manager.~~

a) If either parent has a concern that the other parent is abusing the kids, it shall be reported only to the case manager who shall determine if it rises to the level that should be reported to CPS.

b) The parties agree that Jennifer Keillon shall be appointed as case manager.

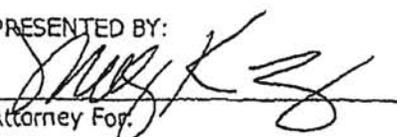
c) Father shall advance the retention characterization to be reviewed for trial

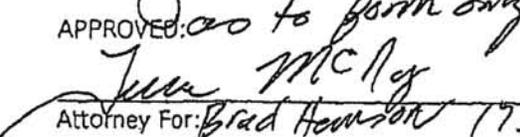
(3) The request for additional interim report is denied without prejudice to the evaluator updating her report as necessary to the new trial date

* (2) The court approves the agreement of the parties to appoint a case manager for the purpose of addressing the urgent concern identified & argued by the father of CPS reports as follows:

Date: 8/12/10


JUDGE/COURT COMMISSIONER MEG SASSAMAN

PRESENTED BY:

Attorney For:

APPROVED:  to form only
Attorney For: Brad Houston 1756

APPENDIX B

FILED
KING COUNTY, WASHINGTON

JUN 24 2011
SUPERIOR COURT CLERK
BY Victor Bigomi
DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

In re the Marriage of

KARLA MAIA-HANSON,

Petitioner,

v.

BRADLEY HANSON,

Respondent.

No. 09-3-07239-0 SEA

ORDER APPOINTING CASE
MANAGER RE PARENTING PLAN

I. BASIS

1.1 CHILDREN TO WHOM THE ORDER APPLIES.

This order is entered pursuant to the Final Parenting Plan entered with the Court on June 24, 2011 for the appointment of a Case Manager for the following minor children in this action:

A. H.
P. H.

1.2 BASIS FOR THE APPOINTMENT

This appointment is being made pursuant to RCW 26 and the Final Parenting Plan signed by the Court on June 24, 2011. Jennifer Keilin, MSW shall be appointed the parenting plan Case Manager in this matter.

ORDER APPOINTING CASE MANAGER
RE PARENTING PLAN – Page 1

THE LAW OFFICE OF
TERESA C. McNALLY P.L.L.C.

4th & PIKE BUILDING
1424 FOURTH AVENUE, SUITE 1002
SEATTLE, WA 98101
PHONE 206-374-8558 FAX 206-441-1869

ORIGINAL
Page 36

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II. FINDINGS

Based on the continual parenting issues that arise in this matter and the Final Parenting Plan signed by the Court on June 24, 2011, the Court FINDS that, pursuant to RCW 26 and the Final Parenting Plan signed by the Court on June 24, 2011, a Case Manager should be appointed to assist the parties in addressing and resolving ongoing parenting issues of conflict, specifically a claim that could result in a referral to Children's Protective Services (CPS).

If the mother should become aware of information related to new allegations of abuse by the father, she should immediately report this information to the Case Manager. The Case Manager shall investigate and, if the Case Manager determines that there is a basis to make a report to CPS or to law enforcement, the Case Manager shall make that report. The mother is not permitted to make independent referrals to CPS or law enforcement, either directly or through mandated reporters, independent of the parenting coach and Case Manager.

The Case Manager shall be authorized to communicate directly with all treatment providers involved with this family. If a party disagrees with the Case Manager's determination, then that party may bring a motion before Judge Catherine Shaffer who will supervise this issue.

If either party violates this Order, the Case Manager has the authority to suspend residential time pending court review, which shall be set on an emergency basis.

The Case Manager should be appointed for at least six months and may remain involved for up to two years following the implementation of the Final Parenting Plan. The Court may, at its sole discretion, review and/or revise the Case Manager's duties, duration and authority at a review hearing which may be noted by either party after six months.

III. ORDER

IT IS ORDERED THAT:

3.1 APPOINTMENT OF CASE MANAGER.

Jennifer Keilin, MSW is appointed as the Case Manager. The Case Manager shall address only parenting issues as outlined in this Order or as amended by the court. The Case Manager shall not address financial issues.

If the Case Manager will be unavailable to the parties due to vacation or unexpected absence, then the Case Manager shall appoint a back-up Case

ORDER APPOINTING CASE MANAGER
RE PARENTING PLAN – Page 2

THE LAW OFFICE OF
TERESA C. McNALLY P.L.L.C.
4TH & PIKE BUILDING
1424 FOURTH AVENUE, SUITE 1002
SEATTLE, WA 98101
PHONE 206-374-8558 FAX 206-441-1869

1 Manager who shall have the same duties and authority as Jennifer Keilin. The
2 Case Manager shall advise the parties of the alternate Case Manager in writing
(email suffices) one week before a vacation and as soon as reasonably
3 practicable in the event of an unexpected absence.

4 3.2 ACCESS TO CHILDREN, RECORDS AND INFORMATION.

5 The Case Manager shall:

6 Have access to all Superior Court files and all Juvenile Court files including any
7 sealed/confidential portions thereof except as otherwise restricted by the
Parenting Plan. The Clerk of the Court shall provide certified copies of this
order to the Case Manager upon request;

8 Have access to the minor children and information about the children. Each
9 party and their counsel shall cooperate fully in providing access to the Case
10 Manager and in providing all requested information, except as otherwise
restricted by the Parenting Plan. The Case Manager shall have the right to meet
with the children if she so desires;

11 Have access to all school, medical, therapy and counseling records and
12 information; whether written or oral, regarding the children. These records shall
be released directly to the Case Manager upon presentation of a copy of this
Order either in person or by mail;

13 Have access to any Child Protection Services and Department of Social and
14 Health Services (DSHS) records regarding the parties and the children without
15 further written release by either parent upon presentation of this Order to these
16 agencies. However, these agencies may blackout names and identification of
17 such individuals who are protected by law or agency policy as confidential
18 sources. If it is determined by the agency that release of this information is
likely to cause severe psychological or physical harm to the juvenile or his
parents, the agency may withhold information subject to other orders of the
Court. CPS and DSHS personnel are authorized to speak personally with the
Case Manager.

19 3.3 DUTIES OF THE CASE MANAGER.

20 The Court appoints the Case Manager to assist the parties in addressing and
21 resolving ongoing parenting conflict.

22 The Case Manager shall investigate new allegations of abuse by the father as
23 raised by the mother, and if the Case Manager determines that there is a basis to
make a report to CPS or to law enforcement, the Case Manager shall make that
report. Either party may file a motion to review the Case Manager's final

ORDER APPOINTING CASE MANAGER
RE PARENTING PLAN - Page 3

THE LAW OFFICE OF
TERESA C. McNALLY P.L.L.C.
4TH & PIKE BUILDING
1424 FOURTH AVENUE, SUITE 1002
SEATTLE, WA 98101
PHONE 206-374-8558 FAX 206-441-1869

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determination. The purpose of the Case Manager is to avoid false allegations being reported to CPS or law enforcement and the children being interviewed unnecessarily by the above agencies.

The Case Manager shall be authorized to communicate directly with all treatment providers involved with this family.

If either party violates this Order, the Case Manager has the authority to suspend residential time pending court review, which shall be set on an emergency basis.

Subject to court review and/or revision, the Case Manager shall remain involved for a minimum of six months and may remain involved for up to two years following the implementation of the Final Parenting Plan.

The Case Manager has authority to contact third parties to verify disputed facts.

The Court will determine the duties, duration and authority at a review hearing which may be noted by either party within six months of the entry of this Order.

3.4 PROCEDURE

Both parents shall participate in the process as defined by the Case Manager and shall be present when requested to do so by the Case Manager. The parents shall provide all reasonable records, documentation and information requested by the Case Manager, except as otherwise restricted by the Parenting Plan. The Case Manager may conduct sessions that are informal in nature, by telephone, email or in person. No record need be made except the Case Manager's written decision or recommendations. The Case Manager may utilize consultation to assist the Case Manager in the performance of the duties contained herein at no additional cost to the parties.

3.5 PAYMENT OF FEES AND COSTS.

Each parent shall be responsible for the Case Manager's fees proportionate to that parent's share of income as provided on line 6 of the Washington State Child Support Schedule Worksheets.

An advance fee deposit of \$5,000 shall be paid to the Case Manager. This shall be paid by the parties, as described above, within one week of the distribution of assets under the Decree of Dissolution entered in this matter. After \$5,000 has been used, the Case Manager may request that the retainer be replenished (up to \$5,000). If the Case Manager's fees are not timely paid or replenished as requested by the Case Manager, the Case Manager shall be automatically discharged within 30 days. The Case Manager shall give written notice of her intent to terminate her services for lack of payment ten days before actually

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terminating her services. In the event that a party is required to pay the Case Manager's fees on behalf of the other party in order to continue the Case Manager's services without interruption, the paying party may file a motion to compel payment, including the assessment of fees and costs against the non-paying party.

3.6 AUTHORIZATION FOR RELEASE OF INFORMATION

Each party's signature hereunder constitutes an authorization for release of information by that party.

3.7 TERMINATION

The Case Manager may be terminated as follows:

- a) Written agreement of the parties;
- b) By Court order;
- c) By the Case Manager with 30 days written notice, in which case a substitute shall be appointed within 30 days. If the parties cannot agree on an individual, the parties shall each submit three names to the court along with the curriculum vitas for each name, and the court shall name a successor.

Dated: June 24, 2011

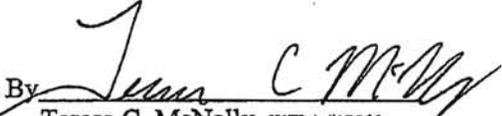

Judge/Commissioner

Presented by:

THE LAW OFFICE OF TERESA C. McNALLY P.L.L.C.

Approved for entry
Notice of presentation waived:

CAROL BAILEY & ASSOCIATES PLLC

By 
Teresa C. McNally, WSBA #17566
Attorney for Respondent
Bradley Hanson

By 
Alexandra Moore-Wulsin, WSBA #17534
Attorney for Petitioner
Karla Maia-Hanson

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See Attached

Bradley Hanson

Karla Maia-Hanson

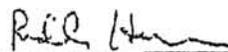
Jennifer Keilin, MSW, Case Manager

ORDER APPOINTING CASE MANAGER
RE PARENTING PLAN – Page 6

THE LAW OFFICE OF
TERESA C. McNALLY P.L.L.C.
4TH & PIKE BUILDING
1424 FOURTH AVENUE, SUITE 1002
SEATTLE, WA 98101
PHONE 206-374-8558 FAX 206-441-1869

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Bradley Hanson

Karla Maia-Hanson

Jennifer Keilin, MSW, Case Manager.

ORDER APPOINTING CASE MANAGER
RE PARENTING PLAN - Page 6

THE LAW OFFICE OF
TERESA C McNALLY P.L.L.C.
4th & PIKE BUILDING
1424 FOURTH AVENUE, SUITE 1002
SEATTLE, WA 98101
PHONE 206-374-8558 FAX 206-441-1869

W140104

APPENDIX C

The Honorable Judge Shaffer
Hearing Date: 11/4/11, 1:30 pm
Moving Papers

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

In re the Marriage of

KARLA MAIA-HANSON,

Petitioner,

v.

BRADLEY HANSON,

Respondent.

No. 09-3-07239-0 SEA

ORDER ON SHOW CAUSE RE
CONTEMPT/JUDGMENT AND OTHER
RELIEF (ORCN)

Next Hearing Date:

[] Clerk's Action Required

I. Judgment Summary

Applies as follows:

- A. Judgment creditor: Bradley Hanson
- B. Judgment debtor: Karla Maia
- C. Principal judgment amount (back medical support) from _____ [date] to _____ [date]
- D. Interest to date of judgment: \$ _____
- E. Attorney fees (estimate) \$ 3,000
- F. Costs \$ ~~200~~
- G. Other recovery amount \$ _____
- H. Principal judgment shall bear interest at _____ % per annum

Ord on Show Cause re Cntmpt/Jdgmnt
(ORCN) - Page 1
WPF DRPSCU 05.0200 Mandatory (10/2009) - RCW
26.09.160, 7.21.010

THE LAW OFFICE OF
TERESA C. McNALLY P.C.L.L.C.
4TH & PIKE BUILDING
1424 FOURTH AVENUE, SUITE 1002
SEATTLE, WA 98101
PHONE 206-374-8358 FAX 206-441-1869

- 1 I. Attorney fees, costs and other recovery amounts shall bear interest at 12% per
 2 annum
 3 J. Attorney for judgment creditor: Teresa C. McNally
 4 K. Attorney for judgment debtor: Alexandra Moore-Wulsin
 5 L. Other:

6 **II. Findings and Conclusions**

7 *This Court Finds:*

8 **2.1 Compliance With Court Order**

9 Karla Maia intentionally failed to comply with lawful orders of the Court dated
 10 ~~June 24, 2011 and August 19, 2010~~ as well as the Court's oral ruling of May 31,
 11 2011. *August 19, 2010*

12 **2.2 Nature of Order**

13 The orders are related to a parenting plan.

14 **2.3 How the Order was Violated** ** see P 7 & 8*

15 These orders were violated in the following manner (include dates and times, and
 16 amounts, if any):

17 In violation of the ~~Order Appointing Case Manager Re Parenting Plan~~
 18 ~~entered on June 24, 2011 in King County, Washington, the Court's oral~~
 19 ~~ruling of May 31, 2011 and the Order on Family Law Motion Re:~~
 20 ~~Father's Motion to Adopt Parenting Evaluator's Recommendations~~
 21 ~~entered on August 19, 2010, Petitioner Karla Maia personally participated~~
 22 ~~in the reporting of a new allegation against the Respondent/father to a~~
 23 ~~mandatory reporter, Lakeridge Elementary's school nurse, on June 8,~~
 24 ~~2011 at approximately 12:40 p.m. and later to the~~
 25 ~~school nurse's counselor.~~

26 **2.4 Past Ability to Comply With Order** ** see page 7 & 8*

27 Karla Maia had the ability to comply with the order as follows:

28 Petitioner had the ability to comply with the ~~Order Appointing Case~~
 29 ~~Manager Re Parenting Plan and Order on Family Law Motion Re:~~
 30 ~~Father's Motion to Adopt Parenting Evaluator's Recommendations and~~
 31 ~~report any new allegations to the parties' Case Manager, Jennifer Keilin,~~
 32 ~~MSW. She did not contact Ms. Keilin until after she had already provided~~
 33 *on August 19, 2010 & she could not comply with the order of May 31, 2011*

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information regarding a new allegation to a mandatory reporter, Lakeridge Elementary's school nurse *and school counselor*

2.5 Present Ability and Willingness to Comply With Order

Karla Maia ~~does not~~ have the present willingness to comply with the order as follows:

intentionally and willfully
Petitioner ~~refuses~~ *is refusing* to follow the Court ordered reporting process for new allegations and continues to provide such information to mandatory reporters.

2.6 Back Child Support/Medical Support/Other Unpaid Obligations/Maintenance

N/A

~~See Motion for Enforcement and Respondent's supporting declaration.~~

2.7 Compliance With Parenting Plan

Petitioner/mother has the ability to comply with the terms of the Parenting Plan and has chosen not to do so.

2.8 Attorney Fees and Costs

The attorney fees and costs awarded in Paragraph 3.7 below have been incurred and are reasonable.

III. Order and Judgment

It is Ordered:

3.1 Contempt Ruling

Karla Maia is in contempt of court.

3.2 Imprisonment

Does not apply.

3.3 Additional Residential Time

Does not apply.

3.4 Judgment for Past Child Support

Ord on Show Cause re Cntmpt/Jdgmnt (ORCN) - Page 3
WPF DRPSCU 05.0200 Mandatory (10/2009) - RCW
26.09.160, 7.21.010

THE LAW OFFICE OF
TERESA C. McNALLY P.L.L.C.
4TH & PIKE BUILDING
1424 FOURTH AVENUE, SUITE 1002
SEATTLE, WA 98101
PHONE 206-374-8558 FAX 206-441-1869

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Does not apply

3.5 Judgment for Past Medical Support

Does not apply.

3.6 Judgment for Other Unpaid Obligations

Does not apply.

3.7 Judgment for Past Maintenance

Does not apply.

3.7 Conditions for Purging the Contempt

The contemnor may purge the contempt as follows:

The Petitioner/mother shall comply with the terms of the ~~Amended~~ Case Manager order and ~~Amended~~ Parenting Communication Coach order.

3.9 Attorney Fees and Costs

Bradley Hanson shall have judgment against Karla Maia in the amount of \$3,000 for attorney fees and ~~costs~~ for costs.

allegation
and shall first report any suspected abuse she is aware of to the case manager before she takes the children to a mandatory report.

3.10 Review Date

The Court shall review this matter on May 10, 2012 at 4:00 a.m./p.m.

3.11 Other

Not applicable

The case manager must approve her taking the children to a mandatory reporter.

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

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

Ord on Show Cause re Cntmpt/Jdgmnt (ORCN) - Page 4
WPF DRPSCU.05.0200 Mandatory (10/2009) - RCW 26.09.160, 7.21.010

THE LAW OFFICE OF
TERESA C. McNALLY P.L.L.C.
4th & PIKE BUILDING
1424 FOURTH AVENUE, SUITE 1002
SEATTLE, WA 98101
PHONE 206-374-8538 FAX 206-441-1869

Page 119

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

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

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

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

If information is protected under a court order or the address confidentiality program, 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.

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

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

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

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

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

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(ORCN) - Page 5
WPF DRPSCU 05.0200 Mandatory (10/2009) - RCW
26.09.160, 7.21.010

THE LAW OFFICE OF
TERESA C. McNALLY P.L.L.C.
4TH & PIKE BUILDING
1424 FOURTH AVENUE, SUITE 1002
SEATTLE, WA 98101
PHONE 206-374-8358 FAX 206-441-1869

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

Dated: 11/4, 2011

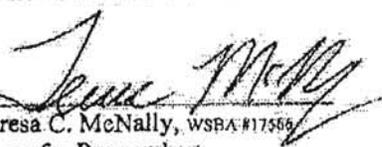

JUDGE CATHERINE SHAFER

Presented by:

Approved for entry
Notice of presentation waived:

THE LAW OFFICE OF TERESA C. McNALLY P.L.L.C.

~~STRATA LAW GROUP~~
GARDNER BARRETT & ASSOCIATES PLLC

By 
Teresa C. McNally, WSBA #17586
Attorney for Respondent
Bradley Hanson

By 
Alexandra Moore-Wulsin, WSBA #17534
Attorney for Petitioner
Karla Maia-Hanson

Ord on Show Cause re Contmpt/Jdgmnt
(ORCN) - Page 6
WPF DRPSCU 05.0200 Mandatory (10/2009) - RCW
26.09.160, 7.21.010

THE LAW OFFICE OF
TERESA C. McNALLY P.L.L.C.
4TH & PIKE BUILDING
1424 FOURTH AVENUE, SUITE 1002
SEATTLE, WA 98101
PHONE 206-374-8558 FAX 206-441-1869

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CAUSE NO: 09-3-07237-0 SEA

Page 7 of 8

CAPTION: Maia-Hanson v Hanson

The court finds that Ms. Maia came to school for legitimate purposes.
and things went wrong.
* The court finds that Ms. Maia knew that both the school nurse and school counselor are mandatory reporters.

Ms. Maia knew when she asked "Did you know the school nurse" "Did A. H. tell you what happened" she was speaking to a mandatory reporter and had not contacted the case manager.

Even if this were not true, she knew of the allegation prior to seeing Julie Matson. Ms. Maia ~~from~~ knew she was a mandatory reporter and Hanson was going to disclose a report. She had an obligation to contact the case manager.

The court does not believe the father was abusive and recognizes that the allegation increased from the nurse, to the counselor to her counsel's representation in court at the presentation hearing. This must stop.

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CAUSE NO: 09-3-0723A-CSEA

Page 8 of 8

CAPTION: In re Marriage of Marc Hanson

I know both parents love their children. The boys way of showing loyalty to the mother may be causing these reports. However it needs to stop.

I caution the mother to follow court orders or it will impair her ability to parent her children. Ms. Olin has figured out our legal system and knows how it works.

I find that she knowingly violated this court's order by doing intentionally (and further) to mandatory reporters. This is a serious event in my mind. However I will make the sanction minor to pay the ~~husband's~~ Respondent's fees and to comply with this court's order.

I am also extending the review hearing for six months until 05.10.2012 @ 4:00 pm.

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APPENDIX D

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FILED The Honorable Catherine Shaffer
KING COUNTY, WASHINGTON

MAR 29 2013

SUPERIOR COURT
GARY POWERS
CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

In re the Marriage of

KARLA MAIA-HANSON,

Petitioner,

v.

BRADLEY HANSON,

Respondent.

No. 09-3-07239-0 SEA

ORDER ON REVIEW HEARING

THIS MATTER, having come before this Court on May 31, 2012 upon a scheduled review hearing for joint decision making, contempt review hearing and the motion of Respondent to restrain the dissemination of the disks of the minor children's interviews with the Special Assault Unit for King County, and the Court being fully advised, NOW THEREFORE:

I. FINDINGS

The Court FINDS as follows:

1. The Court understands that the parties may be frustrated with each other

1 and the pace of their work with Margo Waldroup, MSW, the parties' Parenting
2 Communication Coach. The parties have very different parenting styles and these
3 differences grate on each other. The Court has had an opportunity to review the parties'
4 declarations and emails. Respondent's emails, for the most part, were appropriate. The
5 Court also applauds the fact that he did not bring a contempt motion regarding
6 Petitioner's use of Maia Hanson as the last name for the children and the lack of
7 providing the children's passwords. In reading Petitioner's emails, they too have
8 improved, but the Court asks that she work harder in not referring to the past when she
9 emails Respondent. The emails that are sent should be a little friendlier and more
10 business-like.

11 2. The Court's largest concern is the parties' minor son, Patrick, and why
12 he is acting up with his teachers, and his grades, which are all over the map. Patrick's
13 teachers believe he has potential and they like Patrick.

14 The Court understands that sports are positive for children. However, it is a
15 gamble for the parents or child to rely on sports to gain admission to college. The child
16 could be injured, as he grows older his body may change, or the pool of competitors
17 may moderate his success.

18 Therefore, academics are a stronger source of admission to college or other life
19 goals. This relies heavily on grades and being a well-rounded student. Academic
20 discipline requires that children need to learn to organize work (in an ordered way). It
21 also requires learning how to put in a sustained effort. This not only applies to grades
22 and academic success, but translates to working for a living and earning an income.

23 The Court found at the May 31, 2012 hearing that it was appropriate for Patrick

1 to undergo both academic and emotional testing. This has been resolved.

2 3. Counseling. The Court found at the May 31, 2012 hearing that Andrew
3 is a child who internalizes more things. He may not want to have a counselor, but the
4 Court believed it was appropriate to have a resource in place. Each party was to submit
5 three names and, if they cannot agree, the selection was to be handled by the Court.
6 Respondent submitted names to whom Petitioner did not agree to and the Petitioner
7 submitted names to which the father agreed to one provider; thereafter, the Petitioner
8 withdrew her consent for the child to see that individual. ~~If Respondent believes~~ 
9 ~~Andrew needs counseling, he may pursue finding a qualified counselor.~~

10 4. Children's Counseling Records. The Court finds that it is in the best
11 interests of these children that neither parent nor their counsel makes any attempt to
12 obtain the children's therapy records. The Court wants the children to have a safe place
13 to talk. Therefore, the Court finds that, absent an order by this Court, the children's
14 therapy records should be protected and shall not be provided to either parent.

15 5. The Children's Last Name. The Court believes that the Decree of
16 Dissolution is clear: The children's last name is Hanson. Hanson is the surname of the
17 parties' children and should be used for all purposes (school, enrolment, medical
18 records, passports, etc.). The name Maia should not appear unless a middle name is
19 requested on a form and then it may be inserted. Petitioner should correct all current
20 forms she has provided to third parties to reflect only Patrick Hanson or Andrew
21 Hanson. If the children wish to change their names when they reach the age of
22 majority, they have the ability to do so. ~~Since the Court's oral ruling, Petitioner has~~ 
23 ~~continued to facilitate the children using Maia Hanson.~~

1 6. Brazilian Passports. Petitioner has indicated that the renewal of the
2 Brazilian passports is being delayed because the Brazilian government will not accept
3 the handwritten interlineations in the final order. The Court will sign a new typed
4 version when presented.

5 7. The Children's Passwords. The Court finds that the Court's previous
6 order addressed this issue and it must be followed by the parents. Respondent has not
7 been given the passwords. The children are required to give both parents their internet
8 passwords (including but not limited to phones, computers, iPads, iPods, games,
9 Facebook accounts, social networks, and Twitter accounts) and if they do not, they
10 should not use them or have access to the internet and computers (or phones with
11 internet access) except as required for school. It is appropriate at the boys' age that the
12 parents supervise their internet use. Each parent shall look at the children's internet
13 history on all their devices, have the children disclose the passwords, and provide them
14 to the other parent.

15 8. Educational Decision Making. The Court finds that Respondent has a
16 better sense as to the needs of the children on educational matters. At this time, the
17 Court will give him educational decisions. If Petitioner wants tutoring for the boys,
18 Respondent should ^{give it serious consideration.} explain to her why tutoring is not necessary if he declines tutoring. Kea

19 9. Extracurricular Activities. The Court will give Petitioner decision
20 making on extracurricular activities; however, at this time (starting in the Fall of 2012),
21 the Court finds that it is in the interest of the children that they only have one
22 extracurricular activity at a time for now. In addition, to give the boys a vested interest
23 in their education, they will only be allowed to participate in an extracurricular activity

1 if they earn a grade point average of 3.3 or above.
2 10. Parenting Plan Coordinator. ^{By agreement of the parties,} The parties are no longer seeing Margo 
3 Waldroup, MSW and the Court shall handle all disputes between the parties. The Court
4 will not enter an order appointing a Parenting Plan Coordinator.

5 11. Contempt. ^{As of the review hearing on 05.21.2012:} The Court finds that Petitioner is working towards 
6 compliance with the Court orders, but due to the finding above and the yet outstanding
7 referral to Child Protection Services, it is appropriate that the Court give Petitioner more
8 time to purge the contempt order. Petitioner may ask for another review hearing in one
9 year to purge her contempt. ^{As of 03.29.2013; the court finds the contempt is now purged.} 

10 12. Respondent's Motion to Restrain the Dissemination of the Interview
11 Disks. The Court finds that it is in the best interests of the children that the disks of the
12 children's interviews with the Special Assault Unit for King County not be ^{some of the most toxic evidence presented to the court,}
13 disseminated to third parties. ^{which is similarly toxic,} Like Dr. Wheeler's report, if a party wishes to 
14 disseminate the disks, the person requesting to see the disks must present the Court with
15 just cause why the disks should be viewed. The Court will determine, after review,
16 whether or not the disks or Dr. Wheeler's report should be disseminated. Each party
17 should turn over any copies of the disks that they have to their respective attorneys to be
18 held.

19 II. ORDER

20 The Court ORDERS as follows:

- 21 1. Testing for Patrick. This has been resolved.
22 2. Counselor for Andrew. ^{A dispute over this shall be} Should Respondent believe that Andrew needs 
23 ^{submitted to the court.} counseling, he may select a counselor and engage Andrew in counseling. If Petitioner

1 ~~disputes the counselor, she may bring the matter to the Court.~~

2 3. Children's Therapy Records. Neither parent nor their counsel shall
3 make any attempt to obtain the children's therapy records. Absent an order by this
4 Court, the children's therapy records should be protected.

5 4. Children's Last Name. The Decree of Dissolution is clear: The
6 children's last name is Hanson. Hanson is the only surname of the parties' children and
7 should be used for all purposes (school, enrolment, medical records, passports, etc.) and
8 their names shall be Patrick Hanson and Andrew Hanson. The name Maia should not
9 appear unless a middle name is requested on a form and then it may be inserted.
10 Petitioner shall correct all current forms she has provided to third parties to reflect only
11 Patrick Hanson or Andrew Hanson.

12 5. Brazilian Passport Renewals. The Court will sign a new typed version
13 of its final order for the purposes of obtaining the Brazilian passport renewals when
14 presented.

15 6. Children's Passwords. The Court's previous order addressed this issue
16 and it must be followed. The children shall give both parents their internet passwords
17 (including but not limited to phones, computers, iPads, iPods, games, Facebook
18 accounts, social networks, and Twitter accounts) and if they do not, they should not use
19 them and will be denied access to their phone (with internet) and devices until there is
20 compliance (except as is necessary for school research). Each parent shall look at the
21 children's internet history on all their devices, have the children disclose the passwords,
22 and provide them to the other parent now; this shall be updated if requested.

23 7. Educational Decision Making. At this time, the Court gives

1 Respondent educational decision making authority. If Petitioner wants tutoring for the
2 boys, Respondent ~~does not agree with tutoring, he shall explain to her why tutoring is~~ ^{shall give ~~out~~ her nearest serious consideration.}
3 ~~not necessary.~~

4 8. Extracurricular Activities. The Court gives Petitioner decision making
5 on extracurricular activities; however, at this time (starting in the Fall of 2012), the boys
6 shall only have one extracurricular activity at a time for now. The boys will only be
7 allowed to participate in extracurricular activities if they earn a grade point average of
8 3.3^{1/3} or above.

9 9. Parenting Plan Coordinator. ^{Based upon the parties agreement} The Court no longer believes a Parenting
10 Plan Coordinator is appropriate ^{as} ~~as~~ the parties are no longer working with Ms.
11 Waldroup, who is also relieved from her duties.

12 10. Contempt. ^{As of 05.31.2012:} The Court finds that Petitioner has made progress in her
13 compliance with the Court's order, but due to the findings set forth herein and the yet
14 outstanding referral to Child Protection Services, the Court shall give Petitioner more
15 time to purge contempt. ^{As of 03.29.2013; the contempt is purged} ~~Petitioner may ask for another review hearing in one year to~~
16 ~~purge her contempt. Petitioner continues to advise people of the unfounded CPS~~
17 ~~claims, continues to use the name Maja Hanson in regards to the children, and continues~~
18 ~~to have difficulties following the Court's orders.~~

19 11. Respondent's Motion to Restrain the Dissemination of the Interview
20 Disks. Both parties are restrained from disseminating the disks of the children's
21 interviews with the Special Assault Unit for King County to third parties.

22 If a party wishes to disseminate the disks (to a therapist, for example), the
23 person requesting to see the disks must present the Court with just cause why the disks

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should be viewed. The Court will determine, after review, whether or not the disks (like Dr. Wheeler's report) should be disseminated. Each party shall turn over any copies of the disks that they have to their respective attorneys to be held.

12. Attorney's Fees. The Respondent is awarded reasonable attorney's fees in the amount of \$ _____ due to the continued violations of this Court's orders for the fees and costs Respondent incurred to the court, the TSA and the James dissolution.
Respondent's counsel shall submit a fee declaration with the opportunity for a response by Petitioner.

(Handwritten initials)

Dated: March 29, 2013
~~June 2012~~

(Signature of Catherine Shaffer)
The Honorable Judge Catherine Shaffer

Presented by:
THE LAW OFFICE OF TERESA C. McNALLY P.L.L.C.

Approved for entry;
Notice of presentation waived:
As to form only:
STRATA LAW GROUP PLLC

By *(Signature of Teresa C. McNally)*
Teresa C. McNally, WSBA #17566
Attorneys for Respondent
Bradley Hanson

By *(Signature of Alexandra Moore-Wulsin)*
Alexandra Moore-Wulsin, WSBA #17534
Attorneys for Petitioner
Karla Maia

APPENDIX E

FILED
KING COUNTY, WASHINGTON
APR 22 2013
SUPERIOR COURT, CLERK
BY ANDREW T. HAVIS
DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

In re the Marriage of

KARLA MAIA-HANSON,

Petitioner,

v.

BRADLEY HANSON,

Respondent.

No. 09-3-07239-0 SEA

ORDER ON THE PARTIES' MOTIONS
FOR PRESENTATION OF ORDERS,
PETITIONER'S MOTION FOR
RECONSIDERATION OF COURT'S
ORAL RULING, PETITIONER'S
OBJECTIONS, PETITIONER'S
"TRANSCRIPT OF MAY 31, 2012
REVIEW HEARING PROCEEDING",
AND FEES

CLERK'S ACTION REQUIRED

This matter having come on before the Honorable Catherine Shaffer upon both parties' Motions for Presentation of Orders and Petitioner's Motion for Reconsideration of the Court's Oral Ruling; and the Court deeming itself fully advised, now therefore it is hereby ORDERED as follows:

1. Petitioner's Motion for Reconsideration of the Court's Oral Ruling is denied.
2. The motion to file Petitioner's counsel's notes (the "Transcript of May 31,

ORDER ON THE PARTIES' MOTIONS FOR
PRESENTATION OF ORDERS ET AL. - Page 1

THE LAW OFFICE OF
TERESA C. McNALLY P.L.L.C.
4TH & PIKE BUILDING
1424 FOURTH AVENUE, SUITE 1002
SEATTLE, WA 98101
PHONE 206-374-8558 FAX 206-441-1869

1 2012 Review Hearing Proceeding" dated March 21, 2013) is denied. The Court
2 considered them for what they are, which is pretty good notes, but not quite what the Court
3 said. The Court remembers what it said. The Court said some more things than what is in
4 the notes, but ^{it is} not a bad set of notes. And ^{they are considered} I'll consider them only for that purpose. The
5 "Transcript of May 31, 2012 Review Hearing Proceeding" shall not be deemed a verbatim
6 report.

7 3. Respondent is awarded attorney's fees in the amount of \$951.50 related to
8 the preparation of his Strict Reply Declaration for Motion for Presentation in regards to the
9 following issues: the James dissolution, the air gun incident and Petitioner's TSA
10 allegation. Respondent's counsel bills at the rate of \$370 per hour and her paralegal bills
11 at the rate of \$125 per hour. Respondent's counsel spent 2.2 hours related to these matters
12 (\$814) and her paralegal spent 1.1 hours related to these matters (\$137.50). This shall be
13 paid within ten days of the date of this Order.

14 4. Petitioner's Objections to the evidence are ^{overruled} denied.

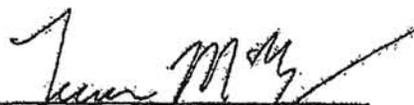
15
16 Dated: April 22, 2013


The Honorable Catherine Shaffer

17
18 Presented by:

Approved as to form;
Notice of presentation waived:

19
20 THE LAW OFFICE OF TERESA C. McNALLY P.L.L.C. STRATA LAW GROUP PLLC

21
22 By 
Teresa C. McNally, WSBA #17566
Attorneys for Respondent
Bradley Hanson

21
22 By 
Alexandra Moore-Wulsin, WSBA #17534
Attorneys for Petitioner
Karla Maia

23
ORDER ON THE PARTIES' MOTIONS FOR
PRESENTATION OF ORDERS ET AL. - Page 2

THE LAW OFFICE OF
TERESA C. McNALLY P.L.L.C.
4th & PIKE BUILDING
1424 FOURTH AVENUE, SUITE 1002
SEATTLE, WA 98101
PHONE 206-374-8558 FAX 206-441-1869