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COURT OF APPEALS
DIVISION ONE

JUN -9 2014

No. 71456-2-I

IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION I

IN RE THE PARENTING OF S.H.P-A.

MARK E. PHILLIPS,

Appellant

vs.

EILEEN C. ACHESON,

Respondent

Appeal From The Superior Court For King County
Hon. Palmer Robinson

BRIEF OF APPELLANT

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TABLE OF CONTENTS

INTRODUCTION.....1

ASSIGNMENTS OF ERROR.....2

STATEMENT OF THE CASE.....2

ARGUMENT.....12

 1. The Court Erred By Imputing The Father’s Income At The Median Net Monthly Income Level Because The Father Had A Recent History Of Established Earnings.....12

 a. Standard of Review.....12

 b. Income Should Not Have Been Imputed At The Approximate Median Net Monthly Income.....13

 2. The Court Did Not Have Discretion To Allocate Day Care Expenses.....18

 a. The Day Care Expenses Were Not Reasonable and Necessary.....18

 b. In The Absence Of Proof That The Day Care Expenses Were Actually Incurred, The Court Cannot Apportion Day Care Expenses.....21

 3. The Trial Court Erred In Entering .191 Findings That Mr. Phillips “Willfully Abandoned” The Minor Child Or Demonstrated “Substantial Refusal To Perform Parenting Functions”.....22

 4. The Trial Court Erred In Entering Restrictions Under Para. 3.10 Of The Parenting Plan And In Entering Unilateral Decision Making Under Para. 4.2.....35

CONCLUSION.....36

TABLE OF AUTHORITIES

TABLE OF CASES

<i>In re Adoption of Lybbert</i> , 75 Wn.2d 671, 674, 453 P. 2d 650 (1969).....	25
<i>In re Marriage of Crosetto</i> , 82 Wash.App. 545, 560, 918 P.2d 954 (1996).	12
<i>In re Marriage of Fairchild v. Davis</i> , 148 Wash. App. 828 (2009).....	21, 22
<i>In re Marriage of Katre [I]</i> , 125 Wn. App. 813, 826, 105 P.3d 44 (2004).....	24
<i>In re Marriage of Kovacs</i> , 121 Wn.2d 795, 801 n.10, 854 P.2d 629 (1993).....	24
<i>In re Marriage of Littlefield</i> , 133 Wash.2d 39, 47, 940 P.2d 1362 (1997).....	13, 23
<i>In re Marriage of Mansour</i> , 126 Wn. App. 1, 11, 106 P.3d 768 (2004).....	35
<i>In re Marriage of Matton</i> , 95 Wn. App. 592, 599 (1999).....	18
<i>In re Marriage of Murray</i> , 28 Wn. App. 187, 189, 622 P.2d 1288 (1981).....	24
<i>In re Marriage of Nicholson</i> , 17 Wash.App. 110, 119, 561 P.2d 1116 (1977).....	13
<i>In re Marriage of Pennington</i> , 142 Wn.2d 592, 602-03, 14 P.3d 764 (2000).....	24
<i>In re Marriage of Scanlon</i> , 109 Wash.App. 167, 34 P.3d 877 (2001).....	19
<i>In re Marriage of Scanlon and Witrak</i> ,	

109 Wn. App. 167, 181, 34 P.3d 877 (2001).....	19
<i>In re Marriage of Shellenberger</i> , 80 Wn. App. 71, 81, 906 P.2d 968 (1995).....	15
<i>In re Marriage of Stern</i> , 57 Wash.App. 707, 717, 789 P.2d 807 (1990).....	13
<i>In re Marriage of Watson</i> , 132 Wn. App. 222, 234, 130 P.3d 915 (2006).....	24
<i>In re Marriage of Woffinden</i> , 33 Wn. App. 326, 330, 654 P.2d 1219 (1982).....	24
<i>In re Paternity of Hewitt</i> , 98 Wash. App. 85, 988 P.2d 496 (1999).....	19
<i>In re Sacco</i> , 114 Wn.2d 1, 4, 784 P.2d 1266 (1990).....	15
<i>In the Matter of the Parenting and Support of J.A.M.</i> , No. 68053-6-I (Nov. 13, 2012).....	15
<i>Murphy v. Miller</i> , 85 Wash.App. 345, 349, 932 P.2d 722 (1997).....	18, 19
<i>State ex rel. Carroll v. Junker</i> , 79 Wash.2d 12, 26, 482 P.2d 775 (1971).....	13

STATUTES

RCW 26.09.187(2)(b)(i).....	35
RCW 26.09.191.....	22, 24-26, 29, 31-35
RCW 26.09.191(1).....	22
RCW 26.09.191(2).....	22
RCW 26.09.191(3).....	23
RCW 26.09.191(3)(d).....	24
RCW 26.12.172.....	33
RCW 26.19.035(2).....	15

RCW 26.19.071(6).....14-16
RCW 26.19.080(1).....18
RCW 26.19.080(3).....18, 21
RCW 26.19.080(4).....18

RULES

KCLFLR 13(c)(2).....23
KCLFLR 13(c)(4).....33
LSPR 94.03(f).....33

INTRODUCTION

Appellant, Mark Phillips, appeals the decision of the trial court in this matter. Mr. Phillips is the father of the minor child, S-H-P-A. This action was commenced by the mother of the child, Eileen Acheson, while Mr. Phillips was incarcerated. Ms. Acheson sought, and was granted, a domestic violence protection order (“DVPO”) against Mr. Phillips shortly prior to Mr. Phillips’ release from federal prison for wire fraud. The allegations of domestic violence were not sustained at trial. However, the taint of those allegations colored the parenting evaluation prepared by Family Court Services evaluator, Jennifer Bercot, who made recommendations in the parenting plan based upon her belief that the “domestic violence” was, indeed, founded. Absent the allegations of domestic violence, there is no evidentiary support for the restrictions recommended by Ms. Bercot and imposed upon Mr. Phillips in the relationship with his son: no findings of “willful abandonment,” and no facts to support the finding that Mr. Phillips’ posed a threat to his son. In adopting the findings of Ms. Bercot, the trial court made findings unsupported by the evidence in the record. Additionally, the trial court erred in basing its award of child support upon the median net income when there was clear evidence of Mr. Phillips’ past earnings. Finally, the trial court erred in awarding day care expenses when there was no

evidentiary support for these expenses in the record, as well as the fact that these expenses were not reasonable and necessary given that Ms. Acheson is unemployed and not actively looking for employment.

ASSIGNMENTS OF ERROR

1. The trial court erred by imputing income to Mr. Phillips based upon the median net income for his age, rather than his most recent wage history.
2. The trial court erred by ordering the apportionment of day care expenses that were not reasonable and necessary.
3. The trial court erred by ordering the apportionment of day care expenses in the absence of any proof that those expenses were actually incurred.
4. The trial court erred in entering .191 findings in the Parenting Plan that Mr. Phillips had engaged in “willful abandonment,” “substantial refusal to perform parenting functions,” and neglect or substantial nonperformance of parenting functions of the minor child.
5. The trial court erred in requiring “supervised” visits and a graduated plan of visitation with the minor child.

STATEMENT OF THE CASE

This action was filed by Ms. Acheson to establish a parenting plan and child support for S-H-P-A on February 14, 2012. The child was one year old at the time the action was filed and is the son of Mr. Phillips and Ms. Acheson.¹ The parties were never married. Parentage of the child was established per a signed paternity affidavit executed by Mr. Phillips on May 12, 2011.² Ms. Acheson, the mother, appeared through her attorney of record, Celeste McDonell, and Mr. Phillips, the father, appeared through his attorney of record, Reed Yurchak. Trial was held before the Honorable Judge Palmer Robinson on August 12, 13, 21, 22, 2013. The court issued its final ruling on November 20, 2013 which included findings of fact, a child support order and worksheet, and a parenting plan.³ Mr. Phillips then moved for reconsideration of the trial court's decision on December 2, 2013.⁴ On January 15, 2014, the court issued an order granting in part and denying in part the motion for reconsideration.⁵ The trial court did not grant reconsideration of the issues now under appeal herein.

Mr. Phillips takes issue with five facets of the trial court's

¹ RP 140:7-14.

² RP 495:10-11.

³ CP 130, 131.

⁴ CP 141.

⁵ CP 141.

decision. First, the court imputed income to Mr. Phillips based upon the median net income for his age despite the fact that he had a history of recent prior employment. Mr. Phillips testified to having a felony conviction and to the fact that his search for employment was significantly impaired because of this.⁶ Upon Mr. Phillips's release, he was employed from November 2012 to April 2013 at \$2,500 gross per month.⁷ Though Mr. Phillips was not employed at the time of trial, he established through banking statements and income paystubs that his last verifiable income was \$2,500 gross a month.⁸ Mr. Phillips testified to not having earned any income at all since 2009 and to having earned "some salary" prior to that as an executive of companies that he founded.⁹

Second, the court apportioned day care expenses between the parties for which no substantial evidence existed as being reasonable and necessary and for which no actual proof was presented. Ms. Acheson testified to paying an in-home nanny \$1,080 a month on a part-time basis and testified she is unemployed and does not leave the home for any work-related purpose.¹⁰ There was no other testimony regarding this issue. Ms. Acheson presented no proof of payment, did not identify those expenses in

⁶ RP 514: 7-21.

⁷ EX 143.

⁸ EX 142.

⁹ RP 512:18.

¹⁰ RP 267:10-18.

her bank statements or tax returns, and did not provide any documentation regarding this person's actual employ.¹¹ This person was actually never even identified by Ms. Acheson. There was no testimony as to why these expenses were reasonable and necessary given that Ms. Acheson is unemployed, was not actively seeking employment, and had no plans to seek employment because she receives monthly disability payments and has substantial savings.¹²

Finally, the Family Court Services parenting evaluator, Ms. Bercot, made recommendations that the court adopted in its findings of fact.¹³ The primary basis of Ms. Bercot's recommendations that the court enter restrictions under the parenting plan was her belief that Mr. Phillips had perpetrated domestic violence. As a result, her proposed residential schedule involved graduated supervised visitation over a period of 12 months. Ms. Bercot further recommended restrictions based upon substantial nonperformance of parenting functions and an absence of emotional ties between Mr. Phillips and the child.¹⁴ The court adopted the latter two findings as a basis for entering restrictions in addition to finding other bases for restrictions not mentioned by Ms. Bercot.¹⁵ The court,

¹¹ EX 12-18.

¹² RP 358:7-17.

¹³ CP 131 para, 2.3.

¹⁴ RP 66:24-25, 67:1-8.

¹⁵ CP 132.

however, excluded any findings of domestic violence, yet still entered the same graduated supervised visitation schedule recommended by Mr. Bercot *as if* Mr. Phillips had been found guilty of domestic violence. Strangely, the court seems to contradict itself in its findings of fact: “Ms. Bercot is an experienced family court evaluator and has provided the necessary testimony to support her recommendations for the Parenting Plan for the minor...”¹⁶ The court entered this finding despite the fact that it clearly rejected a substantial portion of Ms. Bercot’s testimony as her recommendations were premised upon a continuing pattern of domestic violence abuse upon Ms. Acheson.¹⁷ Thus, by disregarding the domestic violence allegations, it is unclear what factual basis the court relied upon to independently support the findings that Mr. Phillips had willfully neglected his parental duties and could not establish “emotional ties” with the child. Despite the fact that Ms. Bercot was forced to admit that there was no *actual* “domestic violence” in this case, she nevertheless found Ms. Acheson’s fear of “domestic violence” reasonable, based upon the “context” of the circumstances; not facts or common sense. However, the court requires a much clearer standard of proof than mere “context,” especially in light of the admission by Ms. Bercot that there was no act of “domestic violence.” The adoption of any opinion offered by Ms. Bercot

¹⁶ CP 131, p. 25.

¹⁷ CP 131, para 2.5, 2.6, 3.3.

at trial, opinions and conclusions based upon “imaginary” domestic violence, and to include those opinions in the Parenting Plan and Findings of Fact, was clear error.

Ms. Acheson met and began dating Mr. Phillips in January 2010.¹⁸ At the time, Mr. Phillips was a successful entrepreneur in the tech industry, but was involved in several civil litigation matters and defending himself against criminal allegations involving the management of his company, MOD Systems, Inc.¹⁹ As a result of the various allegations, a federal criminal complaint was filed against Mr. Phillips in March 2010. Mr. Phillips was released from pre-trial custody to his friends, Chad and Elizabeth Rudkin, where he stayed at their Bonney Lake home while on pre-trial release.²⁰ Shortly after they met, Ms. Acheson became pregnant but was unable to carry the pregnancy to term and miscarried in May 2010.²¹ While still on pre-trial release, Ms. Acheson again became pregnant. Shortly thereafter, Mr. Phillips was remanded to custody. Mr. Phillips was convicted on counts of wire fraud and mail fraud, but acquitted of the charge of bank fraud. He was sentenced to 48 months in federal prison.

The minor child was born to Ms. Acheson on April 8, 2011 while

¹⁸ RP 406:22 to 407:1.

¹⁹ RP 399:9 to 401:23.

²⁰ RP 411:14-18.

²¹ RP 172: 21-22.

Mr. Phillips was awaiting sentencing in SeaTac Federal Detention Facility.²² He was then sentenced and transferred to the Federal Prison Camp in Sheridan, Oregon, where he remained until October 1, 2012. Ms. Acheson brought the child to visit his father in Sheridan only one time. After that singular visit, Ms. Acheson significantly curtailed all communication with Mr. Phillips and eventually sent him a “proposed parenting plan” which she demanded he sign, a plan that would have greatly limited Mr. Phillips’ contact with his child.²³

While in Sheridan, Mr. Phillips successfully completed a comprehensive residential drug and alcohol treatment program (“RDAP”).²⁴ Although he only admitted to a brief “addiction” to pain killers in 2008 (an “addiction” lasting less than 9 months) he sought entry into the RDAP program for the benefit of Ms. Acheson and his son.²⁵ Unbeknownst to him at the time, Ms. Acheson had received a criminal domestic violence citation for leaving the minor child unattended in a valet parking garage at a mall in Bellevue. Ms. Acheson drove up, demanded the valet “watch” her sleeping child, and then ignored the valet’s protest. The valet called the police when Ms. Acheson failed to return within “10 minutes” as she promised. Ms. Acheson lied to the

²² RP 437: 1-3.

²³ RP 139: 15-25.

²⁴ RP 475: 15-25.

²⁵ EX 8, p. 8.

police and to the trial court, claiming the valet had “agreed” to watch the minor child while she went inside Neiman Marcus to pay for “modeling” fees.²⁶ The valet, Collin Webb, testified at trial that Ms. Acheson just drove up, handed him the keys, and after telling her that he “could not take it [the car with a child],” she “disregarded what I said and went into Neiman Marcus.”²⁷ She was found at the makeup counter. Ms. Acheson was forced to enter into counseling and complete parenting classes. Ironically, Ms. Acheson continues to refuse to accept responsibility for her actions on that day, instead trying to blame her actions because she was “upset” from a telephone call she had with Mr. Phillips earlier that day in which he told her he refused to sign her parenting plan.²⁸

Upon his release in October 2012, Mr. Phillips attempted to contact Ms. Acheson to arrange visits with his son. Despite repeated requests to Ms. Acheson’s attorney, he was unable to visit or spend any time with his son.²⁹ Mr. Phillips avoided taking the recommended class on domestic violence because he believed that the upcoming trial, which at that point, was scheduled in April 2013 would dispense of the issue.³⁰ However, after the trial was delayed, Mr. Phillips attempted to register in

²⁶ Ms. Acheson’s explanation can be found at RP 144-6.

²⁷ RP 610:11-19.

²⁸ RP 139: 4-10.

²⁹ RP 529:19 to 530:5.

³⁰ RP 555:18-25, 556:1-5.

domestic violence counseling, but was not accepted because he could not admit to something that was not true – that he had committed an act of domestic violence.³¹ Mr. Phillips was thus excluded from seeing his son due to the baseless allegation of domestic violence for which he could not receive “treatment.” Caught in a bureaucratic maze, Mr. Phillips moved the court to vacate the DVPO, the decision of which was deferred to the trial court. After a lengthy delay, trial was held in August of 2013. During trial, Ms. Bercot testified during Mr. Acheson’s case in chief. Ms. Bercot testified that there were concerns because of the allegations of “domestic violence” and the allegations of “substance abuse.”³² However under cross-examination, Ms. Bercot admitted that Mr. Phillips posed no “imminent harm” to Ms. Acheson, had never physically abused Ms. Acheson, had never sexually abused Ms. Acheson, and made no overt threat towards Ms. Acheson.³³ The only explanation Ms. Bercot offered to justify her opinions in a “case where there had been no allegation of any physical harm” was that she considered “the context of the situation, the context – the dynamics in this case.”³⁴ The unreliability of Ms. Bercot’s opinions are highlighted in the final exchange under cross-examination after she claimed that she does not consider “credibility” in assessing the

³¹ RP 531:1-7.

³² RP 47:13-19.

³³ RP 99: 7-25.

³⁴ RP 100: 18-25.

parties:

Q. So when Mr. Phillips – Mr. Phillips gives his explanation for all this different evidence that we’ve been discussing, how are you able to assess his version of events if credibility isn’t a factor?

A. That’s a good question.³⁵

Mr. Phillips respectfully submits that there was no foundational basis to support several of the findings of the trial court in its rulings: that the father’s income should be calculated at the Median level; that day care expenses were sufficiently proven and were subject to allocation between the parties; that Mr. Phillips “neglected” or “abandoned” his minor child; and that the requirement of supervised visits is supported by the record. Mr. Phillips hereby appeals the rulings of the trial court in this matter.

ARGUMENT

1. The Court Erred By Imputing The Father’s Income At The Median Net Monthly Income Level Because The Father Had A Recent History Of Established Earnings.

a. Standard Of Review

A trial court’s decision setting child support is reviewed for abuse of discretion. *In re Marriage of Crosetto*, 82 Wash.App. 545, 560, 918 P.2d 954 (1996). A trial court abuses its discretion only when its decision is manifestly unreasonable or based on untenable grounds. *State ex rel.*

³⁵ RP 136: 21-25.

Carroll v. Junker, 79 Wash.2d 12, 26, 482 P.2d 775 (1971). A court's decision is manifestly unreasonable if it is outside the range of acceptable choices, given the facts and the applicable legal standard; it is based on untenable grounds if the factual findings are unsupported by the record; it is based on untenable reasons if it is based on an incorrect standard or the facts do not meet the requirements of the correct standard. *In re Marriage of Littlefield*, 133 Wash.2d 39, 47, 940 P.2d 1362 (1997). The amount of child support rests in the sound discretion of the trial court. *In re Marriage of Stern*, 57 Wash.App. 707, 717, 789 P.2d 807, review denied, 115 Wash.2d 1013, 797 P.2d 513 (1990). The court will not substitute its own judgment for that of the trial court where the record shows that the trial court considered all relevant factors and the award is not unreasonable under the circumstances. *Id.* at 717 (citing *In re Marriage of Nicholson*, 17 Wash.App. 110, 119, 561 P.2d 1116 (1977)).

b. Income Should Not Have Been Imputed At The Approximate Median Net Monthly Income

The court approved Ms. Acheson's proposed child support worksheets that suggested that Mr. Phillips' income be imputed at the median net monthly level of income (RCW 26.19.071 (6)(e)) according to the following table that is published by the Administrative Office of the

Courts:³⁶

Approximate Median Net Monthly Income

<u>MALE</u>	<u>age</u>	<u>FEMALE</u>
\$1,832	15-24	\$1,632
\$2,804	25-34	\$2,446
\$3,448	35-44	\$2,693
\$3,569	45-54	\$2,714
\$3,735	55-64	\$2,814
\$4,084	65 +	\$2,960

RCW 26.19.071(6) controls regarding the imputation of income and *mandates* the court impute income according to a level of priority. The statute does not give the court discretion to deviate from this mandate. If a court finds a parent is voluntarily unemployed or voluntarily underemployed, “[i]n the absence of records of a parent’s actual earnings, the court *shall* impute a parent’s income in the following order of priority:

- (a) Full-time earnings at the current rate of pay;
- (b) Full-time earnings at the historical rate of pay based on reliable information, such as employment security department data;
- (c) Full-time earnings at a past rate of pay where information is incomplete or sporadic;
- (d) Full-time earnings at minimum wage in the jurisdiction where the parent resides if the parent has a recent history of minimum wage earnings, is recently coming off public assistance, aged, blind, or disabled assistance benefits, pregnant women assistance benefits, essential needs and housing support, supplemental security income, or disability, has recently been released from incarceration, or is a high school student;
- (e) Median net monthly income of year-round full-time workers as derived from the United States bureau of census, current population reports, or such replacement report as

³⁶ See Attached Exhibit A, p. 7

published by the bureau of census” (emphasis added).
RCW 26.19.071(6)

There was no question that Mr. Phillips was voluntarily unemployed at all relevant times during this proceeding.³⁷ The court’s imputation of income must be supported by findings of fact supported by evidence in the record. The court is required “to enter written findings of fact upon which the support determination is based.” *RCW 26.19.035(2)*. Imputed income should not exceed the level “at which the parent is capable and qualified.” *In re Marriage of Shellenberger*, 80 Wn. App. 71, 81, 906 P.2d 968 (1995); *In re Sacco*, 114 Wn.2d 1, 4, 784 P.2d 1266 (1990). A parent is not “voluntarily underemployed” for the purposes of child support even if that parent earned significantly more money in the previous year, where that parent’s earnings are highly variable from year to year. *In the Matter of the Parenting and Support of J.A.M.*, No. 68053-6-I (Nov. 13, 2012).

In the present instance, there is no question Mr. Phillips was voluntarily unemployed at the time of trial.³⁸ The court, in imputing income to him, failed to enter any findings of fact to support its clear abrogation of the statutory mandate that it *shall* impute income according to a priority. The evidence at trial clearly established that Mr. Phillips was

³⁷ RP 514:21-25, 515:1-23.

³⁸ RP 580:17-18.

employed with Battson Consulting Group from November 2012 until April 2013.³⁹ This fact was documented by Mr. Phillips' paystubs.⁴⁰ There was also uncontroverted testimony that Mr. Phillips has a felony fraud conviction and spent 27 months in custody.⁴¹ The testimony demonstrated that Mr. Phillips was a high-tech entrepreneur and had achieved his highest income by virtue of the companies he had created and ran as CEO.⁴² Prior to that time, which occurred 5 years before the trial date, Mr. Phillips had earned a variable amount of income.⁴³ Mr. Phillips further testified about the difficulty of ever achieving that level of earnings again because he had a felony fraud conviction and he could no longer generate investment from the high-tech community to build a new company.⁴⁴ According to the priorities in RCW 26.19.071(6), Mr. Phillips first qualified under subsections (b) (full-time earnings at the historical rate of pay based on reliable information); (c) (full-time earnings at a past rate of pay where information is incomplete or sporadic); and (d) (full-time earnings at minimum wage where the parent has recently been released from incarceration) at which his income should have been imputed. Subsection (e) is the last priority and is the level of income at

³⁹ RP 513:1-17.

⁴⁰ EX 143.

⁴¹ RP 420:7-25.

⁴² RP 512:15-18.

⁴³ Id.

⁴⁴ RP 514:21-25, 515:1-23.

which the court chose to impute Mr. Phillips without any findings of fact as to why it so ordered without regard to subsections (b), (c), and (d).

Ironically, Mr. Phillips was in the exact same situation as Ms. Acheson. Ms. Acheson had not been gainfully employed for almost all of the same time period that Mr. Phillips had not been employed.⁴⁵ Like Mr. Phillips, Ms. Acheson had also earned considerable income at her previous job as a finance manager.⁴⁶ In 2009 Ms. Acheson's reported earnings of \$145,544.02,⁴⁷ and in 2010 Ms. Acheson reported earnings of \$137,038.96.⁴⁸ Ms. Acheson's current income consists of disability payments for anxiety in the amount of \$3,400 a month.⁴⁹ Mr. Phillips did not take issue with the fact that this figure represented Ms. Acheson's current income, despite the fact that Ms. Acheson had previously shown an ability to earn substantially more, and in fact, earned such sums while disabled. Mr. Phillips did not take issue with imputing Ms. Acheson's income only at the level of disability income received. Mr. Phillips' proposed child support worksheets were based upon Ms. Acheson's income of \$3,400 a month and upon his income of \$2,500 per month.⁵⁰ That figure computed child support at \$293.55, which is the figure Mr.

⁴⁵ RP 201:5-8.

⁴⁶ EX 19.

⁴⁷ EX 13.

⁴⁸ EX 14.

⁴⁹ EX 12-19.

⁵⁰ EX 140.

Phillips proposes is lawful, given the trial court improperly imputing income at the median monthly net income for his age.⁵¹

2. The Court Did Not Have Discretion To Allocate Day Care Expenses.

a. The Day Care Expenses Were Not Reasonable and Necessary.

Day care expenses are considered extraordinary expenses not accounted for in the basic child support obligation. *RCW 26.19.080(1)*. The trial courts has the discretion to determine the “reasonableness and necessity” of extraordinary expenses. *RCW 26.19.080(4)*; *see also In re Marriage of Matton*, 95 Wn. App. 592, 599 (1999). The statute does not define day care expenses or provide guidelines for determining what types of expenses are “reasonable and necessary.” *Id.* Thus, the court interprets day care expenses consistent with the overall purpose of the child support statutory framework according to the best interest of the child standard. *Id.* at 599-600 (the *Matton* court holding that camp costs were “day care” expenses because the child was out of school and was supervised during the periods of time the parent was out of the home at work.)

“[Extraordinary] expenses shall be shared by the parents in the same proportion as the basic child support obligation.” *RCW*

⁵¹ See Attached Exhibit B.

26.19.080(3). This statutory language is mandatory. See *Murphy v. Miller*, 85 Wash.App. 345, 349, 932 P.2d 722 (1997); *In re Paternity of Hewitt*, 98 Wash. App. 85, 988 P.2d 496 (1999); *In re Marriage of Scanlon*, 109 Wash.App. 167, 34 P.3d 877 (2001) review denied, 147 Wash.2d 1026, 62 P.3d 889 (2002). Once the trial court determines that extraordinary expenses are “reasonable and necessary,” it is required to allocate them in proportion with the parents’ income. *Murphy*, 85 Wash.App. at 349; *In re Marriage of Scanlon and Witrak*, 109 Wn. App. 167, 181, 34 P.3d 877 (2001); *In re Paternity of Hewitt*, 98 Wn. App. 85, 88-89, 988 P.2d 496 (1999).

The court’s decision to allocate day care expenses in the child support worksheets was clearly erroneous on the law and facts of this case. Ms. Acheson requested that Mr. Phillips contribute his proportional share of day care expenses, which she identified as \$1,080 per month.⁵² The court approved the worksheets proffered by Ms. Acheson and accepted this as an expense to be apportioned in the worksheets.⁵³ In so doing, the court committed a manifest abuse of discretion. This appears to be an issue of first impression in this court regarding whether an unemployed, stay-at-home parent’s day care expenses, where that parent has no demonstrable need for those expenses, can be considered “reasonable and

⁵² CP 12.

⁵³ CP 130.

necessary.”

Ms. Acheson provided brief testimony during trial that she hires a nanny as many as 18 hours per week, paying the nanny \$15 per hour.⁵⁴ However Ms. Acheson is unemployed and testified she spends no time outside her home for work-related reasons, nor for any other acceptable reason to justify assessing a portion of the nanny’s fees to Mr. Phillips.⁵⁵ Ms. Acheson did not testify as to the reasons why she may be out of the home at such regular periods as to require day care. There was no testimony that the child had special needs. There was no testimony that the nanny provided some benefit to the child which necessitated her services. There was no testimony as to why Ms. Acheson required day care for her child when she had no other personal or professional obligations.

Day care expenses should not be a luxury for the unemployed. Family law jurisprudence would not support a court’s use of discretion to order day care expenses for a parent who has chosen to be a stay-at-home parent and failed to demonstrate any apparent need for day care. Ms. Acheson is unemployed, has no intent to be employed, earns income from disability payments, is not in school, and provided no factual basis whatsoever for why it was necessary to incur such an expense that appears

⁵⁴ RP 267:10-18.

⁵⁵ RP 270: 1-18.

to have been taken on voluntarily solely for her own comfort. Case law is clear on this point: see *Murphy, Scanlon, and Hewitt, supra*. There was no testimony from Ms. Acheson at trial as to why such expenses should be considered “reasonable and necessary.” In addition, the court entered no findings of fact with respect to this specific element which is *required* by statute in order to impose the apportionment of this expense to Mr. Phillips. The court’s manifest abuse of discretion is evident in imposing the day care expense in the absence of evidence that they were “reasonable and necessary” and in failing to provide the underlying findings in support of this.

b. In The Absence Of Proof That The Day Care Expenses Were Actually Incurred, The Court Cannot Apportion Day Care Expenses.

The court cannot order day care expenses without proof of actual expenses. The court has conclusively established the standard of proof necessary to establish expenses “actually incurred” under RCW 26.19.080(3). See *In re Marriage of Fairchild v. Davis*, 148 Wash. App. 828 (2009). In *Fairchild*, the court held that an affidavit from the mother was insufficient to substantiate proof of expenses. In the present case, Ms. Acheson provided the exact same quantum of proof as the plaintiff in *Fairchild*. Ms. Acheson provided only oral testimony as to her day care expense, just as it had been provided by written testimony in the form of a

declaration in *Fairchild*. Other than the self-serving, unsupported testimony, the record is completely void of any documentary evidence that would support this finding by the trial court. This lack of actual documentary proof is, in fact, corroborated by the record that evidence of absence *is* absence of evidence. There were no corresponding withdrawals from Ms. Acheson's bank statements which would correlate to monthly payments of \$1,080.⁵⁶ There was also nothing in Ms. Acheson's tax return filings that correspond to employment of a nanny.⁵⁷ There was no employment agreement, contract, invoices, or declaration or other admissible testimony submitted from the nanny. To find that Ms. Acheson has actually incurred these expenses without a shred of proof as required by *Fairchild* is a manifest abuse of discretion.

3. The Trial Court Erred In Entering Finding of Fact 2.3 and 2.8 and .191 Findings In The Parenting Plan That Mr. Phillips "Willfully Abandoned" The Minor Child Or Demonstrated "Substantial Refusal To Perform Parenting Functions."

In the Parenting Plan, the court made adverse .191 findings against Mr. Phillips for which there was no factual basis or substantial evidence to support such findings. The court found that under RCW 26.09.191(1),(2) Mr. Phillips "engaged in willfully abandonment that continues for an extended period of time and a substantial refusal to perform parenting

⁵⁶ EX 17, 18; RP 267: 10 to 18.

⁵⁷ EX 13, 14, 15.

functions.”⁵⁸ Under RCW 26.09.191(3), the court found that Mr. Phillips’ “involvement or conduct may have an adverse effect on the child’s best interests because of neglect or substantial nonperformance of parenting functions;” “the absence or substantial impairment of emotional ties between the parent and child;” that Mr. Phillips was ordered to enter a State Certified Domestic Violence Perpetrator’s Program by Orders dated September 7, 2012 and May 10, 2013; and had been “reminded before, during, and after trial of the need for him to attend the Parenting Seminar mandate by KCLFR 13(c)(2)” which he never attended.⁵⁹ Findings of Fact 2.3 stated, “Ms. Bercot is an experienced Family court evaluator and has provided the necessary testimony to support her recommendations for the Parenting Plan for the minor child. The Father could have started to begin a relationship with his son, has not ever asked to be the primary residential parent and the testimony at trial was that he planned on moving to Southern California.”⁶⁰ There was no factual basis or testimony to support any of these findings.

A trial court’s parenting plan decisions are reviewed for an abuse of discretion. *In re Marriage of Littlefield*, 133 Wn.2d 39, 46, 940 P.2d 1362 (1997). A trial court abuses its discretion when its decision is

⁵⁸ CP 131.

⁵⁹ CP 132.

⁶⁰ CP 131, p. 25.

manifestly unreasonable or based on untenable grounds or untenable reasons. *Id.* at 46-47. Because of its “unique opportunity to observe the parties to determine their credibility and to sort out conflicting evidence,” the trial court’s discretion in this regard is broad, *In re Marriage of Woffinden*, 33 Wn. App. 326, 330, 654 P.2d 1219 (1982), and appellate courts are reluctant to disturb a trial court’s child placement decisions. *In re Marriage of Kovacs*, 121 Wn.2d 795, 801 n.10, 854 P.2d 629 (1993) (citing *In re Marriage of Murray*, 28 Wn. App. 187, 189, 622 P.2d 1288 (1981)). Determining the credibility of witnesses and the weight to assign conflicting testimony is for the trial judge, whose findings are reviewed only to determine whether they are supported by substantial evidence. *In re Marriage of Pennington*, 142 Wn.2d 592, 602-03, 14 P.3d 764 (2000).

The court may not impose limitations or restrictions in a parenting plan in the absence of express findings under RCW 26.09.191. Those limitations or restrictions must be reasonably calculated to address the identified harm. *In re Marriage of Katare [I]*, 125 Wn. App. 813, 826, 105 P.3d 44 (2004). “In the absence of substantial evidence establishing a nexus between [the father’s] ‘involvement or conduct’ and the impairment of his emotional ties with [the child], the trial court erred in imposing visitation restrictions under RCW 26.09.191(3)(d).” *In re Marriage of Watson*, 132 Wn. App. 222, 234, 130 P.3d 915 (2006).

Looking, in turn, at each .191 restriction:

Willful Abandonment / Substantial Refusal to Perform Parenting Functions.

“Willful abandonment” is a specific term that has been given specific meaning by the Legislature as a “willful substantial lack of regard for parental obligation.” *In re Adoption of Lybbert*, 75 Wn.2d 671, 674, 453 P. 2d 650 (1969). In the instant case, although the court did not terminate Mr. Phillips’s paternal rights, the finding that he “willfully abandoned” the minor child or that he demonstrated a “substantial refusal to perform parenting functions,” does affect Mr. Phillips’s rights to interact with his child and has limited his rights to spend time with his minor son. The only evidence submitted at trial that would support this finding is that Mr. Phillips was incarcerated for the first 18 months of his child’s life. He never rejected a visit from Ms. Acheson and his son, never indicated that he had no interest in being the child’s father, and was not the one who cut off communication when he was incarcerated.⁶¹ To the contrary, the evidence introduced at trial clearly showed that Mr. Phillips attempted to visit with and bond with his son as soon as he was released from incarceration. He contacted Ms. Acheson’s attorney and agreed to “supervised” visits if that would allow him to spend time with his son.⁶²

⁶¹ RP 139: 15-25.

⁶² RP 493:16-25, 494:1-10; RP, 529:19 to 530:5.

Moreover, after leaving prison, the only reason he could not see his son was because Ms. Acheson had filed a DVPO that sought to restrain both Mr. Phillips from herself and their son.⁶³ The order required Mr. Phillips to attend domestic violence counseling as a precondition to being able to see his son.⁶⁴ Because of the protection order, which Mr. Phillips knew to be based upon fallacious allegations of domestic violence, he decided to wait to address these issues to the trial court, which was initially scheduled for April 2013. However, after the trial date got continued, Mr. Phillips decided to attempt to comply with the unjust order of “counseling” in order to see his son.⁶⁵ However, he was refused “counseling” because the agency could not admit him into a treatment program unless he admitted to committing domestic violence.⁶⁶ Mr. Phillips could not admit this because he never did, in fact, commit domestic violence. Not only was Ms. Bercot forced to admit at trial that there had been no act of domestic violence, but the trial court confirmed this finding when it refused to grant Ms. Acheson’s request to extend her protection order for five years, and when it failed to enter any specific findings in the parenting plan stating that domestic violence was the basis for a .191 restriction.⁶⁷ In addition,

⁶³ RP 493:16-20.

⁶⁴ *Id.*

⁶⁵ RP 530:22-25, 531:1-8.

⁶⁶ RP 531:1-7.

⁶⁷ CP 131.

Mr. Phillips had filed a motion to vacate the protection order prior to trial, a motion that the family law court chose to defer to the trial court.⁶⁸

The law requires far more than mere “incarceration” before the court can find an impairment of the parent/child relationship. *Littlefield, supra*. At no time has Mr. Phillips demonstrated any “willful abandonment” or a complete disregard for his parental obligations. Mr. Phillips inability to see his child was not “willful” unless the court accepts the absurd logic that incarceration is equivalent to a parent choosing to disregard his parental obligations. Mr. Phillips did not willfully abandon his child because Ms. Acheson did not care to bring the child for visits in prison, bearing in mind that Ms. Acheson didn’t bother to petition for a DVPO until shortly prior to his release. Moreover, Mr. Phillips made reasonable efforts after his release to try and see his child and was only thwarted in doing so by Ms. Acheson’s baseless DVPO.

Moreover, Ms. Bercot identified no facts that would support her opinion that Mr. Phillips could have “started to begin a relationship with his son,” (how, when he was incarcerated?); that he never “asked to be the primary residential parent,” (he couldn’t even arrange visitation, so why would he ask to be the primary residential parent?; and isn’t preserving the bond of the infant child with its mother the healthy, responsible choice?);

⁶⁸ RP 7:23-25, 8:1-11.

and that he “planned to move to Southern California,” (Mr. Phillips testified he planned to stay in Seattle, and his girlfriend, Ms. Schweickert, has relocated to Seattle⁶⁹). Ms. Bercot did not “observe” Mr. Phillips with the child, as she had with Ms. Acheson; did not ask any questions about his efforts to see the child upon release, and did not make any attempt to see Mr. Phillips interact with the his girlfriend’s child with whom he lives. Instead, Ms. Bercot’s unsupported opinions were included in the parenting plan that was submitted to the court. These findings in the parenting plan are unsubstantiated in the record and must be removed.

**Neglect or substantial nonperformance of parenting functions /
The absence or substantial impairment of emotional ties
between the parent and child.**

In the Parenting Plan, the trial court required a series of actions, including “supervised visits,” before allowing Mr. Phillips any meaningful interaction with his son. These requirements, found in the Parenting Plan para. 3.1 and the Findings of Fact para. 2.8, are unsupported by the evidence in this case, and in fact, disregard the factual evidence admitted at trial.

If the trial court relied upon the opinion of Ms. Bercot then it has adopted opinions that are unsupported by the substantial factual record in this case. As noted above, Ms. Bercot was forced to concede that there

⁶⁹ RP 579: 1-5.

was no actual “domestic violence” in this case, yet she maintained that Ms. Acheson’s fears and apprehension were “reasonable” and “justified” based upon the unprovable “context” of the circumstances. Even though she admitted there had been no physical violence, no sexual violence, no overt threats and no danger of imminent harm, she refused to abandon her unsupported opinions regarding domestic violence.⁷⁰ This is a little like admitting that she hasn’t seen Santa Claus, hasn’t talked to Santa Claus, and doesn’t know anyone that has ever talked to Santa Claus; nevertheless concludes that there is a Santa Claus based upon the “context” of all the children receiving presents. Under Ms. Bercot’s reasoning, literally anything, any conduct or action (including the transmission of a cartoon), could be the “context” to support a finding of domestic violence, *even in the absence of actual domestic violence*. Such irrational opinions retard the judicial process and actually do more harm to those who are the actual victims of domestic violence. Fortunately, the trial court rejected the allegations of domestic violence.⁷¹ However, without any findings based upon domestic violence and if, as argued here, there are no other valid reasons to impose .191 restrictions, then there appears to be no substantial

⁷⁰ RP 99:7-25; 100:18-25. CP 8.

⁷¹ CP 131.

evidence to support the court's adoption of Ms. Bercot's 12 month graduated supervised visitation plan.⁷²

Ms. Bercot offered no testimony at trial that would support the conclusion that Mr. Phillips had willfully neglected his minor son or failed to perform basic parenting functions other than his incarceration. Had Ms. Bercot been even mildly curious, she would have discovered that Mr. Phillips made multiple attempts to see his son upon his release, was prevented only because of the fallacious domestic violence protective order, was living with a six year old girl and demonstrated adequate parenting skills and emotional bonding, and that he was no threat to his son.⁷³ Instead, Ms. Bercot offered unsupported opinions and reached conclusions based upon no facts and no investigation, other than her disregarded opinion of domestic violence.

The only parent who had been demonstrated to have caused potential harm to the minor child during trial was Ms. Acheson, the mother. Her criminal actions directly impacted the potential well-being and safety of Sebastian and she continued to lie about her actions on that day, even during her testimony at trial.⁷⁴ Yet after she took a couple of classes and talked to a counselor, she is deemed "acceptable" by Ms.

⁷² EX 8 p. 18-19

⁷³ RP 498:1-8.

⁷⁴ RP 144-6; 610:11-19; CP 73.

Bercot. In contrast, Mr. Phillips' convictions involved only the misuse of corporate money. He was never accused of violence nor judged to be a danger to any person. He served his time in prison and completed a rigorous residential drug and alcohol program (a five day per week, seven hours per day program) which included counseling on his past addictions, on the importance of his family, and the need to make better choices.⁷⁵ The only evidence of drug use occurred in 2008; he is post recovery.⁷⁶ However, none of this was sufficient for Ms. Bercot, who again ignored the available evidence and determined that Mr. Phillips needed to undergo a laborious process in order to spend meaningful time with his son.

The futility of the "opinions" of Ms. Bercot are further emphasized by Mr. Phillips' attempt to take courses in domestic violence so he could spend time with his son as ordered in the DVPO. As he testified, he was denied the opportunity to take classes at Wellspring because he could not admit to having committed any act of domestic violence.⁷⁷ Indeed, by rejecting any finding of domestic violence at trial, the court endorsed the catch-22 that Mr. Phillips was placed in by virtue of having to take mandatory DV counseling as a precondition to visits with his son, which he could not actually enroll in because he never committed DV, and was

⁷⁵ RP 458:5-9, 505:20-25, 506:1-9.

⁷⁶ RP 61:18-22.

⁷⁷ RP 531:1-7.

not actually required to take because the trial court found no basis to the DV. Yet, the trial court irrationally entered .191 restrictions on the basis that Mr. Phillips had substantial nonperformance of parenting functions and no emotional ties with his child, essentially awarding the bad faith actor (Ms. Acheson) and punishing the victim (Mr. Phillips).

All of the restrictions found in the Parenting Plan and Findings of Fact are based upon opinions that not only ignore the factual evidence in this case, but ignore the evidence of which parent posed a threat to the child in the past. Mr. Phillips does not seek to interfere with the relationship that Ms. Acheson has with their son; instead, he seeks only to be accorded the same rational basis that has allowed Ms. Acheson to have an unrestricted, unqualified relationship with their son. The .191 restrictions and requirement of supervised visitation for an entire year are not supported by any facts found in the record and should be removed.

Mr. Phillips was ordered to enter a State Certified Domestic Violence Perpetrator's Program by Orders dated September 7, 2012 and May 10, 2013.

This finding of fact is erroneous on its face. The court entered no order on May 10, 2013 that required Mr. Phillips to enter a State Certified Domestic Violence Perpetrator Program. The only order entered on that day by the court pertained to a discovery order. The September 7, 2012 order was language included in the domestic violence protection order, at

which hearing Mr. Phillips defaulted and submitted no response because he was incarcerated.⁷⁸ As noted, the trial court made no findings that any domestic violence had occurred between the parties, despite Ms. Bercot and Ms. Acheson testifying extensively as to how Mr. Phillips had committed domestic violence and was continuing to perpetrate domestic violence.⁷⁹ As already discussed, it would be unjust and a manifest abuse of discretion to enter a .191 finding upon a basis that Mr. Phillips did not follow an order from a court commissioner that the trial court expressly overturned. Thus, the fact that the court entering this finding as a basis under .191 to support that Mr. Phillips' conduct amounted to "substantial nonperformance of parenting functions" was a manifest abuse of discretion.

Mr. Phillips had been "reminded before, during, and after trial of the need for him to attend the Parenting Seminar."

This finding of fact, similarly, has no basis whatsoever in the record and is clearly erroneous. The law requires that each parent take a parenting seminar. RCW 26.12.172. For failure to attend the parenting seminar, the court rules allow the court discretion to impose sanctions or default and / or strike the pleadings of a party. *LSPR* 94.03(f). In addition, King County Local Court Rule LFLR 13(c)(4) states that failure

⁷⁸ RP 470:10-23.

⁷⁹ CP 131.

to comply will preclude presentation of any final order affecting the parenting/residential plan or from allowing the non-complying party to seek affirmative relief until the seminar is completed.

Mr. Phillips testified to taking a parenting seminar while incarcerated, and to sending weekly cards and letters to his son because it was a way to “connect with my family;” at the time he “thought we were a loving family.”⁸⁰ Moreover, Mr. Phillips testified that he was under the understanding that he had no obligation to take the parenting seminar because he had taken it in prison.⁸¹ Indeed, the trial court Judge *herself* entered a finding in her pre-trial order that Mr. Phillips had completed the parenting seminar.⁸² Thus, entering a .191 restriction because Mr. Phillips was “reminded before, during, and after the trial”⁸³ to take the parenting seminar is truly bizarre. The fact that the court entering this finding as a basis under .191 to support that Mr. Phillips’ conduct amounted to “substantial nonperformance of parenting functions” was a manifest abuse of discretion. Moreover, .191 findings are relevant for the purpose of entering appropriate restrictions under the parenting plan. *See* RCW 26.09.191. Since the parenting plan contained no corresponding restriction that Mr. Phillips first take the parenting seminar prior to being

⁸⁰ RP 486:16-25, 487:1-6.

⁸¹ RP 564: 6-21.

⁸² CP 104.

⁸³ CP 132:2.1-2.2.

able to exercise his parental rights, then the basis for the finding is meaningless. Such is the case here as the court, indeed, entered no provision in the Parenting Plan that Mr. Phillips take a parenting seminar.

4. The Trial Court Erred In Entering Restrictions In The Parenting Plan Under Para. 3.10 And In Entering Unilateral Decision Making Under Para. 4.2.

“[U]nder RCW 26.09.187(2)(b)(i), the court shall order sole decision-making authority to one parent when it limits the other parent’s authority under RCW 26.09.191.” *In re Marriage of Mansour*, 126 Wn. App. 1, 11, 106 P.3d 768 (2004). If this Court, on review, finds that Mr. Phillips’s authority should not be limited under RCW 26.09.191 based upon the arguments herein, then the trial court’s entry of restrictions under paragraphs 3.10 and 4.2 of the parenting plan were a manifest abuse of discretion. Under 3.10, even if the court finds Mr. Phillips should follow any after-care provisions of his prior chemical dependency treatment, that itself is simply a condition under the parenting plan, not a basis for a restriction (note that there was no basis in paragraphs 2.1 or 2.2 or the Findings of Fact for a restriction based upon drugs or suspected drug use.) Under 4.2, Mr. Phillips should be afforded the right to participate in joint decision-making.

CONCLUSION

Mr. Phillips respectfully submits that the trial court committed clear error in this case. The decision with respect to child support was contrary to law in that the court entered no findings with respect to why Ms. Acheson's day care costs were "reasonable and necessary" and disregarded the holding of *Fairchild v. Davis*. *Fairchild* held that the standard of proof required to support a finding that day care costs were actually incurred must be much more than a minimal showing. The only evidence at trial in support of day care costs was Ms. Acheson's statement as to what those expenses were. Mr. Phillips did not identify in her bank statements which payments corresponded to the day care costs, did not provide any proof of payment in any form, and did not disclose that she has any hired help in any of her tax returns. In addition, the court entered no findings to justify imputing the respondent's income at the median rate, instead of his last known rate of pay. The statute is clear that the court *shall* impute income according to a specific priority and that if it deviates from this, it must enter specific findings to that effect.

Additionally the Findings of Fact and recommendations in the Parenting Plan are not supported by any of the evidence in this case. The opinions of Ms. Bercot are, as she admitted, not based upon "discernible facts," but upon her understanding of the "context" of the circumstances.

But the standard of proof in courts is far higher than mere “intuition” and such unsupported, frivolous opinions cannot support the trial court’s rulings and findings in this case. Because Ms. Bercot’s recommendations for the graduated, supervised visitation and restrictions under the Parenting Plan were predicated upon her belief that Mr. Phillips committed domestic violence, the court committed clear error by accepting these recommendations while simultaneously rejecting that domestic violence had occurred in this case. Mr. Phillips respectfully requests this Appellate Court provide guidance to the trial court to render a decision that is in accordance with the law and facts of this case.

Dated this 9th day of June, 2014.

/s/ Reed Yurchak

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EXHIBIT "A"

WASHINGTON STATE CHILD SUPPORT SCHEDULE

Including:

- Definitions and Standards
- Instructions
- Economic Table
- Worksheets

Effective Dates:

Definitions & Standards	June 10, 2010
Instructions - only	August 26, 2013
Economic Table	October 1, 2009
Worksheets	July 28, 2013
Worksheets – RDP	July 28, 2013



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WASHINGTON STATE CHILD SUPPORT SCHEDULE DEFINITIONS AND STANDARDS

Definitions

Unless the context clearly requires otherwise, these definitions apply to the standards following this section. RCW 26.19.011.

Basic child support obligation: means the monthly child support obligation determined from the economic table based on the parties' combined monthly net income and the number of children for whom support is owed.

Child support schedule: means the standards, economic table, worksheets and instructions, as defined in chapter 26.19 RCW.

Court: means a superior court judge, court commissioner, and presiding and reviewing officers who administratively determine or enforce child support orders.

Deviation: means a child support amount that differs from the standard calculation.

Economic table: means the child support table for the basic support obligation provided in RCW 26.19.020.

Instructions: means the instructions developed by the Administrative Office of the Courts pursuant to RCW 26.19.050 for use in completing the worksheets.

Standards: means the standards for determination of child support as provided in chapter 26.19 RCW.

Standard calculation: means the presumptive amount of child support owed as determined from the child support schedule before the court considers any reasons for deviation.

Support transfer payment: means the amount of money the court orders one parent to pay to another parent or custodian for child support after determination of the standard calculation and deviations. If certain expenses or credits are expected to fluctuate and the order states a formula or percentage to determine the additional amount or credit on an ongoing basis, the term "support transfer payment" does not mean the additional amount or credit.

Worksheets: means the forms developed by the Administrative Office of the Courts pursuant to RCW 26.19.050 for use in determining the amount of child support.

Application Standards

1. Application of the support schedule: The child support schedule shall be applied:
 - a. in each county of the state;
 - b. in judicial and administrative proceedings under titles 13, 26 and 74 RCW;
 - c. in all proceedings in which child support is determined or modified;
 - d. in setting temporary and permanent support;
 - e. in automatic modification provisions or decrees entered pursuant to RCW 26.09.100; and
 - f. in addition to proceedings in which child support is

determined for minors, to adult children who are dependent on their parents and for whom support is ordered pursuant to RCW 26.09.100.

The provisions of RCW 26.19 for determining child support and reasons for deviation from the standard calculation shall be applied in the same manner by the court, presiding officers and reviewing officers. RCW 26.19.035(1).

2. Written findings of fact supported by the evidence: An order for child support shall be supported by written findings of fact upon which the support determination is based and shall include reasons for any deviation from the standard calculation and reasons for denial of a party's request for deviation from the standard calculation. RCW 26.19.035(2).
3. Completion of worksheets: Worksheets in the form developed by the Administrative Office of the Courts shall be completed under penalty of perjury and filed in every proceeding in which child support is determined. The court shall not accept incomplete worksheets or worksheets that vary from the worksheets developed by the Administrative Office of the Courts. RCW 26.19.035(3).
4. Court review of the worksheets and order: The court shall review the worksheets and the order setting child support for the adequacy of the reasons set forth for any deviation or denial of any request for deviation and for the adequacy of the amount of support ordered. Each order shall state the amount of child support calculated using the standard calculation and the amount of child support actually ordered. Worksheets shall be attached to the decree or order or if filed separately, shall be initialed or signed by the judge and filed with the order. RCW 26.19.035(4).

Income Standards

1. Consideration of all income: All income and resources of each parent's household shall be disclosed and considered by the court when the court determines the child support obligation of each parent. Only the income of the parents of the children whose support is at issue shall be calculated for purposes of calculating the basic support obligation. Income and resources of any other person shall not be included in calculating the basic support obligation. RCW 26.19.071(1).
2. Verification of income: Tax returns for the preceding two years and current paystubs shall be provided to verify income and deductions. Other sufficient verification shall be required for income and deductions which do not appear on tax returns or paystubs. RCW 26.19.071(2).
3. Income sources included in gross monthly income: Monthly gross income shall include income from any source, including: salaries; wages; commissions; deferred compensation; overtime, except as excluded from income in RCW 26.19.071(4)(h); contract-related benefits; income from second jobs except as excluded from income in RCW 26.19.071(4)(h); dividends; interest; trust income; severance pay; annuities; capital gains; pension retirement benefits; workers' compensation; unemployment benefits; maintenance actually received; bonuses; social security benefits; disability insurance benefits;

and income from self-employment, rent, royalties, contracts, proprietorship of a business, or joint ownership of a partnership or closely held corporation. RCW 26.19.071(3).

Veterans' disability pensions: Veterans' disability pensions or regular compensation for disability incurred in or aggravated by service in the United States armed forces paid by the Veterans' Administration shall be disclosed to the court. The court may consider either type of compensation as disposable income for purposes of calculating the child support obligation. See RCW 26.19.045.

4. Income sources excluded from gross monthly income: The following income and resources shall be disclosed but shall not be included in gross income: income of a new spouse or domestic partner or income of other adults in the household; child support received from other relationships; gifts and prizes; temporary assistance for needy families; Supplemental Security Income; general assistance; food stamps; and overtime or income from second jobs beyond forty hours per week averaged over a twelve-month period worked to provide for a current family's needs, to retire past relationship debts, or to retire child support debt, when the court finds the income will cease when the party has paid off his or her debts. Receipt of income and resources from temporary assistance for needy families, Supplemental Security Income, general assistance and food stamps shall not be a reason to deviate from the standard calculation. RCW 26.19.071(4).

VA aid and attendant care: Aid and attendant care payments to prevent hospitalization paid by the Veterans Administration solely to provide physical home care for a disabled veteran, and special compensation paid under 38 U.S.C. Sec. 314(k) through (r) to provide either special care or special aids, or both to assist with routine daily functions shall be disclosed. The court may not include either aid or attendant care or special medical compensation payments in gross income for purposes of calculating the child support obligation or for purposes of deviating from the standard calculation. See RCW 26.19.045.

Other aid and attendant care: Payments from any source, other than veterans' aid and attendance allowance or special medical compensation paid under 38 U.S.C. Sec. 314(k) through (r) for services provided by an attendant in case of a disability when the disability necessitates the hiring of the services or an attendant shall be disclosed but shall not be included in gross income and shall not be a reason to deviate from the standard calculation. RCW 26.19.055.

5. Determination of net income: The following expenses shall be disclosed and deducted from gross monthly income to calculate net monthly income: federal and state income taxes (see the following paragraph); federal insurance contributions act deductions (FICA); mandatory pension plan payments; mandatory union or professional dues; state industrial insurance premiums; court-ordered maintenance to the extent actually paid; up to five thousand dollars per year in voluntary retirement contributions actually made if the contributions show a pattern of contributions during the one-year period preceding the action establishing the child support order unless there is a determination that the contributions were made for the purpose of reducing child support; and normal business expenses and self-employment taxes for self-employed persons. Justification shall be required for any business expense deduction about

which there is a disagreement. Items deducted from gross income shall not be a reason to deviate from the standard calculation. RCW 26.19.071(5).

Allocation of tax exemptions: The parties may agree which parent is entitled to claim the child or children as dependents for federal income tax exemptions. The court may award the exemption or exemptions and order a party to sign the federal income tax dependency exemption waiver. The court may divide the exemptions between the parties, alternate the exemptions between the parties or both. RCW 26.19.100.

6. Imputation of income: The court shall impute income to a parent when the parent is voluntarily unemployed or voluntarily underemployed. The court shall determine whether the parent is voluntarily underemployed or voluntarily unemployed based upon that parent's work history, education, health and age or any other relevant factors. A court shall not impute income to a parent who is gainfully employed on a full-time basis, unless the court finds that the parent is voluntarily underemployed and finds that the parent is purposely underemployed to reduce the parent's child support obligation. Income shall not be imputed for an unemployable parent. Income shall not be imputed to a parent to the extent the parent is unemployed or significantly underemployed due to the parent's efforts to comply with court-ordered reunification efforts under chapter 13.34 RCW or under a voluntary placement agreement with an agency supervising the child. In the absence of records of a parent's actual earnings, the court shall impute a parent's income in the following order of priority:
 - (a) Full-time earnings at the current rate of pay;
 - (b) Full-time earnings at the historical rate of pay based on reliable information, such as employment security department data;
 - (c) Full-time earnings at a past rate of pay where information is incomplete or sporadic;
 - (d) Full-time earnings at minimum wage in the jurisdiction where the parent resides if the parent has a recent history of minimum wage earnings, is recently coming off public assistance, general assistance-unemployable, supplemental security income, or disability, has recently been released from incarceration, or is a high school student;
 - (e) Median net monthly income of year-round full-time workers as derived from the United States bureau of census, current population reports, or such replacement report as published by the bureau of census. (See "Approximate Median Net Monthly Income" table on page 6.)RCW 26.19.071(6).

Allocation Standards

1. Basic child support: The basic child support obligation derived from the economic table shall be allocated between the parents based on each parent's share of the combined monthly net income. RCW 26.19.080(1).
2. Health care expenses: Health care costs are not included in the economic table. Monthly health care costs shall be shared by the parents in the same proportion as the basic support obligation. Health care costs shall include, but not be limited to, medical,

dental, orthodontia, vision, chiropractic, mental health treatment, prescription medications, and other similar costs for care and treatment. RCW 26.19.080(2).

3. Day care and special child rearing expenses: Day care and special child rearing expenses, such as tuition and long distance transportation costs to and from the parents for visitation purposes, are not included in the economic table. These expenses shall be shared by the parents in the same proportion as the basic child support obligation. RCW 26.19.080(3).
4. The court may exercise its discretion to determine the necessity for and the reasonableness of all amounts ordered in excess of the basic child support obligation. RCW 26.19.080(4).

Limitations Standards

1. Limit at 45 percent of a parent's net income: Neither parent's child support obligation owed for all his or her biological or legal children may exceed 45 percent of net income except for good cause shown.
 - a. Each child is entitled to a pro rata share of the income available for support, but the court only applies the pro rata share to the children in the case before the court.
 - b. Before determining whether to apply the 45 percent limitation, the court must consider the best interests of the child(ren) and the circumstances of each parent. Such circumstances include, but are not limited to, leaving insufficient funds in the custodial parent's household to meet the basic needs of the child(ren), comparative hardship to the affected households, assets or liabilities, and any involuntary limits on either parent's earning capacity including incarceration, disabilities, or incapacity.
 - c. Good cause includes, but is not limited to, possession of substantial wealth, child(ren) with day care expenses, special medical need, educational need, psychological need, and larger families. RCW 26.19.065(1).
2. Presumptive minimum support obligation: When a parent's monthly net income is below 125% of the federal poverty guideline, a support order of not less than fifty dollars per child per month shall be entered unless the obligor parent establishes that it would be unjust to do so in that particular case. The decision whether there is a sufficient basis to go below the presumptive minimum payment must take into consideration the best interests of the child(ren) and circumstances of each parent. Such circumstances can include leaving insufficient funds in the custodial parent's household to meet the basic needs of the child(ren), comparative hardship to the affected households, assets or liabilities, and earning capacity. RCW 26.19.065(2)(a).
3. Self-support reserve: The basic support obligation of the parent making the transfer payment, excluding health care, day care, and special child-rearing expenses, shall not reduce his or her net income below the self-support reserve of 125% of the federal poverty level, except for the presumptive minimum payment of fifty dollars per child per month or when it would be unjust to apply the self-support reserve limitation after considering the best interests of the child(ren) and the circumstances of each parent. Such circumstances include, but are not limited to,

leaving insufficient funds in the custodial parent's household to meet the basic needs of the child(ren), comparative hardship to the affected households, assets or liabilities, and earning capacity. This section shall not be construed to require monthly substantiation of income. (See the Self-Support Reserve memorandum on the courts' website www.courts.wa.gov/forms and at www.WashingtonLawHelp.org.) RCW 26.19.065(2)(b).

4. Income above twelve thousand dollars: The economic table is presumptive for combined monthly net incomes up to and including twelve thousand dollars. When combined monthly net income exceeds twelve thousand dollars, the court may exceed the maximum presumptive amount of support upon written findings of fact. RCW 26.19.065(3).

Deviation Standards

1. Reasons for deviation from the standard calculation include but are not limited to the following:
 - a. Sources of income and tax planning: The court may deviate from the standard calculation after consideration of the following:
 - i. Income of a new spouse or new domestic partner if the parent who is married to the new spouse or the parent who is in a domestic partnership with the new domestic partner is asking for a deviation based on any other reason. Income of a new spouse or domestic partner is not, by itself, a sufficient reason for deviation;
 - ii. Income of other adults in the household if the parent who is living with the other adult is asking for a deviation based on any other reason. Income of the other adults in the household is not, by itself, a sufficient reason for deviation;
 - iii. Child support actually received from other relationships;
 - iv. Gifts;
 - v. Prizes;
 - vi. Possession of wealth, including but not limited to savings, investments, real estate holdings and business interests, vehicles, boats, pensions, bank accounts, insurance plans or other assets;
 - vii. Extraordinary income of a child; or
 - viii. Tax planning considerations. A deviation for tax planning may be granted only if child(ren) would not receive a lesser economic benefit due to the tax planning;
 - ix. Income that has been excluded under RCW 26.19.071(4)(h) if the person earning that income asks for a deviation for any other reason. RCW 26.19.075(1)(a)
 - b. Nonrecurring income: The court may deviate from the standard calculation based on a finding that a particular source of income included in the calculation of the basic support obligation is not a recurring source of income. Depending on the circumstances, nonrecurring income may include overtime, contract-related benefits, bonuses or income from second jobs. Deviations for nonrecurring income shall be based on a review of the nonrecurring income received in the previous two calendar years. RCW 26.19.075(1)(b).

- c. **Debt and high expenses:** The court may deviate from the standard calculation after consideration of the following expenses:
 - i. Extraordinary debt not voluntarily incurred;
 - ii. A significant disparity in the living costs of the parents due to conditions beyond their control;
 - iii. Special needs of disabled child(ren); or
 - iv. Special medical, educational or psychological needs of the child(ren).
 - v. Costs anticipated to be incurred by the parents in compliance with court-ordered reunification efforts under chapter 13.34 RCW or under a voluntary placement agreement with an agency supervising the child. RCW 26.19.075(1)(c).

- d. **Residential schedule:** The court may deviate from the standard calculation if the child(ren) spend(s) a significant amount of time with the parent who is obligated to make a support transfer payment. The court may not deviate on that basis if the deviation will result in insufficient funds in the household receiving the support to meet the basic needs of the child or if the child is receiving temporary assistance for needy families. When determining the amount of the deviation, the court shall consider evidence concerning the increased expenses to a parent making support transfer payments resulting from the significant amount of time spent with that parent and shall consider the decreased expenses, if any, to the party receiving the support resulting from the significant amount of time the child spends with the parent making the support transfer payment. RCW 26.19.075(1)(d).

- e. **Children from other relationships:** The court may deviate from the standard calculation when either or both of the parents before the court have children from other relationships to whom the parent owes a duty of support.
 - i. The child support schedule shall be applied to the parents and children of the family before the court to determine the presumptive amount of support.
 - ii. Children from other relationships shall not be counted in the number of children for purposes of determining the basic support obligation and the standard calculation.
 - iii. When considering a deviation from the standard calculation for children from other relationships, the court may consider only other children to whom the parent owes a duty of support. The court may consider court-ordered payments of child support for children from other relationships only to the extent that the support is actually paid.
 - iv. When the court has determined that either or both parents have children from other relationships, deviations under this section shall be based on consideration of the total circumstances of both households. All child support obligations paid, received, and owed for all children shall be disclosed and considered. RCW 26.19.075(1)(e).

- 2. All income and resources of the parties before the court, new spouses or domestic partners, and other adults in the household shall be disclosed and considered as provided. The presumptive amount of support shall be determined according to the child support schedule. Unless specific reasons for deviation are set forth in the written findings of fact and are supported by the evidence, the court shall order each parent to pay the amount of support determined by using the standard calculation. RCW 26.19.075(2).

- 3. The court shall enter findings that specify reasons for any deviation or any denial of a party's request for any deviation from the standard calculation made by the court. The court shall not consider reasons for deviation until the court determines the standard calculation for each parent. RCW 26.19.075(3).
- 4. When reasons exist for deviation, the court shall exercise discretion in considering the extent to which the factors would affect the support obligation. RCW 26.19.075(4).
- 5. Agreement of the parties is not by itself adequate reason for any deviations from the standard calculations. RCW 26.19.075(5).

Post-Secondary Education Standards

- 1. The child support schedule shall be advisory and not mandatory for post-secondary educational support. RCW 26.19.090(1)
- 2. When considering whether to order support for post-secondary educational expenses, the court shall determine whether the child is in fact dependent and is relying upon the parents for the reasonable necessities of life. The court shall exercise its discretion when determining whether and for how long to award post-secondary educational support based upon consideration of factors that include but are not limited to the following: age of the child; the child's needs; the expectations of the parties for their child(ren) when the parents were together; the child(ren)'s prospects, desires, aptitudes, abilities or disabilities; the nature of the post-secondary education sought and the parent's level of education, standard of living and current and future resources. Also to be considered are the amount and type of support that the child would have been afforded if the parents had stayed together. RCW 26.19.090(2).
- 3. The child must enroll in an accredited academic or vocational school, must be actively pursuing a course of study commensurate with the child's vocational goals and must be in good academic standing as defined by the institution. The court-ordered post-secondary educational support shall be automatically suspended during the period or periods the child fails to comply with these conditions. RCW 26.19.090(3).
- 4. The child shall also make available all academic records and grades to both parents as a condition of receiving post-secondary educational support. Each parent shall have full and equal access to the post-secondary education records as provided by statute (RCW 26.09.225). RCW 26.19.090(4).
- 5. The court shall not order the payment of post-secondary educational expenses beyond the child's twenty-third birthday, except for exceptional circumstances, such as mental, physical or emotional disabilities. RCW 26.19.090(5).
- 6. The court shall direct that either or both parents' payments for post-secondary educational expenses are made directly to the educational institution if feasible. If direct payments are not feasible, then the court in its discretion may order that either or both parents' payments are made directly to the child if the child does not reside with either parent. If the child resides with one of the parents, the court may direct that the parent making the support transfer payments make the payments to the child or to the parent who has been receiving the support transfer payments. RCW 26.19.090(6).

WASHINGTON STATE CHILD SUPPORT SCHEDULE INSTRUCTIONS FOR WORKSHEETS

Worksheets:

Fill in the names and ages of only those children whose support is at issue.

Part I: Income

Pursuant to INCOME STANDARD #1: Consideration of all income, "only the income of the parents of the child(ren) whose support is at issue shall be calculated for purposes of calculating the basic support obligation." (See page 1.)

Pursuant to INCOME STANDARD #2: Verification of income, "tax returns for the preceding two years and current paystubs are required for income verification purposes. Other sufficient verification shall be required for income and deductions which do not appear on tax returns or paystubs." (See page 1.)

Gross Monthly Income

Gross monthly income is defined under INCOME STANDARD #3: Income sources included in gross monthly income. (See page 1.)

Income exclusions are defined under INCOME STANDARD #4: Income sources excluded from gross monthly income. (See page 2.) Excluded income must be disclosed and listed in Part VIII of the worksheets.

Monthly Average of Income:

- If income varies during the year, divide the annual total of the income by 12.
- If paid weekly, multiply the weekly income by 52 and divide by 12.
- If paid every other week, multiply the two-week income by 26 and divide by 12.
- If paid twice a month (bi-monthly), multiply the bi-monthly income by 24 and divide by 12.

LINE 1a, Wages and Salaries: Enter the average monthly total of all salaries, wages, contract-related benefits, bonuses, and income from overtime and second jobs that is not excluded from income by RCW 26.19.071(4)(h).

LINE 1b, Interest and Dividend Income: Enter the average monthly total of dividends and interest income.

LINE 1c, Business Income: Enter the average monthly income from self-employment, rent, royalties, contracts, proprietorship of a business, or joint ownership of a partnership or closely held corporation.

LINE 1d, Maintenance Received: Enter the monthly amount of maintenance actually received.

LINE 1e, Other Income: Enter the average monthly total of other income. (Other income includes, but is not limited to: trust income, severance pay, annuities, capital gains, pension retirement benefits, workers compensation, unemployment benefits, social security benefits and disability insurance benefits.)

LINE 1f, Imputed Income: Enter the imputed gross monthly income for a parent who is voluntarily unemployed, underemployed or if you do not have records of a parent's actual earnings. Refer to "INCOME STANDARD #6: Imputation of income." (See page 2.) Impute income using the first method possible based on the information you have in the following order:

Calculate full-time earnings using either:

1. Current rate of pay;
2. Historical rate of pay based on reliable information;
3. Past rate of pay, if current information is incomplete or sporadic; or
4. Minimum wage where the parent lives when the parent has a history of minimum wage or government assistance is recently released from incarceration or is a high school student.

Historical rate of pay information may be available from the Division of Child Support. Use form 18-701: "Request for Income Information for Purposes of Entering a Child Support Order", available online at: <http://www.dshs.wa.gov/dcs/Resources/Forms.asp>

If you impute income using one of the four methods, above, enter the amount in line 1f. Also, in line 26 of the Worksheets, explain which method you used to impute income and how you calculated the amount of imputed income.

If you cannot use any of the above methods, impute the parent's net monthly income using the table below, and enter the appropriate amount for the parent's age and gender on **line 1f and on line 3**. The table, below, shows net income, after deductions. So if you impute using this table, you will not enter any deductions on the worksheet under line 2. Leave lines 2a through 2i blank. For this parent, go to line 4. Also, in line 26 of the Worksheets, explain that net income was imputed using the Approximate Median Net Monthly Income Table.

Approximate Median Net Monthly Income

MALE	age	FEMALE
\$1,832	15-24	\$1,632
\$2,804	25-34	\$2,446
\$3,448	35-44	\$2,693
\$3,569	45-54	\$2,714
\$3,735	55-64	\$2,814
\$4,084	65 +	\$2,960

U.S. Census Bureau, Current Population Survey, 2009 Annual Social and Economic Supplement, Table PINC-01. Selected Characteristics of People 15 Years Old and Over by Total Money Income in 2008, Work Experience in 2008, Race, Hispanic Origin, and Sex, Worked Full Time, Year Round.

[Net income has been determined by subtracting FICA (7.65 percent) and the tax liability for a single person (one withholding allowance).]

LINE 1g, Total Gross Monthly Income: Add the monthly income amounts for each parent (lines 1a through 1f) and enter the totals on line 1g.

Monthly Deductions from Gross Income

Allowable monthly deductions from gross income are defined under INCOME STANDARD #5: Determination of net income. (See page 2.)

Monthly Average of Deductions: If a deduction is annual or varies during the year, divide the annual total of the deduction by 12 to determine a monthly amount.

LINE 2a, Income Taxes: Enter the monthly amount actually owed for state and federal income taxes. (The amount of income tax withheld on a paycheck may not be the actual amount of income tax owed due to tax refund, etc. It is appropriate to consider tax returns from prior years as indicating the actual amount of income tax owed if income has not changed.)

LINE 2b, FICA/Self Employment Taxes: Enter the total monthly amount of FICA, Social Security, Medicare and Self-employment taxes owed.

LINE 2c, State Industrial Insurance Deductions: Enter the monthly amount of state industrial insurance deductions.

LINE 2d, Mandatory Union/Professional Dues: Enter the monthly cost of mandatory union or professional dues.

LINE 2e, Mandatory Pension Plan Payments: Enter the monthly cost of mandatory pension plan payments amount.

LINE 6, Proportional Share of Income: Divide the

LINE 2f, Voluntary Retirement Contributions: Enter the monthly cost of voluntary Retirement Contributions. Divide the amount of the voluntary retirement contribution, up to \$5,000 per year, by 12 to calculate the monthly cost. (For more information regarding limitations on the allowable deduction of voluntary retirement contributions, refer to INCOME STANDARD #5: Determination of net income. See page 2.)

LINE 2g, Maintenance Paid: Enter the monthly amount of maintenance actually paid pursuant to a court order.

LINE 2h, Normal Business Expenses: If self-employed, enter the amount of normal business expenses. (Pursuant to INCOME STANDARD #5: Determination of net income, "justification shall be required for any business expense deduction about which there is a disagreement." See page 2.)

LINE 2i, Total Deductions From Gross Income: Add the monthly deductions for each parent (lines 2a through 2h) and enter the totals on line 2i.

LINE 3, Monthly Net Income: For each parent, subtract total deductions (line 2i) from total gross monthly income (line 1g) and enter these amounts on line 3.

LINE 4, Combined Monthly Net Income: Add the parents' monthly net incomes (line 3) and enter the total on line 4.

LINE 5, Basic Child Support Obligation: In the work area provided on line 5, enter the basic support obligation amount determined for each child. Add these amounts together and enter the total in the box on line 5. (To determine a per child basic support obligation, see the following economic table instructions.)

Economic Table Instructions

To use the Economic Table to determine an individual support amount for each child:

- Locate in the left-hand column the combined monthly net income amount closest to the amount entered on line 4 of Worksheet (round up when the combined monthly net income falls halfway between the two amounts in the left-hand column);
- Locate on the top row the family size for the number of children for whom child support is being determined (when determining family size for the required worksheets, do not include child(ren) from other relationships); and
- circle the two numbers in the columns listed below the family size that are across from the net income. The amount in the "A" column is the basic support amount for a child up to age 11. The amount in the "B" column is the basic support amount for a child 12 years of age or older.

Part III: Health Care, Day Care, and Special

monthly net income for each parent (line 3) by the combined monthly net income (line 4) and enter these amounts on line 6. (The entries on line 6 when added together should equal 1.00.)

Part II: Basic Child Support Obligation

LINE 7, Each Parent's Basic Child Support Obligation without consideration of low income limitations: Multiply the total basic child support obligation (amount in box on line 5) by the income share proportion for each parent (line 6) and enter these amounts on line 7. (The amounts entered on line 7 added together should equal the amount entered on line 5.)

LINE 8, Calculating low income limitations: Fill in only those that apply:

To calculate the low-income limitation standards in lines 8b and 8c, you will need to know the self-support reserve amount, which is 125 % of the current federal poverty guideline. As of January 20, 2011, self-support reserve is \$1,134. The guideline and self-support reserve change roughly annually. To check the current self-support reserve amount go to the courts' web site at: www.courts.wa.gov, or go to www.WashingtonLawHelp.org. Enter the self-support reserve amount in the space provided in line 8. (For more information, see Limitation Standard #2 on page 3 of the Definitions and Standards.)

8a. Is combined net income less than \$1,000? If combined net monthly income on line 4 is less than \$1,000, enter each parent's presumptive support obligation of \$50 per child. Do not enter an amount on line 8a if combined income on line 4 is more than \$1,000.

8b. Is monthly net income less than self-support reserve? For each parent whose monthly net income on line 3 is less than the self support reserve, enter the parent's presumptive support obligation of \$50 per child. Do not use this box for a parent whose net income on line 3 is greater than the self-support reserve.

8c. Is monthly net income equal to or more than self-support reserve? Subtract the self-support reserve from line 3 and enter this amount or enter \$50 per child whichever is greater. Do not use this box if the amount is greater than the amount in line 7.

LINE 9, Each parent's basic child support obligation after calculating applicable limitations: For each parent, enter the lowest amount from line 7, 8a – 8c, but not less than the presumptive \$50 per child.

LINE 11d, Other Special Expenses: Identify any other special expenses and enter the average monthly cost of

Child Rearing Expenses

Pursuant to ALLOCATION STANDARD #4: "the court may exercise its discretion to determine the necessity for and the reasonableness of all amounts ordered in excess of the basic child support obligation." (See page 2.)

Pursuant to ALLOCATION STANDARD #2: Health care expenses and #3: Day care and special child rearing expenses, health care, day care, and special child rearing expenses shall be shared by the parents in the same proportion as the basic support obligation. (See page 2.) NOTE: The court order should reflect that health care, day care and special child rearing expenses not listed should be apportioned by the same percentage as the basic child support obligation.

Monthly Average of Expenses: If a health care, day care, or special child rearing expense is annual or varies during the year, divide the annual total of the expense by 12 to determine a monthly amount.

Health Care Expenses

LINE 10a, Monthly Health Insurance Premiums Paid For Child(ren): List the monthly amount paid by each parent for health care insurance for the child(ren) of the relationship. (When determining an insurance premium amount, do not include the portion of the premium paid by an employer or other third party and/or the portion of the premium that covers the parent or other household members.)

LINE 10b, Uninsured Monthly Health Care Expenses Paid For Child(ren): List the monthly amount paid by each parent for the child(ren)'s health care expenses not reimbursed by insurance.

LINE 10c, Total Monthly Health Care Expenses: For each parent add the health insurance premium payments (line 10a) to the uninsured health care payments (line 10b) and enter these amounts on line 10c.

LINE 10d, Combined Monthly Health Care Expenses: Add the parents' total health care payments (line 10c) and enter this amount on line 10d.

Day Care and Special Expenses

LINE 11a, Day Care Expenses: Enter average monthly day care costs.

LINE 11b, Education Expenses: Enter the average monthly costs of tuition and other related educational expenses.

LINE 11c, Long Distance Transportation Expenses: Enter the average monthly costs of long distance travel incurred pursuant to the residential or visitation schedule.

Part VI: Standard Calculation/Presumptive Transfer Payment

each.

LINE 11e, Total Day Care and Special Expenses: Add the monthly expenses for each parent (lines 11a through 11d) and enter these totals on line 11e.

LINE 12, Combined Monthly Total of Day Care and Special Expenses: Add the parents' total expenses (line 11e) and enter this total on line 12.

LINE 13, Total Health Care, Day Care and Special Expenses: Add the health care expenses (line 10d) to the combined monthly total of day care and special expenses (line 12) and enter this amount on line 13.

LINE 14, Each Parent's Obligation For Health Care, Day Care And Special Expenses: Multiply the total health care, day care, and special expense amount (line 13) by the income proportion for each parent (line 6) and enter these amounts on line 14.

LINE 15, Gross Child Support Obligation: For each parent, add the basic child support obligation (line 9) to the obligation for extraordinary health care, day care and special expenses (line 14). Enter these amounts on line 15.

Part V: Child Support Credits

Child support credits are provided in cases where parents make direct payments to third parties for the cost of goods and services which are included in the standard calculation support obligation (e.g., payments to an insurance company or a day care provider).

LINE 16a, Monthly Health Care Expenses Credit: Enter the total monthly health care expenses amounts from line 10c for each parent.

LINE 16b, Day Care And Special Expenses Credit: Enter the total day care and special expenses amounts from line 11e for each parent.

LINE 16c, Other Ordinary Expense Credit: If approval of another ordinary expense credit is being requested, in the space provided, specify the expense and enter the average monthly cost in the column of the parent to receive the credit. (It is generally assumed that ordinary expenses are paid in accordance with the child(ren)'s residence. If payment of a specific ordinary expense does not follow this assumption, the parent paying for this expense may request approval of an ordinary expense credit. This credit is discretionary with the court.)

LINE 16d, Total Support Credits: For each parent, add the entries on lines 16 a through c and enter the totals on line 16d.

LINE 17, For Each Parent: subtract the total support credits (line 16d) from the gross child support obligation (line 15) and enter the resulting amounts on line 17. If the amount is less than \$50 per child for either parent, then enter the presumptive minimum support obligation of \$50 per child, instead of the lower amount.

Part VII: Additional Informational Calculations

LINE 18, 45% of Each Parent's Net Income From Line 3: For each parent, multiply line 3 by .45. Refer to LIMITATIONS Standards #1: Limit at 45% of a parent's net income.

LINE 19, 25% of Each Parent's Basic Support Obligation from Line 9: For each parent, multiply line 9 by .25.

Part VIII: Additional Factors for Consideration

Pursuant to INCOME STANDARD #1: Consideration of all income: "all income and resources of each parent's household shall be disclosed and considered by the court when the court determines the child support obligation of each parent." (See page 1.)

LINE 20 a-h, Household Assets: Enter the estimated present value of assets of the household.

LINE 21, Household Debt: Describe and enter the amount of liens against assets owned by the household and/or any extraordinary debt.

Other Household Income

LINE 22a, Income of Current Spouse or Domestic Partner: If a parent is currently married to or in a domestic partnership with someone other than the parent of the child(ren) for whom support is being determined, list the name and enter the income of the present spouse or domestic partner.

LINE 22b, Income of Other Adults In The Household: List the names and enter the incomes of other adults residing in the household.

LINE 22c, Gross income from overtime or from second jobs the party is asking the court to exclude per INCOME STANDARD #4, Income sources excluded from gross monthly income (see page 2).

LINE 22d, Income of Children: If the amount is considered to be extraordinary, list the name and enter the income of children residing in the home.

LINE 22e, Income from Child Support: List the name of the child(ren) for whom support is received and enter the amount of the support income. Do not include the child(ren) for whom support is being determined.

LINE 22f, Income from Assistance Programs: List the program and enter the amount of any income received from assistance programs. (Assistance programs include, but are not limited to: temporary assistance for needy families, SSI, general assistance, food stamps and aid and attendance allowances.)

LINE 22g, Other Income: Describe and enter the amount of any other income of the household. (Include income from gifts and prizes on this line.)

LINE 23, Nonrecurring Income: Describe and enter the amount of any income included in the calculation of gross income (LINE 1g) which is nonrecurring. (Pursuant to DEVIATION STANDARD #1b: Nonrecurring income, “depending on the circumstances, nonrecurring income may include overtime, contract-related benefits, bonuses or income from second jobs.” See page 3.)

LINE 24, Child Support Owed, Monthly, for Biological or Legal Child(ren). List the names and ages and enter the amount of child support owed for other children, (not the children for whom support is being determined). Is the support paid? Check Yes or No.

LINE 25, Other Child(ren) Living in Each Household: List the names and ages of children, other than those for whom support is being determined, who are living in each household.

LINE 26, Other Factors For Consideration: In the space provided list any other factors that should be considered in determining the child support obligation. (For information regarding other factors for consideration, refer to DEVIATION STANDARDS. See page 3.) Also use this space to explain how you calculated the income and deductions in lines 1 and 2.

Nonparental Custody Cases: When the children do not reside with either parent, the household income and resources of the children’s custodian(s) should be listed on line 26.

**WASHINGTON STATE CHILD SUPPORT SCHEDULE
ECONOMIC TABLE**

MONTHLY BASIC SUPPORT OBLIGATION PER CHILD

(KEY: A = AGE 0-11 B = AGE 12-18)

Combined Monthly Net Income	One Child Family		Two Children Family		Three Children Family		Four Children Family		Five Children Family	
	A	B	A	B	A	B	A	B	A	B
For income less than \$1,000, the obligation is based upon the resources and living expenses of each household. Minimum support shall not be less than \$50 per child per month except when allowed by RCW 26.19.065(2).										
1000	220	272	171	211	143	177	121	149	105	130
1100	242	299	188	232	157	194	133	164	116	143
1200	264	326	205	253	171	211	144	179	126	156
1300	285	352	221	274	185	228	156	193	136	168
1400	307	379	238	294	199	246	168	208	147	181
1500	327	404	254	313	212	262	179	221	156	193
1600	347	428	269	333	225	278	190	235	166	205
1700	367	453	285	352	238	294	201	248	175	217
1800	387	478	300	371	251	310	212	262	185	228
1900	407	503	316	390	264	326	223	275	194	240
2000	427	527	331	409	277	342	234	289	204	252
2100	447	552	347	429	289	358	245	303	213	264
2200	467	577	362	448	302	374	256	316	223	276
2300	487	601	378	467	315	390	267	330	233	288
2400	506	626	393	486	328	406	278	343	242	299
2500	526	650	408	505	341	421	288	356	251	311
2600	534	661	416	513	346	428	293	362	256	316
2700	542	670	421	520	351	435	298	368	259	321
2800	549	679	427	527	356	440	301	372	262	324
2900	556	686	431	533	360	445	305	376	266	328
3000	561	693	436	538	364	449	308	380	268	331
3100	566	699	439	543	367	453	310	383	270	334
3200	569	704	442	546	369	457	312	386	272	336
3300	573	708	445	549	371	459	314	388	273	339
3400	574	710	446	551	372	460	315	389	274	340
3500	575	711	447	552	373	461	316	390	275	341
3600	577	712	448	553	374	462	317	391	276	342
3700	578	713	449	554	375	463	318	392	277	343
3800	581	719	452	558	377	466	319	394	278	344
3900	596	736	463	572	386	477	326	404	284	352
4000	609	753	473	584	395	488	334	413	291	360
4100	623	770	484	598	404	500	341	422	298	368
4200	638	788	495	611	413	511	350	431	305	377
4300	651	805	506	625	422	522	357	441	311	385
4400	664	821	516	637	431	532	364	449	317	392
4500	677	836	525	649	438	542	371	458	323	400
4600	689	851	535	661	446	552	377	467	329	407
4700	701	866	545	673	455	562	384	475	335	414
4800	713	882	554	685	463	572	391	483	341	422
4900	726	897	564	697	470	581	398	491	347	429
5000	738	912	574	708	479	592	404	500	353	437
5100	751	928	584	720	487	602	411	509	359	443
5200	763	943	593	732	494	611	418	517	365	451
5300	776	959	602	744	503	621	425	525	371	458
5400	788	974	612	756	511	632	432	533	377	466
5500	800	989	622	768	518	641	439	542	383	473
5600	812	1004	632	779	527	651	446	551	389	480
5700	825	1019	641	791	535	661	452	559	395	488
5800	837	1035	650	803	543	671	459	567	401	495
5900	850	1050	660	815	551	681	466	575	407	502
6000	862	1065	670	827	559	691	473	584	413	509
6100	875	1081	680	839	567	701	479	593	418	517
6200	887	1096	689	851	575	710	486	601	424	524
6300	899	1112	699	863	583	721	493	609	430	532
6400	911	1127	709	875	591	731	500	617	436	539
6500	924	1142	718	887	599	740	506	626	442	546
6600	936	1157	728	899	607	750	513	635	448	554
6700	949	1172	737	911	615	761	520	643	454	561
6800	961	1188	747	923	623	770	527	651	460	568
6900	974	1203	757	935	631	780	533	659	466	575
7000	986	1218	767	946	639	790	540	668	472	583
7100	998	1233	776	958	647	800	547	677	478	591
7200	1009	1248	785	971	654	809	554	684	484	598
7300	1021	1262	794	982	662	818	560	693	490	605
7400	1033	1276	803	993	670	828	567	701	496	613
7500	1044	1290	812	1004	677	837	574	709	502	620
7600	1055	1305	821	1015	685	846	581	718	507	627
7700	1067	1319	830	1026	692	855	587	726	513	634
7800	1078	1333	839	1037	700	865	594	734	519	642
7900	1089	1346	848	1048	707	874	601	742	525	649
8000	1100	1360	857	1059	714	883	607	750	531	656
8100	1112	1374	865	1069	722	892	614	759	536	663
8200	1123	1387	874	1080	729	901	620	767	542	670
8300	1134	1401	882	1091	736	910	627	775	548	677
8400	1144	1414	891	1101	743	919	633	783	553	684
8500	1155	1428	899	1112	750	928	640	791	559	691
8600	1166	1441	908	1122	758	936	646	799	565	698

8700	1177	1454	916	1133	765	945	653	807	570	705
8800	1187	1467	925	1143	772	954	659	815	576	712
8900	1198	1481	933	1153	779	962	665	822	582	719
9000	1208	1493	941	1163	786	971	672	830	587	726
9100	1219	1506	949	1173	792	980	678	838	593	732
9200	1229	1519	957	1183	799	988	684	846	598	739
9300	1239	1532	966	1193	806	996	691	854	604	746
9400	1250	1545	974	1203	813	1005	697	861	609	753
9500	1260	1557	982	1213	820	1013	703	869	614	759
9600	1270	1570	989	1223	826	1021	709	877	620	766
9700	1280	1582	997	1233	833	1030	716	884	625	773
9800	1290	1594	1005	1242	840	1038	722	892	631	779
9900	1300	1606	1013	1252	846	1046	728	900	636	786
10000	1310	1619	1021	1262	853	1054	734	907	641	793
10100	1319	1631	1028	1271	859	1062	740	915	647	799
10200	1329	1643	1036	1281	866	1070	746	922	652	806
10300	1339	1655	1044	1290	872	1078	752	930	657	812
10400	1348	1666	1051	1299	879	1086	758	937	662	819
10500	1358	1678	1059	1308	885	1094	764	944	668	825
10600	1367	1690	1066	1318	891	1102	770	952	673	832
10700	1377	1701	1073	1327	898	1109	776	959	678	838
10800	1386	1713	1081	1336	904	1117	782	966	683	844
10900	1395	1724	1088	1345	910	1125	788	974	688	851
11000	1404	1736	1095	1354	916	1132	794	981	693	857
11100	1413	1747	1102	1363	922	1140	799	988	698	863
11200	1422	1758	1110	1371	928	1147	805	995	703	869
11300	1431	1769	1117	1380	934	1155	811	1002	708	876
11400	1440	1780	1124	1389	940	1162	817	1009	714	882
11500	1449	1791	1131	1398	946	1170	822	1017	719	888
11600	1458	1802	1138	1406	952	1177	828	1024	723	894
11700	1467	1813	1145	1415	958	1184	834	1031	728	900
11800	1475	1823	1151	1423	964	1191	839	1038	733	906
11900	1484	1834	1158	1431	970	1199	845	1045	738	912
12000	1492	1844	1165	1440	975	1206	851	1051	743	919

The economic table is presumptive for combined monthly net incomes up to and including twelve thousand dollars. When combined monthly net income exceeds twelve thousand dollars, the court may exceed the maximum presumptive amount of support upon written findings of fact.

EXHIBIT "B"

Washington State Child Support Schedule Worksheets

[x] Proposed by the Father

Mother Eileen Acheson
County King

Father Mark Phillips
Case No. 12-3-01157-9-SEA

Child(ren) and Age(s): Sebastian Phillips, age 2		
Part I: Income (see Instructions, page 6)		
	Father	Mother
1. Gross Monthly Income		
a. Wages and Salaries	\$	\$
b. Interest and Dividend Income	\$	\$
c. Business Income	\$	\$
d. Maintenance Received	\$	\$
e. Other Income	\$	\$3,400.00
f. Imputed Income	\$2,500.00	\$
g. Total Gross Monthly Income (add lines 1a through 1f)	\$2,500.00	\$3,400.00
2. Monthly Deductions from Gross Income		
a. Income Taxes (Federal and State)	\$264.38	\$175.42
b. FICA (Soc.Sec.+Medicare)/Self-Employment Taxes	\$227.50	\$265.84
c. State Industrial Insurance Deductions	\$	\$
d. Mandatory Union/Professional Dues	\$	\$
e. Mandatory Pension Plan Payments	\$	\$
f. Voluntary Retirement Contributions	\$	\$
g. Maintenance Paid	\$	\$
h. Normal Business Expenses	\$	\$
i. Total Deductions from Gross Income (add lines 2a through 2h)	\$491.88	\$441.26
3. Monthly Net Income (line 1g minus 2i)	\$2008.12	\$2,958.74
4. Combined Monthly Net Income (add father's and mother's monthly net incomes from line 3)	\$4,966.86	
5. Basic Child Support Obligation (enter total amount in box →)		
Child #1 <u>726.00</u> Child #3 _____ Child #5 _____ Child #2 _____ Child #4 _____	\$726.00	

6. Proportional Share of Income (each parent's net income from line 3 divided by line 4)	.40	.60
Part II: Basic Child Support Obligation (see Instructions, page 7)		
7. Each Parent's Basic Child Support Obligation without consideration of low income limitations. (Multiply each number on line 6 by line 5.)	\$293.55	\$432.45
8. Calculating low income limitations: Fill in only those that apply.		
Self-Support Reserve: (125% of the Federal Poverty Guideline.)	\$1,197.00	
a. Is Combined Net Income Less Than \$1,000? If yes, for each parent enter the presumptive \$50 per child.	\$	\$
b. Is Monthly Net Income Less Than Self-Support Reserve? If yes, for that parent enter the presumptive \$50 per child.	\$	\$
c. Is Monthly Net Income Greater Than Self-Support Reserve? If yes, for each parent subtract the self-support reserve from line 3. If that amount is less than line 7, then enter that amount or the presumptive \$50 per child, whichever is greater.	\$	\$
9. Each parent's basic child support obligation after calculating applicable limitations. For each parent, enter the lowest amount from line 7, 8a - 8c, but not less than the presumptive \$50 per child.	\$293.55	\$432.45
Part III: Health Care, Day Care, and Special Child Rearing Expenses (see Instructions, page 8)		
10. Health Care Expenses	Father	Mother
a. Monthly Health Insurance Premiums Paid for Child(ren)	\$	\$
b. Uninsured Monthly Health Care Expenses Paid for Child(ren)	\$	\$
c. Total Monthly Health Care Expenses (line 10a plus line 10b)	\$	\$
d. Combined Monthly Health Care Expenses (add father's and mother's totals from line 10c)	\$	
11. Day Care and Special Expenses		
a. Day Care Expenses	\$	\$
b. Education Expenses	\$	\$
c. Long Distance Transportation Expenses	\$	\$
d. Other Special Expenses (describe)	\$	\$
	\$	\$
	\$	\$
e. Total Day Care and Special Expenses (add lines 11a through 11d)	\$	\$
12. Combined Monthly Total Day Care and Special Expenses (add father's and mother's day care and special expenses from line 11e)	\$	
13. Total Health Care, Day Care, and Special Expenses (line 10d plus line 12)	\$	
14. Each Parent's Obligation for Health Care, Day Care, and Special Expenses (multiply each number on line 6 by line 13)	\$0	\$0
Part IV: Gross Child Support Obligation		
15. Gross Child Support Obligation (line 9 plus line 14)	\$293.55	\$432.45
Part V: Child Support Credits (see Instructions, page 9)		
16. Child Support Credits		

a. Monthly Health Care Expenses Credit	\$	\$
b. Day Care and Special Expenses Credit	\$	\$
c. Other Ordinary Expenses Credit (describe)		
	\$	\$
d. Total Support Credits (add lines 16a through 16c)	\$	\$
Part VI: Standard Calculation/Presumptive Transfer Payment (see Instructions, page 9)		
17. Standard Calculation (line 15 minus line 16d or \$50 per child whichever is greater)	\$293.55	\$432.45
Part VII: Additional Informational Calculations		
18. 45 % of each parent's net income from line 3 (.45 x amount from line 3 for each parent)	\$903.60	\$1,331.10
19. 25% of each parent's basic support obligation from line 9 (.25 x amount from line 9 for each parent)	\$73.38	\$108.11
Part VIII: Additional Factors for Consideration (see Instructions, page 9)		
20. Household Assets (List the estimated present value of all major household assets.)	Father's Household	Mother's Household
a. Real Estate	\$	\$
b. Investments	\$	\$
c. Vehicles and Boats	\$	\$
d. Bank Accounts and Cash	\$	\$
e. Retirement Accounts	\$	\$
f. Other (describe)	\$	\$
	\$	\$
21. Household Debt (List liens against household assets, extraordinary debt.)		
	\$	\$
	\$	\$
	\$	\$
	\$	\$
22. Other Household Income		
a. Income Of Current Spouse or Domestic Partner (if not the other parent of this action)		
Name _____	\$	\$
Name _____	\$	\$
b. Income Of Other Adults In Household		
Name _____	\$	\$
Name _____	\$	\$
c. Gross income from overtime or from second jobs the party is asking the court to exclude per Instructions, page 8	\$	\$

CERTIFICATE OF SERVICE

On June 9th, 2014, I caused a true and correct copy of the previously attached pleadings to be delivered by process of service via U.S. Postal Service, hand delivery, and/or e-mail to the following:

THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
Division I, via hand-delivery
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Seattle, WA 98101-4170

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Dated at Seattle, Washington, this 9th day of June, 2014.

/s/ Reed Yurchak

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