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No. 72063-5

COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON

In re the Marriage of:

GILLIAN K. HOPSON,

Respondent,

v.

ERIC A. BEN-ARTZI,

Appellant.

APPEAL FROM THE SUPERIOR COURT
FOR WHATCOM COUNTY
THE HONORABLE DEBORRA GARRETT

BRIEF OF RESPONDENT

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2014 NOV 17 PM 11:36
COURT OF APPEALS
STATE OF WASHINGTON

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I. INTRODUCTION

Appellant Dr. Eric Ben-Artzi violated nearly every order entered while this action was pending. He violated a temporary restraining order prohibiting the parties from disposing of any assets by draining the parties' retirement account of more than \$130,000. He violated two orders compelling discovery by refusing to provide information regarding the potential proceeds from SEC and OSHA "whistleblower" actions commenced during the marriage that were the parties' most significant asset. Even though the trial court continued the trial date to accommodate him, Dr. Ben-Artzi then failed to appear at trial.

On appeal, Dr. Ben-Artzi nevertheless challenges nearly every decision made by the trial court. Having never sought a stay, he has failed to comply with the final orders and left the United States to avoid enforcement. This Court should dismiss this appeal or affirm the trial court's decision in its entirety, and award the wife her attorney fees.

II. RESTATEMENT OF FACTS

A. The parties married in 2006. Dr. Ben-Artzi has a Ph.D. and worked on Wall Street. Ms. Hopson was a school teacher until their older son's birth, and then stayed home to care for their children.

The parties met in May 2005. (RP 62) Respondent Gillian Hopson was working towards her Masters degree in education and appellant Eric Ben-Artzi was working towards his Ph.D. in mathematics at the Courant Institute at New York University. (RP 62, 89; Ex. 23) They married on September 23, 2006, and have two sons born in September 2007 and June 2011. (RP 61, 63, 67-68) Ms. Hopson filed a petition to dissolve the parties' marriage in Whatcom County Superior Court on March 26, 2013. (CP 4-9; RP 61)

Ms. Hopson worked as a high school English teacher in the Bronx after marriage. (RP 63) When their older son was born, the parties agreed that Ms. Hopson stay home and care for him, as both had been raised by stay-at-home mothers and it was "very important" to them that their children be raised in the same "familiar" fashion. (RP 63-64) By the time of trial in April 2014, Ms. Hopson was working as a substitute teacher in Ohio, although

she hoped to find a permanent position the following school year, and anticipated earning \$45,120 annually. (CP 247; RP 109-10)

Dr. Ben-Artzi is an Israeli citizen and formerly served in the Israeli Navy. (RP 89) During the marriage, Dr. Ben-Artzi worked on Wall Street, first as a trader at Citigroup, then later in the “back office” of Goldman Sachs as a strategist. (RP 64; Ex. 23) In 2010, Dr. Ben-Artzi started working at Deutsche Bank as a Vice President in their risk analysis division, where he earned a base salary of \$160,000, plus bonuses. (RP 65, 81; Ex. 4)

B. In 2011, Dr. Ben-Artzi filed a “whistleblower” complaint with the SEC. After he was fired, Dr. Ben-Artzi filed a complaint with OSHA for wrongful termination.

While employed at Deutsche Bank, Dr. Ben-Artzi discovered what he concluded were fraudulent valuations of the Bank’s credit derivatives portfolio. (RP 65-66; Ex. 12) In March 2011, Dr. Ben-Artzi reported his concerns to his supervisors and through the Deutsche Bank internal whistleblower hotline. (RP 66-67; Exs. 4, 12) After failing to receive a “satisfactory answer” from the Bank, Dr. Ben-Artzi contacted the Securities Exchange Commission (SEC), which started an investigation. (RP 66-67, Exs. 4, 12).

The parties' younger son was born in June 2011. (RP 67-68) Dr. Ben-Artzi took paternity leave from the Bank starting June 30, 2011, and returned to work October 19, 2011. (RP 67-68; Ex. 4) On November 4, 2011, Dr. Ben-Artzi filed a complaint with the SEC. (Exs. 4, 12) Deutsche Bank fired Dr. Ben-Artzi on November 7, 2011. (RP 67-68; Ex. 4)

On May 1, 2012, Dr. Ben-Artzi filed a complaint against Deutsche Bank for wrongful termination with the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA), claiming discrimination under Section 806 of the Sarbanes-Oxley Act. (RP 68; Exs. 4, 11) Dr. Ben-Artzi sought back and front pay; economic damages for injury to his career, professional reputation, and earning capacity; non-economic damages for mental and emotional distress; and punitive damages. (RP 68; Ex. 11)

Dr. Ben-Artzi also sought a monetary award for his whistleblower claim through the SEC. (RP 68) The SEC's Office of the Whistleblower is authorized to award money to eligible individuals who come forward with original information that leads to an SEC enforcement action in which over \$1 million in sanctions is ordered. (CP 122, 130, 134-35) The range for these awards is

between 10% and 30% of the money collected. (CP 122, 130, 134-35)

Dr. Ben-Artzi “devoted [] a great deal of time and money and energy” into his whistleblower claims during the marriage. (RP 77) Using community funds, Dr. Ben-Artzi hired attorneys and travelled extensively to Washington, D.C. and New York City. (RP 76-79) Dr. Ben-Artzi made the cases his “first priority,” over pursuing other employment to support the family. (RP 77, 80-82) Dr. Ben-Artzi apparently reasoned that because he wanted to “spend a great deal of time on his cases, [] employment would have made that more difficult.” (RP 80)

The amount of time, money, and effort Dr. Ben-Artzi spent on these actions after the parties separated is unclear. Despite discovery requests to Dr. Ben-Artzi for the status of the whistleblower actions, he provided “very little information.” (RP 71-72) (*infra* § II.D.4) What is clear is that Dr. Ben-Artzi continued to make very little effort after separation to find full-time employment to support the family. (RP 81-82)

The SEC and OSHA actions were still pending at the time of trial. (RP 68; CP 121-28; Exs. 11, 12)

C. The family moved to Washington State in 2012. After the parties separated, Ms. Hopson and the children were allowed to relocate to Ohio in 2013.

The parties moved to Bellingham in January 2012 to “create a new start,” so Dr. Ben-Artzi could “start a new career outside of Wall Street.” (RP 70) Dr. Ben-Artzi chose Washington State in part because he believed their tax laws were more favorable for any award from his whistleblower claims. (CP 13)

The parties were not happy in Bellingham. (CP 19) They lived in a rental home, with no nearby friends or relatives, and were financially strained, living off savings and Dr. Ben-Artzi’s unemployment compensation. (CP 14) Although Dr. Ben-Artzi was purportedly working on a consulting business from home, he made little to no effort to procure clients and continued to focus on his SEC and OSHA claims, traveling frequently to Washington, D.C. and New York City to meet with lawyers. (CP 17)

By June 2012, the parties were discussing divorce. (CP 20; RP 84-86) If the parties divorced, Dr. Ben-Artzi agreed that Ms. Hopson and their sons could relocate to Granville, Ohio, where Ms. Hopson grew up and where her parents have a home. (CP 13, 15, 20; RP 84-85) The family had previously lived in Granville between February 2009 and September 2010, while Dr. Ben-Artzi was still

working on Wall Street, but when the parties feared that his employment was tenuous due to the financial crisis. (CP 14-15; RP 84) During that time, Dr. Ben-Artzi continued to work in New York but visited the family in Ohio on alternating weekends. (CP 15)

In anticipation of divorce, Ms. Hopson consulted with an attorney in Ohio while she and the children were visiting her parents in the summer of 2012. (CP 20; RP 85) But then Dr. Ben-Artzi threatened to send a sheriff to retrieve the children from Ohio, demanding that Ms. Hopson return to Washington State to attend marriage counseling. (CP 20; RP 85) Dr. Ben-Artzi promised that if counseling failed, he would support Ms. Hopson's relocation with the children to Ohio. (CP 20; RP 85)

By the end of 2012, counseling failed and the parties agreed to divorce. (CP 20; RP 85-86) Dr. Ben-Artzi withdrew his promise to allow Ms. Hopson and the children to relocate. (CP 20; RP 85) Instead, he attempted to bargain with her, telling Ms. Hopson that he would "allow" the relocation if she "earned his goodwill" by waiving all of her claims to the potential proceeds of the SEC and OSHA actions, and agreeing to take only what she "already had in [her] bank account." (CP 20; RP 85-86)

Ms. Hopson filed a petition to dissolve the parties' marriage on March 26, 2013, in Whatcom County Superior Court. (CP 6) Ms. Hopson was still hopeful that Dr. Ben-Artzi would abide by his earlier agreement to allow her to relocate with the children, and found a position teaching high school English that required her to be in Ohio by June to start teaching on July 1, 2013. (See CP 14) Ms. Hopson sought an order allowing the children to relocate to Ohio, which was granted over Dr. Ben-Artzi's objection. (CP 12, 33) The trial court found that Dr. Ben-Artzi had previously agreed to the relocation, and that his current "opposition seems intended to block the Mother's efforts for his personal benefit instead of the children's best interests. The Father's opposition may be intended to gain financial or tactical advantage in the dissolution." (CP 34, 35)

D. Dr. Ben-Artzi became "very vindictive" and refused to comply with court orders or provide discovery.

- 1. Dr. Ben-Artzi disrupted the children's schedule and threatened to return to Israel, causing Ms. Hopson to fear that he would take the children with him.**

Dr. Ben-Artzi secured an adjunct position teaching mathematics at Ohio State University in Newark, Ohio, and followed Ms. Hopson and the children to Ohio, then began

“repeatedly disrupting the children’s schedule and school.” (RP 82, 83, 110) On August 2, 2013, Dr. Ben-Artzi violated the temporary parenting plan by attempting to remove the children from daycare even though they were not scheduled to be with him. (RP 110-12) Ms. Hopson had not realized that Dr. Ben-Artzi was in town, as she believed he was relocating to Ohio later in the month, and had not yet listed him as an approved person to remove the children from daycare. (RP 111-12) The daycare providers had never met Dr. Ben-Artzi, and asked to see the parenting plan, but Dr. Ben-Artzi dishonestly stated that there was “no [] plan” and threatened to call the police, making the daycare providers “very uncomfortable” and “scar[ing]” Ms. Hopson. (RP 111, 113)

Despite purportedly moving to Ohio to be close to the children, Dr. Ben-Artzi became “very unreliable” and regularly cancelled visits with the children. (RP 90) Dr. Ben-Artzi ignored Ms. Hopson during exchanges, and refused to speak to her when she attempted to communicate with him about the children. (RP 90) Ms. Hopson described Dr. Ben-Artzi as having become a “different person,” and “very vindictive.” (RP 90, 91)

Ms. Hopson became concerned that Dr. Ben-Artzi, an Israeli citizen and the nephew of Prime Minister Benjamin Netanyahu,

would take the children to Israel and refuse to return them. (RP 86-87, 89) Dr. Ben-Artzi had already threatened to go to Israel to avoid enforcement of child support orders. (RP 86-87) He told Ms. Hopson that “a mother in Israel would have no right, a mother who is not Jewish, as I am, would have no rights in Israel compared to a Jewish father with the connections that he has.” (RP 87) Dr. Ben-Artzi’s threats frightened Ms. Hopson, who testified, “I worry that he will use that power to somehow hurt me in a variety of ways, including taking the children, hiding money, I just – it was to me an assertion of his power because of his stature there and my lack thereof.” (RP 88)

Dr. Ben-Artzi refused to comply with orders to an “alarming” degree (RP 90), and Ms. Hopson believed it was a “point of pride” for Dr. Ben-Artzi to “buck the system.” (RP 91) Ms. Hopson believed that Dr. Ben-Artzi would remove the children from the United States to avoid enforcement of dissolution orders. (RP 91-92) Ms. Hopson believed that Dr. Ben-Artzi would continue to try to hurt her “financially just in every way he could through the legal system, and I don’t see why that would stop if he somehow had our children in Israel and had more power and more access to the court system.” (RP 91) Ms. Hopson testified that it would be harmful if

the children were retained in Israel as they had never been away from her, their primary caretaker, for more than two days. (RP 93-94)

2. Dr. Ben-Artzi unilaterally drained over \$100,000 from the parties' IRA in violation of court orders.

Both parties took an approximately equal amount of funds from a joint account before separating. (RP 86, 132-33) Dr. Ben-Artzi implies in his brief that only Ms. Hopson removed funds (App. Br. 26, 33), but in fact Ms. Hopson withdrew \$40,000 only *after* Dr. Ben-Artzi had unilaterally removed a similar amount. (RP 86, 132-33) Ms. Hopson used the funds she withdrew to support the children and herself after separation. (RP 86, 134-35)

The temporary restraining order entered on March 26, 2013 prohibited both parties from “transferring, removing, concealing, damaging, or in any way disposing of any property except in the usual course of business or for the necessities of life as agreed in writing by the parties.” (CP 10) Dr. Ben-Artzi violated this order by unilaterally withdrawing funds from the parties' IRA, which held nearly \$140,000 when the dissolution action was filed. (RP 97-98, 132; Ex. 1) This IRA was the parties' “only substantial asset,” as

their only other assets were personal property and the potential SEC and OSHA proceeds. (RP 97; CP 351)

On March 10, 2014, Ms. Hopson moved for contempt because Dr. Ben-Artzi violated the temporary restraining order. (CP 350-53) Ms. Hopson also obtained an *ex parte* order restraining Dr. Ben-Artzi from removing any more funds from the IRA, and restraining him from disposing of any funds previously held in the IRA that he might still retain. (CP 350-53, 372-73) On March 21, 2014, the trial court found Dr. Ben-Artzi in contempt and found his “actions were willful violations of the court orders, is in bad faith and constitute intransigence.” (CP 118) The trial court ordered Dr. Ben-Artzi to provide an accounting of the withdrawn funds, entered judgment for \$100,733, the amount withdrawn, and awarded Ms. Hopson attorney fees of \$2,200. (CP 116-20) To date, Dr. Ben-Artzi has neither provided an accounting nor paid the judgment.

Ms. Hopson later discovered that Dr. Ben-Artzi had actually withdrawn a total of \$119,300 by the time the contempt order was entered, including an additional \$8,000 that was withdrawn within a week of entry of the order restraining further withdrawals. (RP

97-98, 137-39; Ex. 1) By the time of trial, there was only \$15,009.26 left in the IRA. (RP 98; Ex. 1)

3. Dr. Ben-Artzi refused to pay child support, forcing Ms. Hopson to garnish his wages.

A temporary child support order was entered on October 31, 2013, requiring Dr. Ben-Artzi to pay monthly child support of \$1,929, starting August 1, 2013. (CP 262-74) The only support paid in 2013 was garnished from Dr. Ben-Artzi's wages at Ohio State University. (RP 134-35) Not long after the garnishment, Dr. Ben-Artzi "lost" his employment. (RP 82-83) Ms. Hopson believed he lost his job purposely, to avoid garnishment. (RP 82-83) Ms. Hopson also believed that Dr. Ben-Artzi was not actively seeking full-time employment to keep his income artificially low to support his claims with OSHA. (RP 82-83)

When denying Dr. Ben-Artzi's request to reduce his temporary child support obligation, the trial court found that the "husband is now unemployed because of actions and choices he made [by telling his employer that he was looking for other higher paid work] and I don't think that can be used as basis to reduce or impute his income at a lower rate at this time. That's – I just don't

think that the law here and I think husband is in the position he's in by his own doing and no one else's." (CP 114)

4. Dr. Ben-Artzi refused to provide adequate discovery on his SEC and OSHA claims.

Dr. Ben-Artzi was not employed at the time of trial and it appeared that he remained focused on pursuing his claims with the SEC and OSHA. In November 2013, Ms. Hopson asked the court to strike the trial date because Dr. Ben-Artzi had failed to provide any discovery about the effort, time, or money spent on these claims after separation. (CP 333) The trial court struck the trial date and found that Dr. Ben-Artzi's "failure to answer discovery has extended past discovery cut-off dates in the August 5, 2013 Order Compelling Discovery. The discovery sought by [Ms. Hopson] is essential for her preparation of the case. [Ms. Hopson] would be harmed if she were unable to obtain full and complete discovery in a timely manner, which has not occurred in this matter." (CP 341) The trial court ordered Dr. Ben-Artzi to provide full and complete responses to Ms. Hopson's discovery requests by January 30, 2014. (CP 342)

In March 2014, Ms. Hopson moved for contempt because Dr. Ben-Artzi failed to provide any discovery by January 30, 2014, as

previously ordered. (CP 350) Dr. Ben-Artzi also failed to appear at his scheduled deposition on March 18, 2014. (CP 385)

After Ms. Hopson filed her motion for contempt, Dr. Ben-Artzi provided a “fraction” of the requested information, which was “wholly inadequate.” (CP 352) On appeal, Dr. Ben-Artzi claims that he “has used percentages from the award to enlist partners, acquire key evidence, and finance the costs and expenses of travel, contracts, and insurance.” (App. Br. 22) But he never disclosed any of these arrangements prior to trial. Instead, when asked to produce any records regarding financial arrangements he may have made with third parties for the SEC and OSHA actions, he provided nothing. (CP 397) Further, when asked for details on any financial arrangements, he simply confirmed the existence of agreements but failed to provide the names of the third parties or the dates and terms of any agreements. (CP 403-04)

On March 21, 2014, the trial court found Dr. Ben-Artzi in contempt for failing to provide “full and complete responses” to Ms. Hopson’s discovery requests. (CP 117) The trial court found that Dr. Ben-Artzi only “produced some discovery to [Ms. Hopson]. The responses were a fraction of what was required, were not correctly identified, were not under oath or dated, and an extensive amount

of documents were missing or unanswered.” (CP 376) The trial court also found that this discovery “is essential for [Ms. Hopson]’s preparation of the case. [] [Dr. Ben-Artzi]’s actions have been in bad faith and constitute intransigence.” (CP 376) The trial court ordered Dr. Ben-Artzi to provide “full and complete” discovery within 5 days, and pay a “daily monetary sanction of \$250 for each day” he fails to produce discovery as ordered. (CP 120, 376) Still, Dr. Ben-Artzi provided no further discovery.

E. Dr. Ben-Artzi failed to appear at trial in April 2014. The trial court entered final orders after allowing him to submit written objections to its oral ruling.

Trial was scheduled for April 22, 2014 before Whatcom County Superior Court Judge Deborra Garrett. Because Dr. Ben-Artzi had still not provided full and complete discovery, the trial court granted Ms. Hopson’s motion to exclude “any evidence that was the subject of [her] discovery requests, which [Dr. Ben-Artzi] did not answer.” (CP 166) The trial court found that Dr. Ben-Artzi’s refusal to provide full and complete discovery was “willful, in bad faith, and constitutes intransigence.” (CP 165)

Dr. Ben-Artzi failed to appear on the morning of trial. Instead, he sent an email to the bailiff claiming he was still in Ohio and had had a “health crisis” and could not appear, but that he

would travel to Washington the next day. (RP 3) The trial court was reluctant to grant a continuance because “a continuance of this matter would not be reasonable in light of its procedural history and also in light of the best interest of all parties, including the children, in a final resolution of this matter.” (RP 35) Nevertheless, the trial court continued the trial one day and allowed Dr. Ben-Artzi to testify by telephone from Ohio, based on his assurance that he would be available. (RP 4, 34)

The following morning, Dr. Ben-Artzi appeared briefly by telephone. (RP 47) Before the trial commenced, Dr. Ben-Artzi asked if he could call the court back in a “few minutes,” after he located his medication. (RP 48-49) When he failed to call back within the ten minute break granted, the trial court allowed the matter to proceed with Ms. Hopson’s testimony, noting that it would allow Dr. Ben-Artzi to join the trial if he called back. (RP 56) Dr. Ben-Artzi never called back, and instead sent an email at 1:04 p.m., claiming he had been in a “minor accident” while on his way to pick up his medication. (RP 131) The trial continued in Dr. Ben-Artzi’s absence, and concluded that afternoon. (RP 131-32)

The trial court issued its oral ruling at the end of the trial. The trial court granted Ms. Hopson’s request for an order

restraining Dr. Ben-Artzi from travelling internationally with the children. (RP 162-63) The trial court found Dr. Ben-Artzi was a “flight risk with the children,” that Dr. Ben-Artzi has “extensive contacts and influential family members” in Israel, and that Dr. Ben-Artzi “has exhibited an extreme disregard for court orders, discovery rules, and his legal and financial duties to the community. [Dr. Ben-Artzi] is likely to violate any court orders to permit travel. If he did so it would be harmful to the children and cause [Ms. Hopson] to incur substantial attorneys fees and delay to obtain the children’s return to the United States. For these reasons, and because it is in the children’s best interests, [Dr. Ben-Artzi] should be prohibited from international travel with the children.” (CP 225-26)

The trial court awarded Ms. Hopson the funds remaining in the IRA that Dr. Ben-Artzi had drawn down, approximately \$15,000. (RP 158) The trial court upheld the earlier judgment against Dr. Ben-Artzi for the funds previously withdrawn, and ordered that any other funds removed by Dr. Ben-Artzi would be awarded to him as his share of the community property. (RP 158) However, the trial court ordered Dr. Ben-Artzi to immediately transfer the remaining IRA balance to Ms. Hopson, and if he failed

to do so, it would enter a judgment to compensate Ms. Hopson for the full amount of the withdrawn funds. (RP 158)

The trial court ordered Dr. Ben-Artzi to pay monthly child support of \$1,778. (CP 239) The trial court imputed income to Dr. Ben-Artzi at \$100,000, finding it was a “reliable historical rate of pay” and a “modest amount to impute” “given his historic earning levels and given the income potential of people in his industry.” (CP 238; RP 164) In addition to child support, the trial court awarded Ms. Hopson three years of maintenance of \$3,000 per month for the first year, and \$2,500 per month for the final two years. (RP 165)

The trial court awarded Ms. Hopson fees for Dr. Ben-Artzi’s intransigence. (RP 158) The trial court had reviewed the whole record, and found that the fees incurred by Ms. Hopson were much greater than necessary due to Dr. Ben-Artzi’s lack of cooperation. (RP 158)

The trial court provided a transcript of its oral ruling to Dr. Ben-Artzi, and allowed him to submit written objections before final orders were entered. (RP 156) On May 7, 2014, Dr. Ben-Artzi submitted written objections. (CP 170-215) The trial court entered final orders on May 21, 2014, including a \$33,576 judgment

representing the remaining amount taken by Dr. Ben-Artzi from the IRA, because he failed to transfer the IRA to Ms. Hopson as previously ordered. (CP 219, 228, 237, 252)

F. Dr. Ben-Artzi remains in contempt of all the orders he appeals.

In entering its final orders, the trial court found that the “Husband has a pattern of willful disregard for court orders. He has been found in contempt of court twice. He has knowingly and intentionally failed to comply with court rules and court orders for production of discovery and preservation of marital assets. He has had court sanctions and discovery sanctions imposed against him. He has repeatedly been ordered to pay the Wife’s attorney fees.” (Finding of Fact (FF) 3.8, CP 225)

Dr. Ben-Artzi’s “willful disregard for court orders” continued after the final orders were entered, as he refused to transfer assets awarded to Ms. Hopson in the decree (CP 279-81), and failed to pay court-ordered child support and maintenance. (CP 282-83) On July 24, 2014, the trial court found Dr. Ben-Artzi in contempt, and ordered that he purge his contempt by complying with the court orders. (CP 314-15) The trial court set a review hearing for August 21, 2014. (CP 315)

After the contempt order was entered, Dr. Ben-Artzi fled the United States and apparently moved to England. (CP 322) Referring to the contempt proceeding, Dr. Ben-Artzi claimed he “had to leave the country, because things are happening fast.” (CP 322)

Dr. Ben-Artzi did not appear at the August 21, 2014 review hearing (CP 320), and the trial court found that he remained in contempt as he had still not complied with the final orders. (CP 319) The trial court found that Dr. Ben-Artzi “may have fled the United States due to his contempt of court” (CP 319), and ordered him to disclose his new address as one of the conditions of purging his contempt. (CP 320) Another review hearing was scheduled for September 30, 2014. (CP 320)

Dr. Ben-Artzi did not appear at the September 30, 2014 review hearing, did not comply with the final orders, and did not disclose his new address. (CP 411-14) The trial court found that Dr. Ben-Artzi remains in contempt, and issued a warrant for his arrest for his “failure to appear in court as ordered several times and for his continued contempt of court for his ongoing and extensive willful violation of court orders.” (CP 414)

III. MOTION TO DISMISS

A party may include a motion in a brief, which if granted, would preclude hearing the case on the merits. RAP 10.4(d); RAP 17.4(d). This Court should dismiss this appeal, because without seeking a stay, appellant has refused to comply with orders he challenges on appeal, and has now fled the jurisdiction to avoid enforcement. *See Pike v. Pike*, 24 Wn.2d 735, 742, 167 P.2d 401 (1946).

In *Pike*, our Supreme Court dismissed the mother's appeal of an order that gave custody of the parties' children to the father. The mother had fled the state with the children and refused to disclose their whereabouts, making enforcement of the order impossible. The Court likened the situation to the "well determined rule in criminal cases [] that he who flees the jurisdiction waives his right to appeal" and ordered the appeal dismissed unless the mother returned the children to their father in accordance with the custody decree within 10 days. *Pike*, 24 Wn.2d at 742-43.

Likewise here, appellant has not complied with the orders he challenges, and has fled the country to avoid enforcement. This Court should dismiss the appeal unless appellant brings himself current in all of his court-ordered obligations.

IV. ARGUMENT

A. The trial court properly imposed foreign travel restrictions after finding the father was a “flight risk with the children.”

“A trial court wields broad discretion when fashioning a permanent parenting plan.” *Katare v. Katare*, 175 Wn.2d 23, 35, ¶ 22, 283 P.3d 546 (2012), *cert. denied*, 133 S.Ct. 889 (2013). Parenting decisions will not be reversed unless manifestly unreasonable or based on untenable grounds or reasons. *See Marriage of Jacobson*, 90 Wn. App. 738, 743, 954 P.2d 297, *rev. denied*, 136 Wn.2d 1023 (1998) (*citing Marriage of Littlefield*, 133 Wn.2d 39, 52, 940 P.2d 1362 (1997)).

The trial court has authority to limit a parent’s residential time, including restrictions on foreign travel, if it finds a parent’s conduct is “adverse to the best interests of the child.” RCW 26.09.191(3)(g); *Katare*, 175 Wn.2d at 36, ¶ 22. When there is “evidence sufficient to persuade a fair-minded person that [a parent] pose[s] a risk of abduction,” the trial court is justified in imposing foreign travel restrictions on that parent’s residential time. *Katare*, 175 Wn.2d at 38, ¶ 26. The trial court can consider certain “risk factors” in assessing whether there is a risk of abduction, including “whether the parent has strong ties to another

country,” which would allow him to easily relocate; “whether the parent has refused to cooperate with the other parent or the court;” “whether the parent feels alienated from the legal system;” and “whether the parent has financial reasons to stay in the area.” *Katare*, 175 Wn.2d at 41, ¶ 33.

Here, based on the evidence presented, the trial court determined that the father was a “flight risk with the children,” finding that he has “exhibited an extreme disregard for court orders” and that he would “likely violate any court order to permit travel.” (FF 3.8, CP 225-26) The trial court also found that the father has “extensive contacts and influential family members” in Israel, where he could take the children, and that if he were to unilaterally remove the children from the United States “it would be harmful to the children and cause the wife to incur substantial attorney fees and delay to obtain the children’s return to the United States.” (FF 3.8, CP 225-26)

Although the father assigns error to these findings, he does not argue that substantial evidence does not support them. Therefore, these findings are verities on appeal. *Marriage of Raskob*, ___ Wn. App. ___, ¶ 7, 334 P.3d 30, 34 (Jul. 21, 2014). Even if the father had adequately challenged these findings, there is

substantial evidence to support them. The mother testified that the father had previously threatened to abscond to Israel to avoid court orders. (RP 86-92) The father's consistent violation of court orders was "alarming," and the mother testified that it appeared to be a "point of pride" for him to "buck the system." (RP 90-91) The mother testified that the father had become "very vindictive" as the dissolution action progressed, and she believed that he would take the children to Israel just to "hurt" her. (RP 88, 91) There was also evidence that the father remained unemployed, and based on his skills could work anywhere. (RP 83; CP 17)

This evidence was more than sufficient to support the trial court's order restraining the father's foreign travel with the children. In *Katara*, 175 Wn.2d 23, our Supreme Court affirmed an order imposing travel restrictions on the father's residential time, when the father previously threatened to abduct the children to India, where he was a citizen and had family. The father refused to cooperate with the mother, and accused her of lying and abuse of the children. The father also "plainly felt disenfranchised by what he called a 'biased' legal system." 175 Wn.2d at 34, ¶ 17. The trial court in *Katara* found that the father's "pattern of abusive, controlling, punishing behavior put the children at risk of being

used as the tools to continue this conduct,” which the Supreme Court held justified the travel restrictions imposed on the father’s residential time. 175 Wn.2d at 38, ¶ 26.

The appellant claims that the evidence in *Katara* is “the lower limit [] needed to impose a restriction on international travel,” and unless the facts here match those in *Katara*, the trial court could not have imposed foreign travel restrictions. (App. Br. 9) But “every family law case is unique. Each family faces different challenges, and trial court judges are responsible for crafting orders and plans that take those challenges into account.” *Marriage of Chandola*, 180 Wn.2d 632, 663, ¶ 74, 327 P.3d 644 (2014) (*Owens, dissenting*). “Parenting plans are individualized decisions that depend upon a wide variety of factors, including culture, family history, the emotional stability of the parents and children, finances, and any of the other factors that could bear upon the best interests of the children.” *Parentage of Jannot*, 149 Wn.2d 123, 127, 65 P.3d 664 (2003).

It is not dispositive that Israel, unlike India, is a signatory to the Hague Convention. In light of the trial court’s finding that the father “is likely to violate any court order to permit travel” (FF 3.8, CP 226), that the mother might be provided with “mandatory,

summary proceedings” if the father failed to return the children from Israel (App. Br. 9) is not a basis to allow foreign travel. This is particularly true when the trial court found that any delay in returning the children to the United States would be “harmful” to them. (FF 3.8, CP 226)

It does not matter that the father did not specifically include the children in his threat to go to Israel to avoid enforcement of court orders. (App. Br. 9) As the trial court found, and the father does not dispute, he has already shown “extreme disregard” for court orders, and if allowed to travel internationally with the children he is “likely” to violate the order and not return the children. (FF 3.8, CP 225-26)

The father wrongly claims that he has only violated discovery and financial orders. (App. Br. 10) The father violated the temporary parenting plan by attempting to unilaterally remove the children from daycare, and regularly violated the temporary parenting plan by not exercising his residential time with the children. *See Matter of J.R.H.*, 83 Wn. App. 613, 620-21, 922 P.2d 206 (1996) (a parent may be found in contempt of a parenting plan for failing to exercise his residential time).

Finally, simply because the father was restrained from travelling internationally with the children, does not mean the trial court disregarded the children's culture. (App. Br. 9) The trial court clearly considered "cultural factors" by ordering the children to be with the father overnight for all Jewish holidays. (CP 230)

Under the facts of this case, the trial court imposing foreign travel restrictions was not an abuse of discretion.

B. The trial court properly awarded the wife half of any net proceeds from the SEC and OSHA claims, and 100% of the value of the withdrawn funds from the community IRA.

Trial courts have broad discretion in the distribution of property and liabilities. *Marriage of Brewer*, 137 Wn.2d 756, 769, 976 P.2d 102 (1999); RCW 26.09.080. "The trial court is in the best position to assess the assets and liabilities of the parties and determine what is 'fair, just and equitable under all the circumstances.'" *Brewer*, 137 Wn.2d at 769. A trial court's property distribution will not be reversed absent a showing of a manifest abuse of discretion. *Brewer*, 137 Wn.2d at 769.

1. The trial court properly characterized and distributed the potential proceeds from the SEC and OSHA claims.

The potential proceeds from the SEC and OSHA actions were properly before the court for division, and were not merely an “expectancy.” (App. Br. 11-14) *See Estate of Duxbury*, 175 Wn. App. 151, 161, ¶ 16, 304 P.3d 480 (2013) (citing *Marriage of Estes*, 84 Wn. App. 586, 590, 929 P.2d 500 (1997); *Marriage of Brown*, 100 Wn.2d 729, 737–39, 675 P.2d 1207 (1984); *Marriage of Griswold*, 112 Wn. App. 333, 344, 48 P.3d 1018 (2002), *rev. denied*, 148 Wn.2d 1023 (2003). “Enforceable contract rights and contingent future interests, such as lawsuit proceeds and fee arrangements, are all property interests subject to characterization as separate or community property for distribution purposes.” *Duxbury*, 175 Wn. App. at 161, ¶ 16 (addressing the potential proceeds of a *qui tam* action).

The husband challenges the trial court’s characterization of any proceeds related to “emotional damages,” “punitive damages,” and “front pay.” (App. Br. 14-18) But the trial court recognized the separate property component to any award (*See* FF 2.9, CP 221; RP 161), but nevertheless found that “based on all the circumstances of this case, including Husband’s failure to pay Wife as required by

prior Orders of this Court, [] a fair allocation of net litigation proceeds is 50%/50%,” regardless of character. (CP 253-54) This decision was well within the trial court’s discretion, as “all property, both separate and community, is before the court.” *Brewer*, 137 Wn.2d at 766. Separate property is not “entitled to special treatment” and can be awarded to the other spouse. *Marriage of Larson & Calhoun*, 178 Wn. App. 133, 140, ¶ 16, 313 P.3d 1228 (2013), *rev. denied*, 180 Wn.2d 1011 (2014).

In making its decision, the trial court acknowledged that “the marital community has expended substantial funds, time, effort, labors, toil, talent, etc., sufficient to create onerous title as community property in the whistle blower proceeds (OSHA, SEC awards, etc.).” (FF 3.8, CP 225) While the husband claims that he also expended efforts after separation to support the SEC and OSHA actions (App. Br. 23-25), there is no evidence of such efforts. The wife sought this information in discovery, and the husband failed to provide it. Therefore, based on the evidence before it, the trial court properly determined that all efforts towards these actions were made by the community. *See Marriage of Janovich*, 30 Wn. App. 169, 171, 632 P.2d 889 (burden is on spouse seeking to

establish a separate interest in community property to prove separate property contribution), *rev. denied*, 95 Wn.2d 1028 (1981).

Lundquist v. Lundquist, 923 P.2d 42 (AK, 1996) does not support the husband's claim that any punitive damages would be the husband's separate property. (App. Br. 15-16) In fact, the Alaska court rejected a "proposed rule that punitive damages are always the separate property of the spouse receiving them" in *Lundquist*, 923 P.2d at 50. Instead, the Alaska court adopted the rule that "punitive damages can be partially marital and partially separate, or even entirely one or the other," the character depends on "who suffered the compensable injury." *Lundquist*, 923 P.2d at 51. In this case, it was the community that suffered the injury, because the husband was terminated during the marriage and the community suffered from that termination.

Even if the trial court did mischaracterize the net proceeds, as the husband concedes, the "trial court will be affirmed unless the reasoning of the court indicates (1) that the property division was significantly influenced by the characterization and (2) that it is not clear that the court would have divided the property in the same way in the absence of the mischaracterization." (App. Br. 16, *citing Marriage of Shannon*, 55 Wn. App. 137, 142, 777 P.2d 8 (1989))

Here, there is no evidence that the trial court was motivated by the character of property in dividing. Instead, it is clear that the trial court intended to make a fair and equitable division of the property regardless of character, as contemplated by *Stachofsky v. Stachofsky*, 90 Wn. App. 135, 147, 951 P.2d 346 (declining remand due to the trial court’s mischaracterization of stock because it was “clear that the court would have made the same division regardless of the mischaracterization.”), *rev. denied*, 136 Wn.2d 1010 (1998). That the character of property was not a controlling factor in the trial court’s decision is evidenced by the fact that the trial court found that the husband had a separate property interest in any proceeds related to his “emotional distress” and any post-separation lost wages, but nevertheless awarded the wife half of all of the net proceeds. (FF 2.9, CP 221; CP 253)

The husband claims that the trial court was “clearly influenced by the characterization of the property because she considered expert testimony on that issue and discussed it in her tentative oral ruling.” (App. Br. 17) But the trial court had to consider this information in order to have the character of property “in mind,” before dividing the property. *Shannon*, 55 Wn. App. at 142; *Brewer*, 137 Wn.2d at 766. (See RP 149 (Wife’s trial counsel):

“We are trying to concede and be clear that we recognize there may be a separate property component [], and I don’t see any harm in identifying those as a separate property interest [], but then the Court still makes an equitable distribution in the decree.”)

The trial court also properly ordered the husband to bear any “indirect litigation expenses” alone, and that the proceeds divided between the parties should only be reduced by “direct litigation costs.” (CP 226-27, 255) The trial court included in “direct litigation costs:” “attorneys fees for his attorneys Thad Guyer and Jordan Thomas; fees paid to experts who testified or were identified in discovery as testifying experts; court reporter expenses for transcription necessary in the litigation; and any other expenses directly related to the litigation and agreed by the parties.” (CP 226) In other words, the trial court made the husband responsible for any expenses for attorneys, experts, or third parties, who were not previously disclosed to the wife or agreed upon. In doing so, the trial court recognized the inequity of imposing agreements on the wife made by the husband after separation without her involvement. This is especially true when the husband failed to disclose the terms of any agreements that he unilaterally entered after the parties’ separation.

2. The trial court properly considered the husband's waste of community assets, in awarding the wife the value of the funds unilaterally withdrawn by the husband from the community IRA.

The trial court may consider a spouse's waste or concealment of assets in distributing the parties' assets. *Marriage of Wallace*, 111 Wn. App. 697, 708, 45 P.3d 1131 (2002), *rev. denied*, 148 Wn.2d 1011 (2003). RCW 26.09.080 does not limit the court's ability to consider one spouse's breach of fiduciary duty to the community in determining an appropriate distribution of assets; the "marital misconduct" that a court may not consider is limited to "immoral or physically abusive conduct within the marital relationship." *Marriage of Steadman*, 63 Wn. App. 523, 528, 821 P.2d 59 (1991); *see also Wallace*, 111 Wn. App. at 708. The trial court can consider a spouse's "gross fiscal improvidence" or "squandering of marital assets" in making a fair and equitable distribution of the parties' assets and liabilities. *Steadman*, 63 Wn. App. at 528. That is precisely what the trial court did in this case.

The trial court found that the "husband has committed waste in this matter by his violation of the court's *Temporary Restraining Order* entered on March 26, 2013. The Husband improperly absconded with almost all of the parties' only retirement asset when

he liquidated more than \$120,000 of a community IRA.” (FF 3.8, CP 225) As the husband acknowledges, he waived any challenge to the \$100,733 judgment awarded to the wife in the March 23, 2014 contempt order. (App. Br. 25-26) *See Arnold v. Nat'l Union of Marine Cooks & Stewards Ass'n*, 41 Wn 2d 22, 28, 246 P.2d 1107 (1952) (adjudications of contempt are final appealable orders).

The husband's only challenge on appeal is to the additional judgment of \$33,576 for the remaining funds he thereafter removed. The husband could have avoided the judgment and retained nearly \$20,000 that he had already taken, simply by transferring whatever funds remained in the account to the wife. (See RP 158) As the trial court warned, if the husband failed to do so, it would enter a judgment to compensate the wife for the full amount withdrawn. (RP 158) This Court should not consider the husband's challenge to this judgment, because he invited any error by failing to transfer the funds to the wife. “The invited error doctrine prohibits a party from setting up an error below and then complaining of it on appeal.” *Marriage of Morris*, 176 Wn. App. 893, 900, ¶ 15, 309 P.3d 767 (2013).

The husband's claim that the judgment was “inequitable” because the wife had also withdrawn over \$40,000 from a joint

account prior to separation and was “never required to pay back any share of that to Dr. Ben-Artzi” (App. Br. 26) is baseless. The wife testified that both parties withdrew similar amounts from the joint account (RP 86, 132-33). There was no need for her to “pay back” the husband, and her withdrawal of those funds was not “similar” to the husband’s unilateral withdrawal of funds from the IRA in violation of a restraining order.

C. The trial court properly imputed income to the father in an amount that he could earn based on his education and experience.

A trial court’s award of child support, including its imputation of income to a voluntarily unemployed or underemployed parent, is reviewed for an abuse of discretion. *Marriage of Shui and Rose*, 132 Wn. App. 568, 588, ¶ 35, 125 P.3d 180 (2005), *rev. denied*, 158 Wn.2d 1017 (2006). Trial court decisions regarding child support will seldom be changed on appeal; a parent who challenges such decisions must show that the trial court manifestly abused its discretion, and when there is no abuse of discretion, the trial court’s decision will be upheld. *Marriage of Booth*, 114 Wn.2d 772, 776, 791 P.2d 519 (1990); *see DewBerry v. George*, 115 Wn. App. 351, 367, 62 P.3d 525, *rev.*

denied, 150 Wn.2d 1006 (2003) (affirming trial court's decision imputing income to father).

The trial court properly found the father was voluntarily underemployed and imputed annual income at \$100,000 for purposes of child support. (CP 238) While the father claims that he is not "voluntarily" underemployed, he concedes that income should be imputed to him for purposes of establishing support. (See App. Br. 26-27, 29) The trial court was not required to impute income to the father "commensurate with an adjunct professor position" that he only briefly held while the dissolution action was pending. (App. Br. 29) Instead in imputing income, the trial court properly considered the father's "historic earning levels" and his "income potential." (RP 164) RCW 26.19.071 (6)(b) (the trial court should consider the parent's "historical rate of pay" in imputing income); See *DewBerry v. George*, 115 Wn. App. 351, 362, 62 P.3d 525 (2003).

In *DewBerry*, the father had a history of executive sales and marketing jobs, but at the time of trial he was working part-time at UPS, and pursuing a new career as a longshoreman. 115 Wn. App. at 366-67. This Court held that it was "reasonable and appropriate" for the trial court to impute income based on the salary levels the

father had previously earned, instead of his current earnings at UPS, or what he could earn full-time as a longshoreman. *DewBerry*, 115 Wn. App. at 368.

The discretion that the trial court exercised in this case is similar to that properly exercised by the trial court in *DewBerry*. In *DewBerry*, this court affirmed the trial court's decision imputing income to the husband in an amount between his past income of \$55,000 and his actual income of \$10,400. 115 Wn. App. at 367. Likewise here, the trial court imputed income to the father in an amount between his past income of \$160,000 and his more recent income of \$35,000, in an amount that it found he could earn as a mathematician based on his education, experience, and abilities. (RP 81; CP 38-40; Ex. 24) While the father claims that he can no longer find employment in the financial sector (App. Br. 27), mathematicians "work in a variety of sectors, including energy, transportation, and IT. Mathematicians have historically been thought of as academics [], but now they do so much more – they're hired in the public and the private sector." (Ex. 24)

Finally, *Cunningham v. Reliable Concrete Pumping, Inc.*, 126 Wn. App. 222, 230-31, 108 P.3d 147 (2005) does not support the father's claim that the mother is judicially estopped from asking

the trial court to impute income to the father simply because she acknowledged his poor job prospects when she sought to relocate. (App. Br. 30) In *Cunningham*, this Court held that a worker was judicially estopped from pursuing a personal injury action against his former employer when he failed to list the personal injury claim on his bankruptcy schedule. 126 Wn. App. at 230, ¶ 16. This Court held that the worker's later attempt to pursue a personal injury claim was inconsistent with his earlier claim in the bankruptcy court that he had no "contingent and unliquidated claims of every nature, including counterclaims of the debtor." *Cunningham*, 126 Wn. App. at 229, ¶ 11. This Court held that the bankruptcy court had "accepted" the worker's prior inconsistent position by giving the worker a complete discharge of debts. *Cunningham*, 126 Wn. App. at 233, ¶ 14.

Here, in support of her request to relocate, the mother claimed that the father could also move to Ohio, because he was then working for himself, and was not otherwise employed due to his "whistleblower status." (CP 17) This is not inconsistent with her position a year later at trial, asking the court to impute income to the father because he was still voluntarily unemployed. The mother did not ask the court to impute income to the father at the amount

he earned in the financial sector before his whistleblower status. Instead, the mother asked the court to impute income to the father in the amount that a “midlevel mathematician” could earn, even though the father is “far above” midlevel as he went to the “most prestigious school in the country in applied mathematics” and “has extensive connections.” (RP 108) Even if it were an “inconsistent position,” the mother did not benefit from her earlier assertion regarding the father’s job prospects nor did the court accept this assertion as a reason to allow her to relocate, because the court found that the father “stipulated that he could move to Ohio.” (CP 35)

The trial court properly imputed income to the father in establishing child support for the parties’ two sons.

D. The trial court properly awarded maintenance, required the husband to provide life insurance to secure his court-ordered obligations, and awarded fees to the wife for the husband’s intransigence.

1. The trial court properly awarded maintenance to the wife, whose earnings are less than half what the husband could earn.

As the husband acknowledges, a trial court’s decision awarding maintenance is discretionary and will not be disturbed on appeal absent a showing that the trial court abused its discretion.

(App. Br. 32) *Marriage of Luckey*, 73 Wn. App. 201, 209-10, 868 P.2d 189 (1994). The trial court's discretion in awarding maintenance is "wide;" the only limitation on the amount and duration of maintenance is that, in light of the relevant factors under RCW 26.09.090, the award must be "just." *Luckey*, 73 Wn. App. at 209.

Here, the trial court did not abuse its discretion in awarding the wife monthly maintenance of \$3,000 for one year and \$2,500 for two years. (CP 255) The trial court recognized that the wife, who had been a stay at home mother for most of the marriage, needs maintenance as "her employment situation is not fully stabilized" (RP 165), and the husband can pay maintenance as he could earn at least \$100,000. (RP 164; CP 238)

The husband's claim that the wife's relocation somehow relieved her of a need for maintenance because she now lives closer to her parents, who are "well educated," is baseless. (App. Br. 32-33) There is no evidence that the wife's parents, who are retired, have the means to provide financial support to her. Even if they did have the means, a spouse's parents' ability and willingness to provide financial support is not a factor under RCW 26.09.090 in deciding whether maintenance should be awarded.

The trial court's award of spousal maintenance to the wife, whose earning capacity is substantially less than the husband, was well within its discretion.

2. The trial court properly ordered the husband to pay for life insurance to secure his court-ordered obligations.

Trial courts are authorized to require a parent to obtain life insurance to secure payment of court-ordered obligations. *Marriage of Sievers*, 78 Wn. App. 287, 308, 897 P.2d 388 (1995). Life insurance was appropriate in this case to secure the husband's obligations when he claimed there were "threats to his safety due to his whistle blowing actions." (CP 252) Under these circumstances, the trial court properly ordered the husband to provide funds to the wife to purchase insurance insuring his life "for so long as he has obligations owed to her or the children under the Decree or Order of Child Support." (CP 226)

3. The trial court properly awarded attorney fees to the wife based on the husband's intransigence.

The trial court did not abuse its discretion in awarding attorney fees to the wife based on the husband's intransigence. The husband complains that the attorney fee award creates a "financial burden" for him, "which he can never hope to meet." (App. Br. 34)

But when intransigence is involved, the financial resources of the parties do not matter, *Marriage of Crosetto*, 82 Wn. App. 545, 564, 918 P.2d 954 (1996), the burden of proving the trial court exercised its discretion in a way that was clearly untenable or manifestly unreasonable is on the party challenging the award. *Crosetto*, 82 Wn. App. at 563.

The husband does not challenge, nor can he, the trial court's finding that "he has committed intransigence in this matter. He has knowingly and willfully obstructed this proceeding. His actions have been in bad and faith and have caused excessive and unnecessary litigation, thereby wasting court time and unreasonably causing the Wife to incur attorney fees. The Husband should be ordered to pay \$45,000 of the Wife's attorney fees as a result of his misconduct throughout this matter." (CP 252) This unchallenged finding is a proper basis for an award of attorney fees, and the trial court did not abuse its discretion in making its award. *Marriage of Burrill*, 113 Wn. App. 863, 873-74, 56 P.3d 993 (2002), *rev. denied*, 149 Wn.2d 1007 (2003); *see also Marriage of Greenlee*, 65 Wn. App. 703, 708, 829 P.2d 1120, *rev. denied*, 120 Wn.2d 1002 (1992) (award of fees is warranted when one party

made the trial unduly difficult and increased legal costs for the other party by his actions).

E. This court should award attorney fees to the wife for having to respond to this appeal.

This Court has discretion to award attorney fees after considering the relative resources of the parties and the merits of the appeal. RCW 26.09.140; *Leslie v. Verhey*, 90 Wn. App. 796, 954 P.2d 330 (1998), *rev. denied*, 137 Wn.2d 1003 (1999). This Court should award attorney fees to the wife because she has the need for her fees to be paid and the husband has the ability to pay. RAP 18.1; RCW 26.09.140 (court may award fees considering the financial resources of the parties on any appeal).

This Court should also award attorney fees to the wife based on the husband's continued intransigence, as this appeal of final orders that he refuses to comply with is simply an extension of the intransigent conduct found by the trial court, warranting an award of attorney fees in this court. *See Chapman v. Perera*, 41 Wn. App. 444, 456, 704 P.2d 1224, *rev. denied*, 104 Wn.2d 1020 (1985) (awarding attorney fees to the respondents based on appellants' excessive filing of various motions in the trial court and appellate

court while the appeal was pending and because the appeal lacked little merit).

V. CONCLUSION

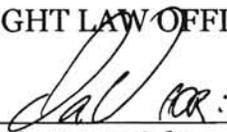
The appellant has waived his right of review by failing to comply with the orders and fleeing the jurisdiction to avoid enforcement. This Court should therefore dismiss his appeal, and if not, it should affirm the trial court's decision in its entirety. In either event, this Court should award attorney fees to the wife.

Dated this 14th day of November, 2014.

SMITH GOODFRIEND, P.S.

By: 
Valerie A. Villacin
WSBA No. 34515
Catherine W. Smith
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WEIGHT LAW OFFICES

By: 
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Attorneys for Respondent

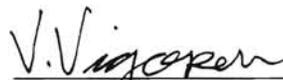
DECLARATION OF SERVICE

The undersigned declares under penalty of perjury, under the laws of the State of Washington, that the following is true and correct:

That on November 14, 2014, I arranged for service of the foregoing Brief of Respondent, to the court and to the parties to this action as follows:

Office of Clerk Court of Appeals - Division I One Union Square 600 University Street Seattle, WA 98101	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> E-File
Eric M. Weight Weight Law Offices 119 N Commercial St., Suite 1400 Bellingham, WA 98225-4437	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> E-Mail
David Zuckerman Attorney at Law 705 Second Avenue, Suite 1300 Seattle, WA 98104	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> E-Mail

DATED at Seattle, Washington this 14th day of November, 2014.



Victoria K. Vigoren