

FILED
July 7, 2015
Court of Appeals
Division I
State of Washington

No. 72963-2

COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON

In re the Marriage of:

CHANDLER H. RIKER,

Respondent,

and

MONIQUE HETRICK RIKER,

Appellant.

APPEAL FROM THE SUPERIOR COURT
FOR KING COUNTY
THE HONORABLE DOUGLASS A. NORTH

BRIEF OF APPELLANT

SMITH GOODFRIEND, P.S.

McKINLEY IRVIN, PLLC

By: Valerie A. Villacin
WSBA No. 34515
Catherine W. Smith
WSBA No. 9542

By: Brien Galbraith
WSBA No. 40169

1619 8th Avenue North
Seattle, WA 98109
(206) 624-0974

1501 4th Avenue, Suite 1750
Seattle, WA 98101
(206) 625-9600

Attorneys for Appellant

TABLE OF CONTENTS

| | | |
|------|---|---|
| I. | INTRODUCTION | 1 |
| II. | ASSIGNMENT OF ERRORS | 2 |
| III. | STATEMENT OF ISSUES | 2 |
| IV. | STATEMENT OF FACTS..... | 3 |
| A. | After an August 2014 trial, the trial court designated the mother as primary residential parent of the parties’ young daughters. | 3 |
| 1. | The father moved to the East Coast in 2009, leaving the mother, who was then pregnant with twins, and the older daughter in Washington..... | 3 |
| 2. | The trial court found a basis to impose RCW 26.09.191 restrictions on the mother due to its concern she had been alienating the children. Nevertheless, the trial court designated the mother primary residential parent in Washington, at the father’s request. | 4 |
| 3. | Based on its .191 findings, the trial court imposed certain restrictions on the mother, and warned that any violation “shall be a basis for the father to seek primary residential placement.” | 6 |
| B. | Four months after the final parenting plan was entered, the father moved for contempt, alleging violations of the parenting plan, and sought primary residential care of the daughters in Connecticut..... | 8 |

| | | |
|----|--|----|
| C. | After finding the mother in contempt, the trial court summarily ordered the daughters to immediately relocate to Connecticut and live primarily with the father. | 12 |
| V. | ARGUMENT..... | 15 |
| A. | The trial court’s failure to comply with the statutory requirements governing modifications of parenting plans and child relocation is necessarily an abuse of discretion..... | 15 |
| B. | The trial court erred by modifying the daughters’ primary residence based solely on the mother’s alleged violations of the parenting plan, and without meeting the statutory requirements of RCW 26.09.260 and .270..... | 17 |
| 1. | The trial court could not modify the parenting plan based solely on its ruling in the original order that the mother’s violations could be a “basis for the father to seek primary residential placement.” | 17 |
| 2. | The trial court’s findings purportedly based on RCW 26.09.260, which merely parrot the language of the statute, do not support modifying the parenting plan..... | 23 |
| 3. | The mother was entitled to an evidentiary hearing before the trial court could permanently modify the parenting plan and change the children’s primary residence..... | 26 |
| C. | The trial court compounded its error in modifying the parenting plan by ordering the daughters’ relocation without consideration of any of the statutory requirements of the Child Relocation Act..... | 29 |

| | | |
|-----|--|----|
| D. | This Court should award attorney fees to the mother..... | 31 |
| VI. | CONCLUSION | 32 |

TABLE OF AUTHORITIES

CASES

| | |
|--|-------------------|
| <i>Bay v. Jensen</i> , 147 Wn. App. 641, 196 P.3d 753 (2008) | 16, 30 |
| <i>Custody of Halls</i> , 126 Wn. App. 599, 109 P.3d 15 (2005) | 15, 18, 24-25, 28 |
| <i>In re C.M.F.</i> , 179 Wn.2d 411, 314 P.3d 1109 (2013)..... | <i>passim</i> |
| <i>Marriage of Coy</i> , 160 Wn. App. 797, 248 P.3d 1101 (2011)..... | 17 |
| <i>Marriage of Horner</i> , 151 Wn. 2d 884, 93 P.3d 124 (2004)..... | 30 |
| <i>Kinnan v. Jordan</i> , 131 Wn. App. 738, 129 P.3d 807 (2006) | 16, 27-28 |
| <i>Leslie v. Verhey</i> , 90 Wn. App. 796, 954 P.2d 330 (1998), <i>rev.</i> <i>denied</i> , 137 Wn.2d 1003 (1999) | 31 |
| <i>Marriage of Possinger</i> , 105 Wn. App. 326, 19 P.3d 1109, <i>rev. denied</i> , 145 Wn.2d 1008 (2001) | <i>passim</i> |
| <i>Marriage of Tomsovic</i> , 118 Wn. App. 96, 74 P.3d 692 (2003)..... | 24 |
| <i>Marriage of Watson</i> , 132 Wn. App. 222, 130 P.3d 915 (2006) | 17 |
| <i>Marriage of Wehr</i> , 165 Wn. App. 610, 267 P.3d 1045 (2011) | 29 |
| <i>Marriage of Zigler & Sidwell</i> , 154 Wn. App. 803, 226 P.3d 202, <i>rev. denied</i> , 169 Wn.2d 1015 (2010) | 26 |

| | |
|---|--------|
| <i>Parentage of Schroeder,</i> 106 Wn. App. 343, 22 P.3d 1280 (2001) | 24, 29 |
| <i>Welfare of R.S.G.,</i> 172 Wn. App. 230, 289 P.3d 708 (2012) | 17, 28 |

STATUTES

| | |
|---------------------|---------------|
| KCLFLR 13 | 27 |
| RCW 26.09.140 | 31 |
| RCW 26.09.187 | 19, 21 |
| RCW 26.09.191 | <i>passim</i> |
| RCW 26.09.260 | <i>passim</i> |
| RCW 26.09.270 | <i>passim</i> |
| RCW 26.09.420 | 29 |
| RCW 26.09.520 | <i>passim</i> |

RULES AND REGULATIONS

| | |
|----------------|----|
| RAP 18.1 | 31 |
|----------------|----|

I. INTRODUCTION

After a trial in August 2014, the trial court entered a final parenting plan designating as primary parent the mother, who had indisputably been the primary caregiver for the parties' three young daughters' since their birth. Four months later, based on findings that the mother had violated certain provisions of the parenting plan, the trial court summarily ordered the daughters' relocation to Connecticut to live with the father. The younger daughters have never lived primarily with the father as the mother was pregnant when the father moved to Connecticut from Washington; the older daughter was twenty months old when the father left Washington.

The trial court erred because it failed to meet the statutory requirements of RCW 26.09.260 and RCW 26.09.270 before modifying the parenting plan, by failing to find adequate cause existed to warrant a hearing on the father's motion to modify the parenting plan, and by denying the mother an evidentiary hearing to defend against the proposed modification. The trial court compounded its error by failing to consider the statutory factors under RCW 26.09.520 before ordering the daughter's relocation to Connecticut. This Court should reverse, vacate the modified parenting plan, and award attorney fees to the mother.

II. ASSIGNMENT OF ERRORS

1. The trial court erred in entering its modified parenting plan designating the father as the primary residential parent, ordering the children to relocate to Connecticut in order to effect its plan, and the underlined findings attached as Appendix A. (CP 156-69)

2. The trial court erred in entering its order modifying the parenting plan, and the underlined findings attached as Appendix B. (CP 170-74)

3. The trial court erred in entering its order on contempt, to the extent it was relied on as a basis to modify the parenting plan. (CP 175-80) (Appendix C)

4. The trial court erred in entering its order denying reconsideration. (CP 181-82) (Appendix D)

III. STATEMENT OF ISSUES

1. Custodial changes are highly disruptive to children, and RCW 26.09.260 was enacted to favor custodial continuity and disfavor modification. Did the trial court err in failing to follow the procedures under RCW 26.09.260 before summarily modifying the parenting plan to place the children primarily in their father's care with whom the younger daughters have never primarily lived, and

without providing an evidentiary hearing as required under RCW 26.09.270?

2. A trial court's authority to allow children to relocate is governed by the Child Relocation Act, which mandates consideration of 11 factors before it can allow or restrain a child's relocation. RCW 26.09.520. Did the trial court err in entering its order modifying the parenting plan, which requires the children to relocate from Washington to Connecticut, where they have never lived without any consideration of the factors required under the Act?

IV. STATEMENT OF FACTS

A. After an August 2014 trial, the trial court designated the mother as primary residential parent of the parties' young daughters.

1. The father moved to the East Coast in 2009, leaving the mother, who was then pregnant with twins, and the older daughter in Washington.

Appellant Monique Hetrick Riker and respondent Chandler Riker are the parents of three daughters, ages 7 (DOB 9/10/2007) and 5 (twins, DOB 10/13/2009). (CP 18; see CP 199) The original parenting plan governing the daughters' residential time was entered on August 11, 2014 after a trial to King County Superior Court Judge Douglass North. (CP 18-31) The father was represented by counsel

at trial; the mother was *pro se*. (CP 83)

The father moved to New York in 2009 while the mother was pregnant with twins and the older daughter was less than 2 years old; he later relocated to Connecticut in 2011. (Sub no. 137, Supp. CP 204-05; CP 85) The mother and the daughters meanwhile continued to live in Washington, where her mother and brother also reside. (Sub no. 137, Supp. CP 204-05; CP 87) As a result of the father's relocation across the country, the mother had been the primary, and largely sole, caregiver for the daughters since 2009. (Sub no. 137, Supp. CP 204-05, 211) The trial court acknowledged that the dissolution of the parties' marriage was "tough" in part because the father "was obviously not as sympathetic and concerned about his family as he should have been" given the distance between their homes. (CP 85)

2. The trial court found a basis to impose RCW 26.09.191 restrictions on the mother due to its concern she had been alienating the children. Nevertheless, the trial court designated the mother primary residential parent in Washington, at the father's request.

In addition to acknowledging the father's fault in the strained relationship between the parties, the trial court expressed concern that the mother and her family had tried to alienate the children from

the father during the dissolution proceedings. (CP 85) The trial court stated that it believed the mother attempted to “manipulate the system” by “bringing false claims of stalking, harassment, refusing to show up or provide the children when that was supposed to be done, filing at the last minute for a protection order just because you’re unhappy with a visitation provision that’s coming up.” (CP 86) The trial court also expressed concern that the maternal grandmother had unnecessarily inserted herself into the dispute between the parents, and had been in a “practically delusional state in dealing with this.” (CP 87)

The trial court found bases for RCW 26.09.191 restrictions on the mother due to her behavior during the litigation, which the trial court found was intended to alienate the children from the father:

The abusive use of conflict by the parent which creates the danger of serious damage to the children’s psychological development

A parent has withheld from the other parent access to the children for a protracted period without good cause.

Other: This parent has engaged in parental alienation which is harmful to the children.

(CP 19)

Although the trial court found bases for restrictions on the mother's residential time under RCW 26.09.191(3), it nevertheless designated the mother as the primary residential parent, based on the father's proposal that the daughters continue to primarily reside with their mother. (See CP 86: "In spite of all that, I'm going to adopt, at least initially, the father's proposed parenting plan that involves the children primarily remaining with Ms. Hetrick."; see also Sub no. 137, Supp. CP 211 (father's dissolution trial brief): "There is no dispute that the Wife has been and should continue to be the primary residential parent for the children.") Meanwhile, the father was granted "liberal residential time" in Washington during the school year, alternating school breaks, two weeks during summer 2014, and seven consecutive weeks during summer 2015 and thereafter. (CP 19-21) The trial court also ordered joint decision-making for all major decisions for the daughters, including non-emergency healthcare and education. (CP 26)

3. **Based on its .191 findings, the trial court imposed certain restrictions on the mother, and warned that any violation "shall be a basis for the father to seek primary residential placement."**

Based on its findings that RCW 26.09.191 restrictions were warranted, the trial court imposed the following restrictions on the

mother's residential time with the children, including ordering the mother to undergo a psychological evaluation, and restraining her from allowing the children to reside overnight with the maternal grandmother:

The mother is ordered to undergo a psychological evaluation

Karin Ballantyne is appointed as Parenting Coordinator to assist the parties in co-parenting, communication, information exchange, problem solving, and dispute resolution

The mother is restrained from allowing the children to stay overnight with the maternal grandmother

The mother is ordered to not schedule medical appointments or appointments with other professionals for the children, without notifying the father first

The mother is restrained from allowing any other relative, other than the father, to participate in making educational or medical decisions for the children.

(CP 22-23) The trial court ordered that the mother's violation of any of these provisions "shall be a basis for the father to seek primary residential placement. This court shall retain jurisdiction and said request shall be made to this court." (CP 23)

In addition to the restrictions imposed on the mother due to its RCW 26.09.191 findings, the trial court ordered "other provisions" for both parents in order to facilitate the children's relationship with

each parent. These provisions included allowing both parties to have “unimpeded and unmonitored telephone and Skype (face to face) access” when the children were residing in the other parent’s home. (CP 27-28) The parents were prohibited from making derogatory comments about the other parent, or allowing anyone else to make derogatory comments about the other parent, in the children’s presence. (CP 24, 29) Finally, the parties were ordered to use “Family Wizard,” a proprietary software program that would allow the parties to track appointments and other information for the children. (CP 24)

B. Four months after the final parenting plan was entered, the father moved for contempt, alleging violations of the parenting plan, and sought primary residential care of the daughters in Connecticut.

On December 2, 2014, the father filed a motion for contempt, alleging that the mother had violated certain provisions related to the RCW 26.09.191 restrictions imposed on her. (CP 11-31) Specifically, the father alleged that the mother had not yet obtained a psychological evaluation, and accused the mother of allowing the children to stay overnight with the maternal grandmother. (CP 12-13)

The mother filed a declaration denying the father's allegations and explaining her efforts to commence the psychological evaluation. (CP 109-10) Within a month of the final parenting plan being entered, the mother sought three referrals from the newly appointed parenting coordinator, and chose Dr. Gary Weider to perform the evaluation. (CP 109, 123) After she contacted Dr. Weider, he told the mother that he would not agree to "take the case" until he had "more information" on why the mother needed the psychological evaluation. (CP 109)

The mother attempted to get assistance from the parenting coordinator to convey the parameters of the evaluation to Dr. Weider, but the coordinator would not meet the mother until the father paid his portion of the retainer as was required by the parenting plan and the order appointing the coordinator. (CP 6, 23, 109) The father did not pay the retainer until the end of October – two months after the final parenting plan was entered, and more than a month after the mother first made contact with both the psychologist and parenting coordinator. (CP 109) The mother also explained that she had to await receipt of her interest in the father's 401(k) to use as a retainer for Dr. Weider. (CP 110) By November, the mother was still playing "phone tag" with Dr. Weider, but the

parenting coordinator had communicated with him, and the mother hoped to have an appointment scheduled by the time of the father's contempt hearing on December 17, 2014. (CP 110) In fact, the mother disclosed to the court on the day of the contempt hearing that she had an appointment that day with Dr. Weider to hand in her application and pay his retainer. (RP 11)

The mother also denied that she and the daughters had spent any overnights with the maternal grandmother since trial. (CP 110-12) The mother explained that there were only three occasions that she and the daughters slept overnight in the grandmother's home, which was less than half a mile from the mother's home, and that each time the grandmother slept in a separate home on the same property. (CP 111-12) The mother explained that two of the "overnights" were occasioned by the infestation of the mother's home with fleas, and the other was because the furnace in the mother's home was not working. (CP 111-12)

In addition to the RCW 26.09.191 restrictions that the father claimed the mother violated, the father also alleged that she had violated other provisions of the parenting plan. The father claimed that the mother made disparaging comments about him to the

children,¹ failed to sign up for “Family Wizard,”² and had interfered with the father’s “Skype” communications with the children. (CP 12-15) The father also alleged the mother violated the joint decision-making provision in the parenting plan, because he disagreed with the mother’s decisions on the older daughter’s medications for ADHD and asthma. (CP 13-14, 37) The mother denied all of the father’s allegations. (CP 113-21)

In conjunction with his motion for contempt, the father filed a “motion to modify the parenting plan,” asking the court to “order the children immediately be placed in his primary residential custody.” (CP 70-76) In making his motion, the father did not cite any of the factors under RCW 26.09.260. (*See* CP 70-76) Instead, he relied solely on the trial court’s previous determination that if the mother violated any of the RCW 26.09.191 restrictions, it could be a “basis for the father to seek primary residential placement.” (CP 71) He also purported to rely on arguments that he had made during the

¹ In his declaration, the father did not point to any specific comments made about him by the mother. Instead, he asserted that “I have no doubt that the respondent and her mother continue to talk badly about me to the girls.” (CP 35)

² At the contempt hearing, the father acknowledged that the mother had indeed signed up for Family Wizard. (RP 5)

dissolution trial asserting that parental alienation by the mother could be a basis to transfer primary custody of the children from the mother to the father.³ (CP 71-75)

C. After finding the mother in contempt, the trial court summarily ordered the daughters to immediately relocate to Connecticut and live primarily with the father.

The parties appeared before Judge Douglass North on December 17, 2014 on the father's motions for contempt and to modify the parenting plan. (RP 1) Although the mother answered the father's motions *pro se*, she had counsel at the hearing. (RP 2) The father's counsel for the dissolution trial continued to represent him. With the exception of the parties' affidavits, no other evidence was presented at the hearing. (RP 2)

The trial court found the mother in contempt. The trial court believed that the mother had not in good faith sought the ordered psychological evaluation, by "purposely depriv[ing] herself of a

³ In his motion to modify the parenting plan, the father purports to rely on a "Legal Memorandum in Support of Motion for Primary Residential Placement filed in August of 2014." (CP 72) This memorandum does not appear from the docket to have ever been filed in August 2014 nor was it filed as part of his motion to modify the parenting plan filed in December 2014. According to the docket, the only legal memorandum filed by the father in August 2014 was his trial brief, which sought to have the children placed primarily with the mother. (Sub no. 137, Supp. CP 204-20)

means to pay for the evaluation.” (RP 20-21; CP 171, 176) The trial court found that the mother and the children were living with the maternal grandmother in violation of the RCW 26.09.191 restrictions imposed on her. (RP 2; CP 171, 176) The trial court also found that the mother had made “no attempt to try and comply with other provisions of the court’s order,” including by failing to engage in joint decision-making with the father regarding the children’s medical care because she allowed the older daughter to be prescribed medication for ADHD and asthma to which the father disagreed. (RP 21-22; CP 172, 176) The trial court also found that the mother continued to make negative comments about the father, and had interfered with the father’s Skype communications. (CP 171, 176)

The trial court found that it had “specifically retained jurisdiction to change primary residential placement of the children in the event” the mother violated the RCW 26.09.191 restrictions under the parenting plan. (CP 171; RP 22) The trial court relied on *Marriage of Possinger*, 105 Wn. App. 326, 19 P.3d 1109, *rev. denied*, 145 Wn.2d 1008 (2001) to assert that it had authority to modify the parenting plan outside of the strictures of RCW 26.09.260. (CP 171, RP 22)

The trial court made additional findings “in the event an additional finding of change in circumstances is required” under RCW 26.09.260. (CP 171) The trial court found that the mother’s alleged violations of the parenting plan by failing to obtain a psychological evaluation, by allowing the children to reside with the maternal grandmother (as “there was no question that the maternal grandmother has negative and detrimental effect on the children”), and by continuing “to seek to alienate the children from the father,” were all “facts, supporting the requested modification, [and] have arisen since the decree or plan/schedule [and] were unknown to the court at the time of the decree or plan/schedule.” (CP 171, 173)

The trial court also made a rote finding that “the children’s environment under the custody decree/parenting plan/residential schedule is detrimental to the children’s physical, mental or emotional health and the harm likely to be caused by a change in environment is outweighed by the advantage of a change to the children” (CP 171), despite pointing to no evidence presented to support this finding. Finally, despite the fact that the mother’s alleged violations were unrelated to the father’s residential time with the children, the trial court found the mother has been found in contempt once “with multiple counts [] because [she] failed to

comply with the residential time provisions in the court-ordered parenting plan.” (CP 172)

The trial court summarily ordered the daughters to reside primarily with the father in Connecticut. (RP 23) The trial court ordered that all of the mother’s time with the children be supervised until she concludes the psychological evaluation, at which point the supervision requirement would be revisited. (CP 160-61, 174) However, the trial court made clear that the issue of the primary residence for the children would not be revisited “without threshold showing per statute.” (RP 25-26; CP 174)

The trial court denied the mother’s motion for reconsideration. (CP 181) The mother appeals. (CP 153)

V. ARGUMENT

A. **The trial court’s failure to comply with the statutory requirements governing modifications of parenting plans and child relocation is necessarily an abuse of discretion.**

This Court reviews a trial court’s decision on the provisions of a parenting plan for abuse of discretion. *Custody of Halls*, 126 Wn. App. 599, 606, ¶ 18, 109 P.3d 15 (2005). In deciding whether to modify a parenting plan, “RCW 26.09.260 sets forth the procedures and criteria” that “limit a court’s range of discretion.” *Halls*, 126 Wn.

App. at 606, ¶ 19. Likewise, the trial court's discretion to allow a child's relocation is tempered by the "mandatory" consideration of 11 factors under RCW 26.09.520. *Bay v. Jensen*, 147 Wn. App. 641, 654-55, ¶¶ 27, 28, 196 P.3d 753 (2008). A trial court abuses its discretion if it acts on a parenting decision without meeting the statutory requirements. *Kinnan v. Jordan*, 131 Wn. App. 738, 746, ¶ 18, 129 P.3d 807 (2006).

Here, the trial court abused its discretion by modifying the parties' parenting plan and changing the daughters' primary residence from their mother's home to the father's home, and requiring them to relocate from Washington State to Connecticut, without proper consideration of the factors under RCW 26.09.260, without an evidentiary hearing under RCW 26.09.270, and with no consideration at all of the relocation factors under RCW 26.09.520.

B. The trial court erred by modifying the daughters' primary residence based solely on the mother's alleged violations of the parenting plan, and without meeting the statutory requirements of RCW 26.09.260 and .270.

1. The trial court could not modify the parenting plan based solely on its ruling in the original order that the mother's violations could be a "basis for the father to seek primary residential placement."

"After a trial court enters a final parenting plan, and neither party appeals it, the plan can be modified only under RCW 26.09.260." *Marriage of Coy*, 160 Wn. App. 797, 804, ¶ 13, 248 P.3d 1101 (2011) (vacating provision in CR2A stipulation that would have allowed the mother to unilaterally modify the parenting plan without court review). "A court abuses its discretion if it fails to follow the statutory procedures or modifies a parenting plan for reasons other than the statutory criteria." *Marriage of Watson*, 132 Wn. App. 222, 230, ¶ 21, 130 P.3d 915 (2006) (trial court abused its discretion by modifying parenting plan *sua sponte* on grounds not raised by either party after rejecting the grounds for modification in the mother's petition). "Custodial changes are viewed as highly disruptive to children, and there is a strong presumption in favor of custodial continuity and against modification. With this policy in mind, RCW 26.09.260 favors continuity and disfavors modification." *Welfare of*

R.S.G., 172 Wn. App. 230, 245, ¶ 32, 289 P.3d 708 (2012) (reversing order modifying parenting plan when trial court did not apply the mandatory standards in RCW 26.09.260). As our Supreme Court acknowledged, “these procedures protect stability by making it more difficult to challenge the status quo.” *In re C.M.F.*, 179 Wn.2d 411, 419-20, ¶ 13, 314 P.3d 1109 (2013).

The trial court’s ruling in the original parenting plan that “a violation of any of these restrictions shall be a basis for the father to seek primary residential placement” does not eliminate the requirement that any modification of the parenting plan be considered under the statutory strictures of RCW 26.09.260. *Custody of Halls*, 126 Wn. App. 599, 606, ¶ 19, 109 P.3d 15 (2005). *Marriage of Possinger*, 105 Wn. App. 326, 19 P.3d 1109 (2001), on which the trial court relied to claim that its retention of jurisdiction allowed it to modify the parenting plan outside of RCW 26.09.260, does not support its decision.

In *Possinger*, the trial court entered “a permanent parenting plan containing an interim residential schedule,” over which the trial court retained jurisdiction for a “specified period of time following entry of the decree of dissolution.” 105 Wn. App. at 337. The trial court found that a one-year interim schedule was necessary because

both parents were in a “transitional period” at the time the parenting plan was entered. *Possinger*, 105 Wn. App. at 329. At the time of trial, the mother was trying to change her work schedule from an overnight shift to a day shift and the father’s future plans depended on his success in law school. The trial court thus reserved its decision on the child’s school schedule and retained jurisdiction for one year, at which point it would consider the parents’ current circumstances to determine a permanent schedule moving forward.

After the parties returned to court one year later, the trial court designated the mother as the primary residential parent using the criteria under RCW 26.09.187 for initial parenting plans. The father challenged the trial court’s authority to enter a parenting plan with a purported “interim schedule.” The father also argued that to the extent the trial court could enter an interim schedule, it could only modify the schedule after consideration of the factors under RCW 26.09.260.

This Court affirmed the trial court, holding that under those circumstances a trial court could enter a parenting plan with an interim schedule that could be modified within a “specified period of time” using the factors under RCW 26.09.187, and not RCW 26.09.260. *Possinger*, 105 Wn. App. at 336-37. This Court reasoned

that the trial court should be allowed to postpone a decision if “best interests of the child requires it.” *Possinger*, 105 Wn. App. at 336. However, this Court noted that the trial court’s authority to do so should be “exercised sparingly [] for there is a strong presumption favoring finality of parenting plans and residential continuity in a child’s life.” *Possinger*, 105 Wn. App. at 337.

Here, the trial court did not postpone its decision on the residential schedule, nor did it retain jurisdiction for a “specified period of time” in order to make a final decision. Instead, the parenting plan here contained a final residential schedule and an “open-ended reservation of jurisdiction” to consider any future request to change the daughters’ primary residence if the mother violated the parenting plan. (CP 23) But this retention of jurisdiction to allow the trial court to consider a change in the primary residence of the daughters in the indeterminate future is not a dispensation of the requirements under RCW 26.09.260 before any change is effected. In any event, unlike the court in *Possinger*, the trial court here did not even consider the factors under RCW 26.09.187 before placing the daughters primarily with the father.

This case is more like *In re C.M.F.*, 179 Wn.2d 411, 314 P.3d 1109 (2013), where the Supreme Court held that a custody decree

with an “open-ended reservation of jurisdiction” could only be modified under RCW 26.09.260, than *Possinger* on which the trial court relied. In *C.M.F.*, a parentage order adjudicating respondent as the child’s father provided that either parent could seek a residential schedule, but until then the mother was designated “custodian solely for the purpose of other state and federal statutes.” 179 Wn.2d at 416, ¶ 2. A year later, the father asked the court to enter a residential schedule designating him as primary residential parent. The trial court rejected the mother’s argument that the father must meet the RCW 26.09.260 standards to modify the order and change the child’s primary residence. Instead, the trial court concluded that the superior court had retained jurisdiction and that it could decide a residential schedule under RCW 26.09.187.

The Supreme Court reversed, rejecting the trial court’s rationale that the provision in the custody decree that either party could move to establish a residential schedule was a “reservation” that waived the requirements of RCW 26.09.260. *C.M.F.*, 179 Wn.2d at 427-28, ¶ 34. The Court held that those cases where the trial courts have reserved jurisdiction to allow modification of a parenting plan without a showing of adequate cause under RCW 26.09.260, such as *Possinger*, limited the reservation to a short specific period after

entry of the parenting plan, and not an “open-ended reservation.” *C.M.F.*, 179 Wn.2d at 427-28, ¶ 32. The Court held that an open-ended reservation was contrary to the overriding policy of custodial continuity and child stability, and expressed concern that in such cases, “at any moment, the noncustodial parent can bring a motion and thereby upset the stability of the child’s situation.” 179 Wn.2d at 427, ¶ 33.

Likewise here, the trial court’s purported retention of jurisdiction was an improper “open-ended reservation” that cannot be relied on to avoid the statutory strictures under RCW 26.09.260. Even if the trial court could consider the mother’s alleged violation of the parenting plan as a “basis” for the father to “seek” a change in primary residential placement of the children, the trial court was still required to consider the factors under RCW 26.09.260 before it could permanently modify the parenting plan. Otherwise, as was the case here, the father could “upset the stability” of the daughters’ lives by simply making a motion alleging violations of the plan.

2. The trial court's findings purportedly based on RCW 26.09.260, which merely parrot the language of the statute, do not support modifying the parenting plan.

Apparently acknowledging the weakness of its ruling modifying the parenting plan outside of RCW 26.09.260, the trial court purported to find that modification was also warranted because “the children’s present environment is detrimental to the children’s physical, mental, or emotional health and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the children.” (CP 171, *referring* to RCW 26.09.260 (2)(c)) But *no* evidence of the children’s “present” environment was offered to support this rote finding, which merely parrots the language of the statute. Instead, the father relied on arguments he purportedly made, and evidence that he presented, during the dissolution trial, which might have supported placing the children in his primary care *at the time of trial*, but not four months after a final parenting plan was already entered. (*See* CP 72, among “evidence relied upon” to support his requested modification was a “legal memorandum in support of motion for primary residential placement filed in August 2014” and “any and all evidence and information previously presented to the court in this matter

including but not limited to all testimony and evidence from the trial in this matter”)

The father presented no new evidence to support a finding that any benefit in placing the daughters with the father, with whom the younger daughters have never primarily resided, could outweigh the harm to the daughters from being moved across the country and away from their mother - their primary caregiver since birth. A trial court cannot modify a parenting plan unless it finds there is a “substantial change in the circumstances of the child or the nonmoving party.” *Marriage of Tomsovic*, 118 Wn. App. 96, 103, 74 P.3d 692 (2003) (citing RCW 26.09.260(1)). A “substantial change in circumstances” must be premised on “facts unknown to the court at the time of the prior decree or plan or arising since entry of the decree or plan.” *Tomsovic*, 118 Wn. App. at 105. Thus, the father’s reliance on arguments made, and evidence presented, during the dissolution trial cannot be a basis to modify the parenting plan.

The only “substantial change in circumstances” found by the trial court dealt with the mother’s alleged violations of the parenting plan, including its finding that the mother “has been found in contempt of court [in] at least one order with multiple counts.” (CP 171-72) But mere violations of the parenting plan alone cannot be a

basis for modification. *Halls*, 126 Wn. App. at 607, ¶ 21; *see also Parentage of Schroeder*, 106 Wn. App. 343, 350, 22 P.3d 1280 (2001).

In *Halls*, the mother was found in contempt twice for removing the children from Washington State and refusing to return them to the father for his residential time. As a result, and without the father petitioning for modification, the trial court modified the parenting plan by changing the children’s primary residence from the mother to the father. Division Two reversed, holding that the trial court lacked authority to modify the parenting plan absent a proper petition for modification and a finding by the trial court that adequate cause warranted modification under the standards of RCW 26.09.260. *Halls*, 126 Wn. App. at 607-08, ¶ 22.

The *Halls* court acknowledged that the trial court could consider the fact that the mother was “found in contempt of court at least twice within three years because the parent failed to comply with the residential time provisions in the court-ordered parenting plan” in deciding whether to modify the parenting plan. 126 Wn. App. at 607, ¶ 21 (*citing* RCW 26.09.260(2)(d)). But the court held the trial court could not modify the parenting plan for “mere

violations” absent a finding that modification is in the best interests of a child. *Halls*, 126 Wn. App. at 607-08, ¶ 21.

Here, absent a petition for modification, the trial court had no authority to modify the parenting plan. Even if there were a petition, the trial court could not modify the parenting plan based on the mother’s violation of the parenting plan because her contempt was not related to the “residential provisions” as is required under RCW 26.09.260(2)(d). Further, she was only found in contempt *once* since the final parenting plan was entered, not twice as is required under RCW 26.09.260(2)(d). Finally, there was no evidence that could support a finding that changing the daughters’ primary residence from their mother, who has been their primary caregiver, to their father, who lives across the country, and with whom the older daughter has not lived primarily since 2009 and with whom the younger daughters have never primarily resided would be in the daughters’ best interests.

3. The mother was entitled to an evidentiary hearing before the trial court could permanently modify the parenting plan and change the children’s primary residence.

The trial court erred by modifying the parenting plan without first finding adequate cause and setting an evidentiary hearing under

RCW 26.09.270. “Parenting plan modifications require a two-step process set out in RCW 26.09.260 and .270. First, a party moving to modify a parenting plan must produce an affidavit showing adequate cause for modification before the court will permit a full hearing on the matter. [] If the moving party establishes adequate cause and the court holds a full hearing, the court may then modify the existing parenting plan” if it finds a basis under RCW 26.09.260. *Marriage of Zigler & Sidwell*, 154 Wn. App. 803, 809, ¶ 8, 226 P.3d 202, 205, *rev. denied*, 169 Wn.2d 1015 (2010) (citing RCW 26.09.270).

In this case, even if the trial court could have found “adequate cause” to modify the parenting plan based on the parties’ affidavits, the mother was still entitled to an evidentiary hearing “to show cause” why the modification should not be granted. *See also* King County Local Family Law Rule (KCLFLR) 13(d)(2)(C)(“if adequate cause is found, the matter shall remain scheduled for trial”). The trial court’s failure to set an evidentiary hearing before permanently modifying the parenting plan requires reversal. *Kinnan v. Jordan*, 131 Wn. App. 738, 129 P.3d 807 (2006).

In *Kinnan*, the mother sought to modify the parenting plan by asking the court to remove restrictions that required her to supervise her children any time they were in her home with her new husband.

The trial court granted the mother's motion without setting an evidentiary hearing, stating "we don't need to have a hearing. If you want to send this to the Court of Appeals and if they want us to have a hearing, we can do that, but I don't think so." *Kinnan*, 131 Wn. App. at 745, ¶ 16.

Division Two reversed, holding that the trial court could not remove this restriction, which was intended to safeguard the children, without first finding adequate cause and setting a date for hearing. *Kinnan*, 131 Wn. App. at 750, ¶¶ 28, 31. The court held that "the [trial] court erred; a rational and sensible construction of RCW 26.09.270 required the court to set a date for a hearing on why the requested orders or modifications should be granted. [] Under RCW 26.09.270, the trial court does not have the unfettered discretion to decide what kind of hearing to hold and when to hold it." *Kinnan*, 131 Wn. App. at 751, ¶ 34.

In this case, an evidentiary hearing was not only appropriate, but essential. The requested modification required the daughters to not only relocate from the home of their primary caregiver since birth, but required them to move across the country from the only home they have ever known to live with their father, with whom they have not lived primarily. Our courts have acknowledged the "strong

presumption against modification because changes in residences are highly disruptive to children.” *Halls*, 126 Wn. App. at 607, ¶ 20 (*citations omitted*). The statutes governing modification were enacted to “favor[] continuity and disfavor[] modification.” *R.S.G.*, 172 Wn. App. at 245, ¶ 32. The procedures required by these statutes “protect stability by making it more difficult to challenge the status quo.” *C.M.F.*, 179 Wn. 2d at 419-20, ¶ 13. The mother was entitled to an evidentiary hearing, during which father had the burden of proving a grounds under RCW 26.09.260 before the trial court could modify the parenting plan to change the children’s primary residence. *Parentage of Schroeder*, 106 Wn. App. 343, 350, 22 P.3d 1280 (2001) (it is the moving party’s burden to prove a modification is appropriate).

C. The trial court compounded its error in modifying the parenting plan by ordering the daughters’ relocation without consideration of any of the statutory requirements of the Child Relocation Act.

The trial court’s error in modifying the parenting plan without consideration or compliance with the statutory standards under RCW 26.09.260 and RCW 26.09.270 was further compounded by the fact that the effect of the modification was to require the children to relocate to Connecticut from Washington, their home state. The

Child Relocation Act governs a trial court's authority to order a child's relocation as part of a modification action. RCW 26.09.420. "Relocate" under the act means "a change in principal residence either permanently or for a protracted period of time." *Marriage of Wehr*, 165 Wn. App. 610, 612, ¶ 4, 267 P.3d 1045, 1046 (2011) (citing RCW 26.09.410 (2)). Under the Child Relocation Act, the trial court "must consider and balance [eleven factors] to determine whether the detrimental effect of the relocation outweighs the benefit of the change to the child and the relocating person" before deciding whether to order the child's relocation. *Bay v. Jensen*, 147 Wn. App. 641, 654-55, ¶ 27, 196 P.3d 751 (2008) (citing RCW 26.09.520).

A trial court must make specific findings on each factor, or absent specific findings, must orally articulate its consideration of each factor based on the evidence presented. *Bay*, 147 Wn. App. at 655, ¶ 28; *Marriage of Horner*, 151 Wn. 2d 884, 894, 93 P.3d 124 (2004). "A trial court abuses its discretion if it does not satisfy either of these methods of documenting its consideration of the child relocation factors." *Bay*, 147 Wn. App. at 655, ¶ 28.

Here, the trial court made no findings under RCW 26.09.520 to support its decision ordering the children to relocate to Connecticut. The trial court gave absolutely no consideration of the

impact on the daughters in disrupting their contact from their mother, the parent with whom they have resided the majority of the time for all of their lives. RCW 26.09.520. Nor could it. No evidence was presented on the impact (good or bad) on the daughters of being uprooted from Washington and summarily relocated to Connecticut. RCW 26.09.520(6). Nor was there any evidence on the impact (again, good or bad) on the daughters from having their contact with their mother, who has historically been their primary caregiver, disrupted. RCW 26.09.520(1), (3).

Because the trial court failed to consider any of the factors under RCW 26.09.520 before modifying the parenting plan and ordering the daughters to relocate to Connecticut, this Court should reverse and vacate the modified parenting plan

D. This Court should award attorney fees to the mother.

This Court should award attorney fees to the mother based on her need and the father's ability to pay under RCW 26.09.140, and based on the merit of her appeal challenging decisions made by the trial court that were not based on the statute. *Leslie v. Verhey*, 90 Wn. App. 796, 807, 954 P.2d 330 (1998), *rev. denied*, 137 Wn.2d 1003 (1999); RAP 18.1. The mother will file her RAP 18.1(c) affidavit of financial need in support of her request for fees.

VI. CONCLUSION

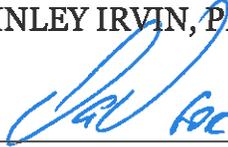
The trial court failed to meet the statutory requirements of RCW 26.09.260, RCW 26.09.270, and RCW 26.09.520 before modifying the parenting plan and ordering the daughters to relocate to Connecticut. This Court should reverse and vacate the modified parenting plan, and award attorney fees to the mother.

Dated this 6th day of July, 2015.

SMITH GOODFRIEND, P.S.

McKINLEY IRVIN, PLLC

By: 

By: 

Valerie A. Villacin
WSBA No. 34515
Catherine W. Smith
WSBA No. 9542

Brien Galbraith
WSBA No. 40169

Attorneys for Appellant

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 July 6, 2015, I arranged for service of the foregoing Brief of Appellant, 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 checked="" type="checkbox"/> E-File |
| Brien Galbraith McKinley Irvin, PLLC 1501 4 th Avenue, Suite 1750 Seattle, WA 98101 | <input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> E-Mail |
| Laurie G. Robertson Law Offices of Jason S. Newcombe 1218 3 rd Avenue, Suite 500 Seattle, WA 98101 | <input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input checked="" type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> E-Mail |
| Kenneth W. Masters Masters Law Group PLLC 241 Madison Ave. N. Bainbridge Island, WA 98110-1811 | <input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input checked="" type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> E-Mail |

DATED at Seattle, Washington this 6th day of July, 2015.



Victoria K. Vigoren

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

Superior Court of Washington
County KING

In re the Marriage of:

No. 13-3-11063-0 SEA

CHANDLER H RIKER

Parenting Plan
FINAL (PPP)

Petitioner,

and

MONIQUE RIKER

Respondent.

This parenting plan is entered by the court on this day and hereby modifies the final Parenting Plan entered on August 11, 2014. *This plan is effective when father obtains children 12/21/14.*

D.A.N.

It is Ordered, Adjudged and Decreed:

I. General Information

This parenting plan applies to the following children:

| Name | Age |
|-------------------|-----|
| Charlotte B Riker | 6 |
| Audrey E Riker | 4 |
| Nora G Riker | 4 |

II. Basis for Restrictions

1
2 Under certain circumstances, as outlined below, the court may limit or prohibit a parent's
3 contact with the children and the right to make decisions for the children.

4 **2.1 Parental Conduct (RCW 26.09.191(1), (2))**

5 Does not apply.

6 **2.2 Other Factors (RCW 26.09.191(3))**

7 The Respondent's involvement or conduct may have an adverse effect on the
8 children's best interests because of the existence of the factors which follow:

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

11 A parent has withheld from the other parent access to the children
12 for a protracted period without good cause.

13 Other: this parent has engaged in parental alienation which is
14 harmful to the children.

15 **III. Residential Schedule**

16 *The residential schedule must set forth where the children shall reside each day of the*
17 *year, including provisions for holidays, birthdays of family members, vacations, and*
18 *other special occasions, and what contact the children shall have with each parent.*
19 *Parents are encouraged to create a residential schedule that meets the developmental*
20 *needs of the children and individual needs of their family. Paragraphs 3.1 through 3.9*
21 *are one way to write your residential schedule. If you do not use these paragraphs, write*
22 *in your own schedule in Paragraph 3.13.*

23 **3.1 Schedule for Children Under School Age**

24 Upon enrollment in school, the children shall reside with the petitioner except for
the following days and times when the children will reside with or be with the
other parent:

Per 3.10 herein. If the respondent travels to the petitioner's State of residence,
she may have time with the children in that State. She must provide ten (10)
days notice of any intended residential time. This time is subject to 3.10 herein.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

3.2 School Schedule

Upon enrollment in school, the children shall reside with the petitioner, except for the following days and times when the children will reside with or be with the other parent:

Per 3.10 herein. The mother shall have liberal residential time with the child in the children's State of resident during the school year. The mother shall provide the father no less than seven (7) day's notice of any intended residential time. Said time may include overnight visits but shall not interfere with the children's school.

The school schedule shall begin when the youngest children begin kindergarten.

3.3 Schedule for Winter Vacation

The children shall reside with the petitioner during winter vacation, except for the following days and times when the children will reside with or be with the other parent:

Per 3.10 herein. The children shall reside with the respondent during winter vacation during odd years. Winter break shall begin the day after school is released and continue until the day before school resumes. The parties shall use the actual school break for the oldest child.

3.4 Schedule for Other School Breaks

The children shall reside with the petitioner during other school breaks, except for the following days and times when the children will reside with or be with the other parent:

Per 3.10 herein. The children shall reside with the respondent during Spring Vacation on odd Years. Spring Vacation shall begin the day after school is released and continue until the date before school resumes. Said vacation shall be based upon the actual school break for the oldest child.

3.5 Summer Schedule

Upon completion of the school year, the children shall reside with the petitioner except for the following days and times when the children will reside with or be with the other parent:

If the requirements of 3.10 are met, the children shall reside with the mother for

1 two weeks in the summer of 2015. The mother's summer time may increase to
2 up to four weeks based on her continued compliance with 3.10 herein. The
3 mother shall advise the father thirty days in advance of the weeks she intends to
exercise her time.

4 **3.6 Vacation With Parents**

5 Each parent shall exercise their summer vacation during their allotted time per
6 3.5 herein.

7 **3.7 Schedule for Holidays**

8 The residential schedule for the children for the holidays listed below is as
9 follows:

| | With Petitioner (Specify Year Odd/Even/Every) | With Respondent (Specify Year Odd/Even/Every) |
|----|---|---|
| 10 | | |
| 11 | | |
| 12 | New Year's Day | Per 3.3 herein |
| 13 | Martin Luther King Day | Every |
| 14 | Presidents' Day | Every |
| 15 | Memorial Day | Every |
| 16 | July 4th | Per 3.5 herein. |
| 17 | Labor Day | Every |
| 18 | Veterans' Day | Every |
| 19 | Thanksgiving Day | Odd Even |
| 20 | Christmas Eve | Per 3.3 herein |
| 21 | Christmas Day | Per 3.3 herein |

22 For purposes of this parenting plan, a holiday shall begin and end as follows (set forth
23 times):

24 Holiday shall begin at 9:00 am and ends at 8:00 p.m.

The mother shall have additional holiday time with the children as agreed between the
parents in their State of residence.

Thanksgiving shall begin after school on Wednesday and continue until Sunday at 6:00
p.m.

3.8 Schedule for Special Occasions

1 The residential schedule for the children for the following special occasions (for
2 example, birthdays) is as follows:

| | With Petitioner (Specify Year Odd/Even/Every) | With Respondent (Specify Year Odd/Even/Every) |
|---|---|---|
| 3 | | |
| 4 | | |
| 5 | Mother's Day | Every |
| 6 | Father's Day | Every |

7 Special occasions begin at 9:00 a.m. and end at 8:00 p.m.

8 **3.9 Priorities Under the Residential Schedule**

9 Paragraphs 3.3 – 3.8, have priority over paragraphs 3.1 and 3.2, in the following
10 order:

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

- | | | |
|----|---|-----------------------------|
| 12 | 3 | Winter vacation (3.3) |
| 13 | 4 | School Breaks (3.4) |
| 14 | 5 | Summer Schedule (3.5) |
| 15 | 1 | Holidays (3.7) |
| 16 | 2 | Special Occasions (3.8) |
| 17 | 6 | Vacation with Parents (3.6) |

18 **3.10 Restrictions**

19 There are limiting factors in paragraph 2.2, and the following restrictions shall
20 apply:

- 21 1. The mother shall obtain a psychological evaluation at her expense. The
22 Parenting Coordinator shall choose the psychologist. The evaluation shall
23 include collateral contact with the father. The children shall not travel for
24 overnight time with the mother until the evaluation is completed and the
mother has started to follow the recommendations. A copy of the
evaluation shall be provided to the father.
2. All of the mother's time with the children shall be supervised by a
professional or the father in Connecticut until the mother has completed
the psychological evaluation and begun treatment. The mother shall pay
the cost of the supervisor.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
3. The children shall not be left in the care of ~~any other of the mother's family members~~ ^{maternal grandmother overnight} during the mother's designated time. *J.A.M.*
4. The children shall not have overnight visits with the mother in Washington or Connecticut until the mother has completed her psychological evaluation and begun recommended treatment. Further, overnight visits shall be only upon the recommendation of the children's therapist. ~~Further, the mother must obtain and maintain her own residence and said residence must be in livable and safe condition for the children.~~ *D.A.N.*
5. The mother shall not schedule medical or appointments for the children with other professionals without notifying the father first, unless there is a severe, medical emergency which requires immediate medical attention.

3.11 Transportation Arrangements

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

Transportation arrangements for the children between parents shall be as follows:

Mother shall make all travel arrangements for herself and the children and shall provide said arrangements to the father. The children shall be accompanied as required by the airline in which they are flying. The cost of the children's transportation shall be divided proportionately and pursuant to the order of child support. The father shall make sure the children are brought to the airport in adequate time and placed on their designate flight or transferred to the mother.

3.12 Designation of Custodian

The children named in this parenting plan are scheduled to reside the majority of the time with the petitioner/father. This parent is designated the custodian of the children solely for purposes of all other state and federal statutes which require a designation or determination of custody. This designation shall not affect either parent's rights and responsibilities under this parenting plan.

3.13 Other

1. The father shall enroll the children in counseling with a counselor in Connecticut as soon as possible after the children begin residing in his home. Both parents shall be able to communicate with the counselor and both parents will work with the counselor for the benefit of the children.

2. Neither parent shall schedule anything for the children which will interfere with the other party's scheduled time as outlined in paragraphs 3.3, 3.4 and 3.5 herein.
3. Neither party shall make or allow anyone in their presence to make any negative statements, disparaging remarks or negative comments about the other parent to the children.
4. Both parties shall be fully notified of any and all appointments for the children whether medical, psychological, or school related. The parties shall use FamilyWizard to keep track of all appointments for the children and all important information.
5. Ms. Ballantyne shall remain as the parenting coordinator for a period of six months after the children relocate to the father's home in Connecticut.

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

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

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

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

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

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

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

1 program, it may be withheld from the notice.

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

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

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

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

10 An objection may be filed by using the mandatory pattern form WPF DRPSCU
11 07.0700, (Objection to Relocation/Petition for Modification of Custody
Decree/Parenting Plan/Residential Schedule). The objection must be served on
12 all persons entitled to time with the child.

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

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

18 **IV. Decision Making**

19 **4.1 Day-to-Day Decisions**

20 Each parent shall make decisions regarding the day-to-day care and control of
21 each child while the children are residing with that parent. Regardless of the
allocation of decision making in this parenting plan, either parent may make
22 emergency decisions affecting the health or safety of the children.

23 **4.2 Major Decisions**

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

D.A.N.
M.M.

1 Education decisions: father* / joint

2 Non-emergency health care: father* / joint

to accomplish court-
ordered transition on
12/21/14

3 Religious upbringing: joint

4
5 * The father shall have final decision making authority over education and non-
6 emergency health care. The father shall advise the mother of any and all
7 decisions regarding the children. The parents shall try and work together to
8 make mutual decisions, however, if that is not possible, the father shall have final
9 decision making authority.

8 **4.3 Restrictions in Decision Making**

See above

9 Sole decision making shall be ordered to the petitioner for the following reasons:

- 10 A limitation on the other parent's decision making authority is
- 11 mandated by RCW 26.09.191 (See paragraph 2.1).
- 12 Both parents are opposed to mutual decision making.
- 13 One parent is opposed to mutual decision making, and such
- 14 opposition is reasonably based on the following criteria:
- 15 (a) The existence of a limitation under RCW 26.09.191;
- 16 (b) The history of participation of each parent in decision making
- 17 in each of the areas in RCW 26.09.184(4)(a);
- 18 (c) Whether the parents have demonstrated ability and desire to
- 19 cooperate with one another in decision making in each of the
- 20 areas in
- 21 RCW 26.09.184(4)(a), and
- 22 (d) The parents' geographic proximity to one another, to the
- 23 extent that it affects their ability to make timely mutual
- 24 decisions.

20 **V. Dispute Resolution**

21 *The purpose of this dispute resolution process is to resolve disagreements about*
22 *carrying out this parenting plan. This dispute resolution process may, and under some*
23 *local court rules or the provisions of this plan must, be used before filing a petition to*
24 *modify the plan or a motion for contempt for failing to follow the plan.*

Disputes between the parties, other than child support disputes, shall be submitted to (list person or agency):

1
2 Any disputes shall be submitted to Karin Ballantyne for resolution.

3 After Ms. Ballantyne is no longer involved in the case, the parties shall submit
4 any dispute to mediation by an agreed mediator, if this box is checked and issues
5 of domestic violence or child abuse are present, then the court finds that the
6 victim requested mediation, that mediation is appropriate and that the victim is
7 permitted to have a supporting person present during the mediation proceedings,
8 or

9 The cost of this process shall be allocated between the parties as follows:

10 Based on each party's proportional share of income from line 6 of the child
11 support worksheets.

12 The dispute resolution process shall be commenced by notifying the other party
13 by written request.

14 In the dispute resolution process:

- 15 (a) Preference shall be given to carrying out this Parenting Plan.
- 16 (b) Unless an emergency exists, the parents shall use the designated process
17 to resolve disputes relating to implementation of the plan, except those
18 related to financial support.
- 19 (c) A written record shall be prepared of any agreement reached in
20 counseling or mediation and of each arbitration award and shall be
21 provided to each party.
- 22 (d) If the court finds that a parent has used or frustrated the dispute resolution
23 process without good reason, the court shall award attorneys' fees and
24 financial sanctions to the other parent.
- (e) The parties have the right of review from the dispute resolution process to
the superior court.

VI. Other Provisions

There are the following other provisions:

1
2
3
4
5
6
6.1 Telephone Access. Each parent shall be permitted unimpeded and unmonitored telephone and Skype (face-to-face) access with the children at a reasonable time and for reasonable duration. The non-residential parent shall be permitted no less than two Skype or "face-time" interactions with the children each week. The Skype time with the father shall be Sundays at 5:00 p.m. PST and Wednesdays at 5:00 p.m. PST. If there is a conflict, the parent with the conflict will email the other parent no less than 48 hours in advance and the call shall immediately be rescheduled. The custodial parent shall make sure the children are available for said Skype or "face time".

7
8
6.2 Activities. Each parent shall have the right and responsibility to ensure that the children attend school and other scheduled activities while in that parent's care.

9
10
6.3 Change of Address. Each parent shall provide the other with the address and phone number of their residence, cell number and e-mail address, and update such information promptly whenever it changes.

11
12
13
14
6.4 Access to Information: Each parent shall have the right to equal access to all of the child's medical, psychological, psychiatric, counseling, criminal, juvenile, and educational records and to any other information relevant to the child's best interests or welfare - including, but not limited to, any records kept or maintained by the State of Washington, the Department of Health and Social Services, and Child Protective Services.

15
16
17
18
Any third party having or maintaining any such records is hereby authorized to release any and all information upon presentation of this Order by a named parent herein, without the necessity of court order or subpoena duces tecum. Any person, including but not limited to, physician, psychologist, psychiatrist, counselor, officer, or educator, may and shall speak candidly concerning the child named herein to either of the above-named parents upon presentation of this Order, without court order or subpoena.

19
20
21
Each parent shall notify the other parent within 24 hours of receipt of extraordinary information regarding the child, such as emergency medical care, major school discipline, unusual or unexplained absence from the home, or contact with police or other legal authority.

22
23
24
Each parent shall have equal and independent authority to confer with school, day care, and other programs with regard to the child's progress and each will have free access to school, daycare and other records. Each parent shall have authority to give parental consent or permission, as may be required, concerning school, day care, or other programs for the child are in his or her care.

1
2
3
4
5
6
7
8.5 Child's Involvement: Neither parent shall ask or encourage the child to make decisions or requests involving the residential schedule or encourage the child to believe it is his choice to do so. Neither parent shall discuss changes to the residential schedule which have not been agreed to by both parents in writing in advance. Neither parent shall advise the child of the status of child support payments or other legal matters regarding the parents' relationship. Neither parent shall use the child, directly or indirectly, to gather information about the other parent or take verbal messages to the other parent. Neither parent shall discuss this litigation with the child without the express agreement of the other parent or through the recommendations of a child's treating counselor/therapist.

8
9
10
8.6 Enrichment Activities. Each parent shall be responsible for keeping themselves advised of athletic and social events in which the children participate. Both parents may participate in school activities for the children regardless of the residential schedule.

11
12
8.7 Primary Residence. Neither parent shall encourage the children to change their primary residence or encourage the child to believe it is their choice to do so. It is a choice that will be made by the parents or, if they cannot agree, the courts.

13
14
8.8 Derogatory Comments. Neither parent shall make derogatory comments about the other parent or allow anyone else to do the same in the children's presence. Neither parent shall allow or encourage the children to make derogatory comments about the other parent.

15
16
Each parent shall exert reasonable effort to promote the emotion of affection, love, and respect between the child and the other parent.

17
18
19
Each parent desires to remain responsible and active in the growth and development of the child consistent with the best interests of the child. The parents shall make mutual efforts to maintain open, ongoing communication concerning the development, needs and interests of the child and discuss together the major decisions which have to be made about or for the child.

20
21
22
Each parent agrees to honor the other's parenting style, privacy, and authority. Neither will interfere in the parenting style of the other, nor will either parent make plans and arrangements that would impinge upon the other parent's authority or time with the child without the express written agreement of the other parent.

23
24
8.9 Emergency Care Each parent shall be empowered to obtain emergency health care for the child without the consent of the other parent. Each parent is to notify the other parent as soon as reasonably possible of any illness requiring medical attention or of any emergency involving the child.

1
2 Each parent shall have equal and independent authority to arrange routine and
3 emergency medical and dental services for the child while the child is in his or
4 her care and residence.

5 All coordination with regard to the child's schedule, visitation, extracurricular
6 activities, medical or dental care shall be done directly between the parents, and
7 not by third parties.

8 6.10 The children shall only be transported in a car by an adult with a valid
9 driver's license and current insurance. Either parent may request proof of a valid
10 license and current insurance from any adult that is transporting the children by
11 car.

12 VII. Declaration for Proposed Parenting Plan

13 Does not apply.

14 VIII. Order by the Court

15 It is ordered, adjudged and decreed that the parenting plan set forth above is adopted
16 and approved as an order of this court.

17 **WARNING:** Violation of residential provisions of this order with actual knowledge of its
18 terms is punishable by contempt of court and may be a criminal offense under RCW
19 9A.40.060(2) or 9A.40.070(2). Violation of this order may subject a violator to arrest.

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

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

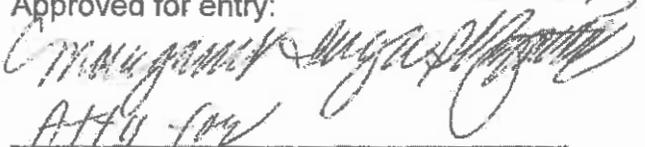
24 Dated: Dec 17, 2014

Douglas A. North
Judge/Commissioner

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

Presented by:


32521
Laurie G. Robertson
Attorney for Petitioner

Approved for entry: #8893

ATTY FOR
Monique Hetrick Riker
Respondent



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Superior Court of Washington
County of KING

In re:

CHANDLER H RIKER

and

MONIQUE RIKER

Petitioner,

Respondent.

No. 13-3-11063-0 SEA

Order Re Modification/Adjustment
Of Custody Decree/Parenting
Plan/Residential Schedule
(ORMDD/ORDYMT)

*CLERK'S ACTION - Forward
to DCS (PAGE 4)*

I. Basis

This order is based on the terms of the Parenting Plan entered August 11, 2014, wherein the court required the Respondent to complete certain requirements and follow certain restrictions in order to protect the children. The court reserved the right to change primary residential placement if Respondent failed to follow the terms and conditions under 3.10 of the Parenting Plan.

II. Findings

The Court Finds:

2.1 Jurisdiction

This court has jurisdiction over this proceeding for the reasons below.

This state is the home state of the children because: the children lived in Washington with a parent or a person acting as a parent for at least six consecutive months

Ord re Mod/Adj of Parenting Pln (ORMDD, ORDYMT) - Page 1 of 5
WPF DRPSCU 07.0400 Mandatory (7/2011) - RCW 26.09.260; .270;
26.10.200

Law Offices of Jason S.
Newcombe
1218 Third Ave, Ste 500
Seattle, WA 98101
206-624-3644
fax 206-971-1661

1 immediately preceding the commencement of this proceeding

2 any absences from Washington have been only temporary.

3 The children and the parents or the children and at least one parent or person acting as
4 a parent have significant connection with the state other than mere physical,
5 presence; and substantial evidence is available in this state concerning the
6 children's care, protection, training and personal relationships, and: The children
7 have no home state elsewhere.

8 No other state has jurisdiction

9 This court specifically retained jurisdiction to address Petitioner's request to change
10 primary residential placement of the children in the event the Respondent failed to follow
11 section 3.10 of the final Parenting Plan.

12 **2.2 Modification Under RCW 26.09.260(1),(2)**

13 The custody decree/parenting plan/residential schedule should be modified because a
14 substantial change of circumstances has occurred in the circumstances of the children
15 or the nonmoving party and the modification is in the best interest of the children and is
16 necessary to serve the best interest of the children. This finding is based on the factors
17 below:

18 The children's environment under the custody decree/parenting plan/residential
19 schedule is detrimental to the children's physical, mental or emotional health and
20 the harm likely to be caused by a change in environment is outweighed by the
21 advantage of a change to the children.

22 The following facts, supporting the requested modification, have arisen since the decree
23 or plan/schedule were unknown to the court at the time of the decree or plan/schedule:

24 The court order that Respondent complete requirements and follow restrictions under
25 3.10 of the final Parenting Plan. One requirement was that Respondent obtain a
psychological evaluation and follow treatment recommendations. Respondent has
failed to obtain a psychological evaluation.

26 In addition, Respondent was not to allow the children to be with the maternal
grandmother overnight. Respondent has provided false information to the Petitioner
and the Parenting Coordinator about the residence of the children. The children have
been residing with the maternal grandmother, and have been left alone at night with her.
There was no question that the maternal grandmother has negative and detrimental
effect on the children.

27 The Respondent and maternal grandmother continue to seek to alienate the children
28 from the father.

* and Supreme Ct's reference to
case on CWF 179 Wash 2d 411 (2013)
(see last page)
CP 171

*D.A.N.
MAG*

*MAG
D.A.N.*

*MAG
D.A.N.*

1
2 The Respondent refuses to engage in joint decision making with the Petitioner regarding
3 non-emergency health care of the children.

4 *D.A.N.*
5 *my* The other party has been found in contempt of court at least twice within three years
6 because the person failed to comply with the residential time provisions in the
7 court-ordered parenting plan, or the person has been convicted of custodial interference
8 in the first or second degree under RCW 9A.10.080 or 9A.10.070.

9
10 **2.3 Modification or Adjustment Under RCW 26.09.260(4) or (8)** *Multiple counts*

11 Does not apply.

12 **2.4 Adjustments to Residential Provisions Under RCW 26.09.260(5)(a) and (b)**

13 Does not apply.

14 **2.5 Adjustments to Residential Provisions Under RCW 26.09.260(5)(c), (7), (9)**

15 *This section only applies to a person with whom the child does not reside a*
16 *majority of the time who is seeking to increase residential time.*

17 **2.5.1 Parent subject to limitations under RCW 26.09.191(2) or (3)**

18 Does not apply.

19 **2.5.2 Parent Required to Complete Evaluations, Treatment, Parenting or Other**
20 **Classes**

21 Monique Hetrick Riker is required by the existing parenting plan/residential schedule to
22 complete a psychological evaluations and recommended treatment. The following facts
23 show this parent has not fully complied with such requirements: Respondent has not
24 obtained the evaluation and is not following any recommended treatment because she has
25 failed to even obtain the evaluation.

26 **2.6 Adjustments to Nonresidential Provisions Under RCW 26.09.260(10)**

27 The following non-residential aspects of the parenting plan/residential schedule should
28 be adjusted because there is a substantial change of circumstances of either party or of
29 the children and the adjustment is in the best interest of the children:

30 Decision making. - *father to make initial decisions re school /*
31 *healthcare / allowances to*
32 Transportation arrangements. *facilitate 12/31/14 transition,*

33 **2.7 Substantial Change in Circumstances** *transfer all decisions human joint*

(Complete this part if a modification or adjustment is based on paragraphs 2.2, 2.4, 2.5.1, 2.5.3 or 2.6).

The following substantial change has occurred in the circumstances of either party or of the children:

The Respondent's failure to follow the terms and conditions and requirement in the final Parenting Plan including refusing to advise the father and the Parenting Coordinator that the children are residing with the maternal grandmother, makes her home a detrimental environment for the children. The mother has failed to obtain a psychological evaluation and follow any recommended treatment. Her unresolved mental health issues create a detrimental environment for the children. The mother's continued efforts to alienate the children from the father are emotionally damaging to the children.

2.8 Protection Order

Does not apply.

III. ORDER

It is Ordered:

Petitioner's request to modify/adjust the custody decree or parenting plan/residential schedule is granted. The custody decree or parenting plan/residential schedule signed by the court on this date, is approved and incorporated as part of this order. This decree or parenting plan/residential schedule supersedes all previous decrees or parenting plans/residential schedules.

Child support ordered to be paid by Petitioner to Respondent is ~~suspended~~ ^{terminated} at this time.

Dated: December

Douglas A. North
Judge/Commissioner

Presented by:

Approved by:

Laurie Robertson 32521
Signature of Party or Lawyer/WSBA No. Date

Monique Ritter #8893
Signature of Party or Lawyer/WSBA No. Date 12/17/14

1
2 The court clearly set forth best of
3 end of trial and in 3.10 of Parent
4 Plan that placement of children with
5 mother depended on her following 7.10.
6 7.10.6 states if mother finds other home
7 court has ability to change primary
8 placement

9
10 Court orders that the mother's residential
11 home may be reviewed on 6/5/15 ^{9:00} AM.
12 The court will not address change of
13 primary residence without threshold shown
14 per statute but will address mother's
15 home if she changes

0.9
11
12

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Superior Court of Washington
County of KING

In re the Marriage of:

CHANDLER H RIKER

and

MONIQUE RIKER

Petitioner,

Respondent.

No. 13-3-11063-0 SEA

Order on Show Cause re
Contempt/Judgment
(ORCN)

Next Hearing Date:

I. Judgment Summary

Applies as follows:

- A. Judgment Creditor Chandler Riker
- B. Judgment Debtor Monique Riker
- C. Principal judgment amount from to
- D. Interest to date of Judgment
- E. Attorney fees
- F. Costs
- G. Other recovery amount
- H. Principal judgment shall bear interest at 12% per annum
- I. Attorney fees, costs and other recovery amounts shall bear interest at 12% per annum
- J. Attorney for Judgment Creditor Laurie G. Robertson
- K. Attorney for Judgment Debtor
- L. Other:

\$
\$
\$
\$
\$

Denied
M. Riker
D. Riker

II. Findings and Conclusions

This Court Finds:

Ord on Show Cause re Cntmpt/Jdgmnt (ORCN) - Page 1 of 6
WPF DRPSCU 05.0200 Mandatory (7/2013) - RCW 26.09.160, 7.21.010

Law Offices of Jason S. Newcombe
Seattle Tower
1218 3rd Ave, Ste 500
Seattle WA 98101
Tel: (206) 624-3644
Fax: (206) 971-1661

1
2 **2.1 Compliance With Court Order**

3 Monique Riker intentionally failed to comply with a lawful orders of the court dated
4 August 11, 2014.

5 **2.2 Nature of Order**

6 The order is related to parenting plan (custody/visitation) and the temporary order. *entered 8/11/14 M.A.M.*

7 **2.3 How the Order was Violated**

8 This order was violated in the following manner (include dates and times, and amounts,
9 if any):

10 Respondent failed to comply with section "3.10.1 Restrictions" of the final Parenting
11 Plan by failing to obtain a psychological evaluation.

12 Respondent failed to comply with section "3.10.3 Restrictions" which states,
13 "The children shall not stay overnight with the maternal grandmother" by allowing the
14 children to reside with the maternal grandmother and leaving the children overnight with
15 the maternal grandmother.

16 Respondent failed to comply with section "3.13.3 Other" by continuing to make and
17 allowing the maternal grandmother to make which states, "negative statements,
18 disparaging remark or negative comments" about the father.

19 Respondent failed to comply with section "3.13.4 Other" by failing to use "FamilyWizard
20 to keep track of all appointments for the children and all important information."

21 Respondent failed to comply with "4.2 Major Decisions" by refusing to include the father
22 in health care decision regarding the minor children.

23 ~~Respondent failed to comply with 3.13.3, which states, "Neither party shall make or allow
24 anyone in their presence to make any negative statements, disparaging remarks or
25 negative comments about the other parent to the children." Both the Respondent and the
maternal grandmother continue to make negative~~

26 Respondent failed to comply with "VI Other Provisions" under subsection 6.1, which
27 states, "Each parent shall be permitted unimpeded and unmonitored telephone and
28 Skype (face-to-face) access with the children at a reasonable time and for a reasonable
29 duration." On more than one occasion since the entry of the final orders, the
30 Respondent has coached the children during the Skype calls with the Petitioner. The
31 Respondent has also ended at least one call when the children obviously were not
32 saying what she wanted them to say. *M.A.M.*

1
2 **2.4 Past Ability to Comply With Order**

3 Monique Riker had the ability to comply with the order as follows:

4 Monique Riker was aware of the court's orders and had the ability to comply with the
5 terms therein.

6 **2.5 Present Ability and Willingness to Comply With Order**

7 Monique Riker has the present ability to comply with the order as follows:

8 There is no factual basis for Monique Riker to refuse to comply with the court's orders.

9 Monique Riker does not have the present willingness to comply with the order as follows:

10 Unknown.

11 **2.6 Back Child Support/Medical Support/Other Unpaid Obligations/Maintenance**

12 Does not apply.

13 **2.7 Compliance With Parenting Plan**

14 Monique Riker has not complied with the provisions of the parenting plan and had the
15 ability to comply with the parenting plan, and is currently unwilling to comply. The
16 noncompliance with the provisions of the parenting plan is in bad faith.

17 **2.8 Attorney Fees and Costs**

18 The attorney fees and costs awarded in paragraph 3.9 below have been incurred and
19 are reasonable.

20 **III. Order and Judgment**

21 *It is Ordered:*

22 **3.1 Contempt Ruling**

23 Monique Riker is in contempt of court.

24 **3.2 imprisonment**

25 Does not apply.

3.3 Additional Residential Time

Does not apply.

1
2 **3.4 Judgment for Past Child Support**

3 Does not apply.

4 **3.5 Judgment for Past Medical Support**

5 Does not apply.

6 **3.6 Judgment for Other Unpaid Obligations**

7 Does not apply.

8 **3.7 Judgment for Past Maintenance**

9 Does not apply.

10 **3.8 Conditions for Purging the Contempt**

11 The contemnor may purge the contempt as follows: *By obtaining the*
12 *psychological evaluation and following any recommended treatment.*
13 *See Order on Modification and*
14 *Parenting Plan entered this same* *myself* *date.*
15 *day.*

16 **3.9 Attorney Fees and Costs**

17 Chandler Riker shall have judgment against Menique in the amount of \$ _____ for
18 attorney fees and _____ for costs. *No award of fees.*

19 **3.10 Review Date**

20 Does not apply.

21 **3.11 Other**

22 Does not apply.

23 **3.12 Summary of RCW 26.09.430 - .480, Regarding Relocation of a Child**

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

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

1
2 If the move is outside the child's school district, the relocating person must give notice by
3 personal service or by mail requiring a return receipt. This notice must be at least 60
4 days before the intended move. If the relocating person could not have known about
5 the move in time to give 60 days' notice, that person must give notice within 5 days after
6 learning of the move. The notice must contain the information required in RCW
7 26.09.440. See also form DRPSCU 07.0500, (Notice of Intended Relocation of A
8 Child).

9
10 If the move is within the same school district, the relocating person must provide actual
11 notice by any reasonable means. A person entitled to time with the child may not object
12 to the move but may ask for modification under RCW 26.09.260.

13
14 Notice may be delayed for 21 days if the relocating person is entering a domestic
15 violence shelter or is moving to avoid a clear, immediate and unreasonable risk to health
16 and safety.

17
18 If information is protected under a court order or the address confidentiality program, it
19 may be withheld from the notice.

20
21 A relocating person may ask the court to waive any notice requirements that may put the
22 health and safety of a person or a child at risk.

23
24 Failure to give the required notice may be grounds for sanctions, including contempt.

25
26 **If no objection is filed within 30 days after service of the notice of intended
27 relocation, the relocation will be permitted and the proposed revised residential
28 schedule may be confirmed.**

29
30 A person entitled to time with a child under a court order can file an objection to the
31 child's relocation whether or not he or she received proper notice.

32
33 An objection may be filed by using the mandatory pattern form WPF DRPSCU 07.0700,
34 (Objection to Relocation/Petition for Modification of Custody Decree/Parenting
35 Plan/Residential Schedule). The objection must be served on all persons entitled to time
36 with the child.

37
38 The relocating person shall not move the child during the time for objection unless: (a)
39 the delayed notice provisions apply; or (b) a court order allows the move.

40
41 If the objecting person schedules a hearing for a date within 15 days of timely service of
42 the objection, the relocating person shall not move the child before the hearing unless
43 there is a clear, immediate and unreasonable risk to the health or safety of a person or a
44 child.

45
46 **Warning:** Violation of residential provisions of this order with actual knowledge of its terms is
47 punishable by contempt of court and may be a criminal offense under RCW 9A.40.060(2) or
48 9A.40.070(2). Violation of this order may subject a violator to arrest.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Dated: Dec. 17, 2014

Douglas A. North
Judge/Commissioner

Presented by:

Approved for entry:
Notice of presentation waived:

Laurie Robertson 32521

Laurie Robertson
Attorney for Petitioner

Monique Riker #802
Atty for

Monique Riker
Respondent

Monique Riker

McKinley Irvin

Honorable Douglass A. North

JAN 14 2015
Received

SUPERIOR COURT OF WASHINGTON
COUNTY OF KING

In re the Marriage of:

CHANDLER RIKER,

Petitioner,

and

MONIQUE HETRICK RIKER,

Respondent.

NO. 13-3-11063-0 SEA

DENYING
~~PROPOSED ORDER GRANTING~~
MOTION FOR RECONSIDERATION
OF DECEMBER 17, 2014 ORDER RE
MODIFICATION OF PARENTING
PLAN; ORDER ON SHOW CAUSE;
AND FINAL PARENTING PLAN

THIS MATTER came before the Court on Petitioner's Motion for
Reconsideration of December 17, 2014 Order re Modification of Parenting Plan; Order on
Show Cause; and Final Parenting Plan, and the Court having reviewed the Motion,
D.A.N.
Petitioner's Response, and Respondent's Reply, and the files, records, and pleadings
herein, now therefore,

IT IS ORDERED, ADJUDGED, and DECREED that:

1. Petitioner's Motion for Reconsideration of December 17, 2014 Order re
Modification of Parenting Plan; Order on Show Cause; and Final Parenting Plan is hereby

DENIED

~~GRANTED~~

- 2. The Order re Modification of Parenting Plan dated December 17, 2014 is hereby vacated.
- 3. The Final Parenting Plan dated December 17, 2014 is hereby vacated.
- 4. The Order on Show Cause dated December 17, 2014 is hereby vacated.
- 5. The Parenting Plan dated August 11, 2014 remains in full force and effect.

Dated: January 12, 2015 Douglas A. North
Honorable Douglass A. North

Presented by:
 MCKINLEY IRVIN, PLLC

Approved for entry:
Notice of presentation waived:
 LAW OFFICES OF JASON S. NEWCOMBE

 Brien Galbraith, WSBA No. 40169
 Attorney for Respondent
 Monique Hetrick Riker

 Laurie Robertson, WSBA #32521
 Attorney for Petitioner
 Chandler Riker