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Division I
State of Washington
NO. 75146-8-I

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

Jose Maldonado,

Petitioner/Appellant,

v.

Noemi Lucero Maldonado,

Respondent.

OPENING BRIEF OF APPELLANT JOSE MALDONADO

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I. INTRODUCTION

Appellant Jose Maldonado petitioned the King County Family Court for a domestic violence order for protection (“DVPO”) on behalf of his three children. He sought protection for them after Mr. Maldonado’s ex-wife, Respondent Noemi Lucero, assaulted their 9-year-old daughter in the presence of their other two children. The assault left multiple bruises on the child. (Information was provided to the court that the other two children were also assaulted during the same incident.) The assault occurred during Ms. Maldonado’s third weekend of unsupervised visitation with the children after a long period of supervised visitation. The petition indicated that all three children were in fear of the mother.

Instead of granting a one-year DVPO protecting the three children, the superior court entered a four-month DVPO protecting the 9-year-old only. No protections or residential provisions were entered for the two other children and unsupervised visitation continued for them.

In denying a full one-year DVPO for all three children the court stated that Mr. Maldonado’s request was an attempt to modify the permanent parenting plan. The court erred by denying the entry of a full one-year DVPO for all three children along with the entry of protective residential provisions.

II. ASSIGNMENTS OF ERROR

Assignments of Error

1. The superior court erred when it failed to find that all three minor children were entitled to protection in the DVPO.
2. The superior court erred when it held that a request to include the parties' minor children in a DVPO was an improper modification of the permanent parenting plan.
3. The superior court erred when it failed to comply with the residential provisions requirements of the Domestic Violence Protection Act ("DVPA").
4. The superior court erred when it failed to grant a one-year DVPO.

Issues Pertaining to Assignments of Error

1. When the superior court determined that the mother assaulted one of the children in the presence of the other two children, was it an error to exclude these two children from the DVPO?
2. Did the superior court err by concluding that the father's request to include all three children in the DVPO was an improper attempt to modify the permanent parenting plan?
3. When the superior court determined that a DVPO should be issued was it an error not to enter protective residential provisions for all three children pursuant to the DVPA?

4. Upon finding that domestic violence was committed, did the court err by issuing the DVPO for less than one year?

III. STATEMENT OF CASE

Appellant Jose Maldonado and Respondent Noemi Lucero Maldonado have three children from their marriage; N.A.M. (14-year-old daughter), N.L.M. (9-year-old daughter), and J.M.M. (6-year-old son).¹ CP 1-2. The parties separated in 2010 and divorced in 2015. CP 49. The children lived with Ms. Maldonado until it was disclosed in 2012 that her boyfriend sexually abused both female children. CP 5, 8, 50. As a result all children were subsequently ordered to live with Mr. Maldonado. CP 5, 50. Ms. Maldonado had only professionally supervised residential time with the children for several years. CP 5, 7-9, 50; RP 25:3-4. A permanent parenting plan was entered on October 14, 2015. CP 50; RP 14:12-13.

In the permanent parenting plan Mr. Maldonado continued to be the primary residential parent. CP 50. Ms. Maldonado had limited, unsupervised every-other-weekend visits from Friday after school to

¹ The children's initials are used instead of their names throughout this brief. References to the record of proceedings which include the children's names will also reflect the initials and not the children's actual names. The names are replaced with brackets and the appropriate initials. Additionally, the record of proceedings also incorrectly spelled N.L.M.'s name throughout by using a phonetic spelling.

Sunday at 6:00 pm in addition to selected holidays and two weeks of vacation each summer. CP 5, 7-9, 50.

On Saturday, November 21, 2015, Ms. Maldonado had only her third unsupervised weekend with the children. CP 5-8; RP 14:11-12, 25:4-5. She went to the store with her boyfriend and the three children. CP 8; RP 15:6-7. While at the store, N.L.M. asked Ms. Maldonado to use the bathroom. CP 8. When N.L.M. returned from the bathroom, Ms. Maldonado pushed her to the ground for taking too long in the restroom. CP 5, 8; RP 15. When they got home Ms. Maldonado pinched N.L.M. on her upper right bicep, leaving a two-inch bruise. CP 5-6, 8-10; RP 14:24-15:2. She also struck N.L.M. with a belt, hit her multiple times on her back, leg and ankle. CP 8; RP 15:2-3,21. As a result N.L.M. had bruising on her upper right thigh. CP 8; RP 15:2. On the same day, Ms. Maldonado also hit the 6-year-old son with a belt and hit the 14-year-old daughter with a flip-flop. CP 8; RP 15:8-9.

On Monday, November 23, 2015, N.L.M. disclosed to staff at Cascade View Elementary that her mother, Ms. Maldonado, had assaulted her and her siblings on November 21, 2015. CP 8; RP 15:8-9. School staff noted N.L.M. had a 2-inch in diameter bruise on her right bicep and a bruise on her upper right thigh. CP 8. School staff contacted law

enforcement. CP 8. A report was taken by the Snohomish County Sheriff's Office under case number 2015-316229. CP 5, 12.

On Tuesday, November 24, 2015, Mr. Maldonado took N.L.M. for a checkup at Health Point. CP 9-10; RP 15:12-13. Staff at Health Point noted in their records that Ms. Maldonado assaulted N.L.M. on November 21, 2015 with a belt, which left multiple marks on her arm. CP 9-10. The attending medical professional noted bruising on multiple locations of N.L.M.'s right forearm. CP 10.

During Ms. Maldonado's next scheduled visit with the children, December 4, 2015, she reprimanded N.L.M. for disclosing the physical abuse. CP 5. Ms. Maldonado threatened to punish N.L.M. by turning her father into the police.² CP 5. The children were terrified of Ms. Maldonado and what she would do at the next visitation. CP 4, 7.

Mr. Maldonado filed a domestic violence order for protection ("DVPO") petition on Friday, December 18, 2015, in King County Superior Court under case number 15-2-30568-9 KNT. CP 1-12. Mr. Maldonado was worried for his children's well-being while in Ms. Maldonado's care, as visitation was scheduled for later that day. CP 4. In his DVPO petition, Mr. Maldonado requested that the three minor children

² The record is unclear why Ms. Maldonado threatened to contact the police against Mr. Maldonado.

be protected and that that a DVPO remain in place for more than one-year.
CP 2-3.

In the DVPO petition Mr. Maldonado also requested that a temporary DVPO be issued immediately due to the risk of harm to the children. CP 4. In his DVPO petition, Mr. Maldonado noted that the children were afraid of Ms. Maldonado and specifically stated, “[t]he children are afraid of what will happen to them during these visits. The next scheduled visit is Friday, December 18, 2015.” CP 4. He also stated “Petitioner and children fear that Respondent’s dangerous behavior will only continue and/or relapse if it does not stop temporarily [sic] if the children are forced to continue having visits with their mother – especially if unsupervised.” CP 7.

Attached to the DVPO petition were several exhibits including the Child Abuse/Neglect Report to Children’s Protective Services from N.L.M.’s school and the medical record from her visit to Health Point. CP 8-11.

The superior court granted a temporary DVPO on December 18, 2015 which included all three children as protected parties. CP 13-16. The temporary DVPO prohibited any and all contact between Ms. Maldonado and the children and made no provision for visitation. CP 13-16.

Both parties appeared in superior court on December 31, 2015 and a reissuance of the temporary DVPO was entered to allow Family Court Services to obtain an update from CPS. CP 17-18, 21-22. The temporary DVPO was modified to allow Ms. Maldonado professionally supervised visits with the three children. CP 17. The next hearing was scheduled for January 21, 2016. CP 17. At the same superior court hearing, an Order Re DCFS/CPS Status Report to Family Law Department was also entered. CP 21-22. The final hearing was continued two more times to allow the parties to submit additional documents and to allow the superior court time to obtain a CPS Status Report. CP 29-31, 39. Ms. Maldonado was granted supervised visits with the minor children at each hearing which she never used. CP 29, 39.

On January 14, 2016 Mr. Maldonado also filed a color photograph of N.L.M.'s bruised arm following the assault on November 21, 2015. CP 23, 26-27; RP 6:3-10. He also filed a Declaration with the superior court stating that the police report regarding the assault had been requested. CP 23-25.

On February 12, 2016 Ms. Maldonado filed a coversheet which included the results of a CPS investigation from 2012 as well as what she purported to be her written statement to law enforcement regarding the assault on N.L.M. CP 34-38.

On February 23, 2016 a CPS Status Report dated February 17, 2016 was filed by Family Court Services under seal. CP 96-98. The CPS Status Report noted that N.L.M. had reported to her school that Ms. Maldonado had pushed her, pinched her arm and hit her legs with a belt and that she had also hit her siblings with a belt and flip flop. CP 98. The report noted that when N.L.M. was interviewed by a CPS social worker, that her report regarding the abuse “remained similar.” CP 98. The older sibling, N.A.M., “reported that the mother [Ms. Maldonado] attempted to talk to [N.L.M.] when she was being disrespectful.” CP 98. The case became a CPS-FAR [Family Assessment Response] referral and there were no additional findings or steps taken.³ CP 98.

The parties appeared before King County Family Court Commissioner Mark Hillman on March 4, 2016. RP 1:11-12. A Spanish interpreter was present at the hearing for Mr. Maldonado. RP 4:13-15. Both parties were sworn and neither appeared with counsel. RP 5:12-15. At the hearing Mr. Maldonado confirmed that the facts in the DVPO petition and declaration were true and accurate. RP 5:24-6:2. He identified the photo he previously filed with the superior court and

³ FAR refers to “Family Assessment Response” which is a process to screen cases out of the CPS system when there is a moderate risk to children. This would include cases which have a protective parent such as Mr. Maldonado.

explained that it was taken on November 22, 2015, the day after N.L.M. was assaulted by Ms. Maldonado. RP 6:9-10.

Ms. Maldonado testified that on November 21, 2015 that she and N.L.M. went to the mall and that N.L.M. misbehaved. RP 6:14-18. Ms. Maldonado admitted to hitting N.L.M.; “I hit her on her behind with the belt. But on [sic] the bruise, I don’t know how she got that.” RP 6:21-23. Commissioner Hillman asked Ms. Maldonado how many times she hit N.L.M. with the belt and she responded, “[j]ust one time.” RP 6:24-25.

Commissioner Hillman inquired about the existence of a parenting plan and asked to review it. RP 7:1-11. Commissioner Hillman appeared to review the permanent parenting plan entered between the parties in Snohomish County.⁴ RP 7:10-12.

Mr. Maldonado testified further and explained that Ms. Maldonado had not seen the children since the entry of the original temporary DVPO – almost three months. RP 7:24-8:2. Mr. Maldonado went onto express concern that Ms. Maldonado had sent text messages to the minor children saying he had been lying. RP 8. Although the text messages were in

⁴ The permanent parenting plan was never properly presented to the Court as part of the DVPO proceedings and therefore does not appear in the clerk’s papers as it relates to the proceedings before Commissioner Hillman. A copy of the permanent parenting plan was submitted by Ms. Maldonado as part of the motion for revision and was objected to by Mr. Maldonado’s counsel at oral argument. CP 72-79, RP 14:15-18.

violation of the temporary DVPO, Mr. Maldonado explained that he had not reported the text messages to law enforcement because he had only learned about them the day before the hearing. RP 8:19-25.

Mr. Maldonado expressed concern about Ms. Maldonado attempting to take the children to California, but the Court cut him off and indicated that it would not allow Ms. Maldonado to go to California with the children. RP 9:2-6.

Commissioner Hillman asked Mr. Maldonado, “[t]he only evidence I have before me is the allegations regarding abuse of the 9-year old, correct?” RP 9:15-17. Through the interpreter Mr. Maldonado responded, “[y]es.” RP 9:18. Mr. Maldonado then attempted to explain past abuse regarding the two daughters and additional information pertaining to all three minor children. RP 9:20-10:4. Commissioner Hillman again stopped Mr. Maldonado from providing testimony, saying that could not allow him to now “amend” his DVPO petition because three months had since passed since the petition was filed. RP 10:9-10.

Commissioner Hillman also stated that “I don’t have any evidence of any abuse regarding the other children. The only allegations that I have involve [N.L.M.] (phonetic).” RP 9:22-24.

In making its ruling Commissioner Hillman stated, “[t]here are no other allegations that are brought before me regarding the 14-year-old or

the 6-year-old; therefore, the Court cannot grant and will not grant a protection order for the 14-year-old or the 6-year-old. I'm striking them from this protection order." RP 10:21-25. The court proceeded to cite to RCW 9A.16.020, the use of force statute, and noted that, pursuant to the statute, that "[a]ny act that causes bodily harm greater than transient pain or minor temporary marks. Bruising is ordinarily considered as not a temporary mark under the statute."⁵ RP 11:1-10. The superior court determined that the "bruise was improperly inflicted on the child by the mother" and granted a DVPO until July 5, 2016. RP 11:14-18. The DVPO was granted for a period of 123 days; 4 months and one day. RP 12:12-13. The superior court made no written findings explaining why a one-year DVPO was not granted. CP 43-49.

Professionally supervised visits between Ms. Maldonado and N.L.M. were also granted. RP 12:8-9. Commissioner Hillman made no protective visitation provisions for the two remaining children. CP 45. The two children had to continue unsupervised visitation with Ms. Maldonado without any DVPO protections, including the most basic protection "from causing physical harm, bodily injury, assault, including sexual assault, and from molesting harassing, threatening" them. CP 45.

⁵ The record of proceedings reflects that the Court cited to "RCW 98.16.020" however correct citation as indicated in the Court's oral ruling is RCW 9A.16.020.

Commissioner Hillman instead directed Mr. Maldonado “to file a petition to modify the parenting plan if you want to look into other protections for the children.” RP 11:21-23. The superior court made no written findings explaining why it excluded two of the children from the DVPO. CP 43-49.

Mr. Maldonado obtained counsel and timely filed a motion for revision on March 16, 2016. CP 49-62. The motion for revision requested that all three minor children be protected in the DVPO and that the DVPO be issued for one-year. CP 49-58. Ms. Maldonado’s counsel filed a response on March 25, 2016. CP 66-81.

Oral argument was heard by the Honorable Julia Garrat on March 29, 2016. CP 82. Counsel for Mr. Maldonado highlighted that he is indigent and is physically disabled. RP 19:14-18. Counsel also indicated the difficulty faced by Mr. Maldonado in litigating the DVPO matter in King County and any future parenting plan proceedings in Snohomish County. RP 19:13-25. Counsel argued that Commissioner Hillman committed several errors; first, only one child was protected in the DVPO, second that the DVPO should have been entered for one-year, and third, that the superior court erred by directing Mr. Maldonado to file a separate family law action to protect the two children not included on the DVPO. RP 16:24-18:21.

Judge Garrat denied the motion for revision and stated on the record as follows:

So the father believes that the DVPO *should have listed all three children and should have been for a full year's duration*, but the problem with this calculation is that that's a *back door modification* of a parenting plan and *is contrary to the statute*. Modification of a parenting plan requires specific statutory steps including a hearing to establish adequate cause." RP 26:17-23 (emphasis added).

Judge Garrat also indicated that the DVPO did contain "some safeguards for the short-term – four months is plenty of time for someone to get something going if they wanted to modify the parenting plan." RP 27:5-8.

Judge Garrat also noted that "[i]n looking at Commissioner Hillman's findings, I am adopting those findings as my own, and would incorporate my comments today as well as part of the record." RP 27:13-16. In adopting the Commissioner's findings, Judge Garrat further commented that "Commissioner Hillman also noted –when the father wanted to bring in more information about the other children – said, what's in front of me just involves [N.L.M.]; it doesn't involve any of the other children, so that's a separate action." RP 26:6-10. Judge Garrat signed an order denying the motion for revision. CP 82.

A Notice of Appeal was timely filed by Mr. Maldonado on April 27, 2016.⁶ CP 84-92.

IV. ARGUMENT

Appellant submits that the superior court in this matter committed errors of law, in the interpretation and application of the Domestic Violence Prevention Act.

When an action turns on the correct interpretation of a statute, the standard of review is de novo. The purpose of statutory interpretation is to effectuate the legislature's intent. Absent ambiguity, we rely on the statute's language alone. But, if a statute is ambiguous, we will resort to principles of statutory construction, legislative history, and relevant case law to assist in interpreting it. *Scheib v. Crosby*, 160 Wn. App. 345, 350, 249 P.3d 184 (2011) (emphasis added) (internal citations omitted).

Each issue submitted by Appellant will address different errors by the superior court and the particular relief requested from this Court as to each error. The Appellant's primary relief requested in this appeal is for this Court to remand this case to the superior court to enter a domestic violence order for protection for one-year which protects all three children. However, Appellant understands that different errors made by the superior court may call for relief in this appeal that differs from this

⁶ On June 16, 2016 Mr. Maldonado filed for renewal of the DVPO pursuant to RCW 26.50.060(3). The superior court directed Mr. Maldonado to obtain permission from this Court pursuant to RAP 7.2(e).

requested relief. To the extent that any requested reliefs differ from remand for entry of a full, one-year order including all the children, Appellant respectfully requests that it be deemed alternative relief or, in the case where related specifically to relief requested related to statutory interpretation and meaning, additional relief.

A. The superior court erred as a matter of law when it failed to find that all three minor children were entitled to protection in the domestic violence order for protection.

The Domestic Violence Protection Act (“DVPA”) states that “[a]ny person may seek relief under this chapter by filing a petition with a court alleging that the person has been a victim of *domestic violence* committed by the respondent. The person may petition for relief *on behalf of himself or herself and on behalf of minor family or household members.*” RCW 26.50.020 (emphasis added). Domestic violence is defined in part within the DVPA as “[p]hysical harm, bodily injury, assault *or the infliction of fear of imminent physical harm, bodily injury or assault.*” RCW 26.50.010(1) (emphasis added). “[F]amily or household members” includes “persons who have a *biological or legal parent-child relationship*, including stepparents and stepchildren and grandparents and grandchildren.” RCW 26.50.010 (emphasis added). Mr. Maldonado properly petitioned for a domestic violence order for protection (“DVPO”) on behalf of his children.

Since the DVPA's enactment in 1984, "[t]he Legislature has since amended the DVPA several times to improve the protection order process so that victims have ...*easy, quick, and effective access to the court system.*" *Danny v. Laidlaw Transit Serv., Inc.*, 165 Wn.2d 200, 209-210, 193 P.2d 125 (2008), citing Laws of 1992, ch. 111, § 1 (emphasis added). Since the DVPA's original passage the Legislature has taken numerous steps to address domestic violence in Washington State.⁷ "The Legislature's creation of means to prevent, escape and end abuse is indicative of its overall policy of *preventing domestic violence.*" *Id.* (emphasis added). The stated purpose of the Domestic Violence Prevention Act is as its name describes; to *prevent* further violence.

Discussion of In re Marriage of Stewart

In the case of *In re Marriage of Stewart*, 133 Wn. App. 545, 547 137 P.3d 25 (2006), rev. denied 160 Wn.2d 1011 (2007), this Court made several important rulings regarding the application of the DVPA when children exposed to domestic violence are included in a DVPO petition.

⁷ See discussion in *Danny v. Laidlaw Transit Serv., Inc.*, 165 Wn.2d 200, 209, 193 P.3d 128, 132 (2008) (describing various efforts taken by the Legislature to address domestic violence, including but not limited to the enactment of the Domestic Violence Act (RCW 10.99), the enactment of the DVPA, the creation of an address confidentiality program (RCW 40.24), unemployment compensation so that victims may obtain benefits if they must leave employment immediately to protect themselves (RCW 50.20.050(a)(b)(iv)), and an amendment to the Residential Landlord Tenant Act to allow victims of domestic violence to terminate leases to escape further violence (RCW 50.20.050(1)(b)(iv)).

While the decision in *Stewart* has multiple applications in this case, the relevant discussion of *Stewart* here relates specifically to who is a victim of domestic violence pursuant to the DVPA.

In *Stewart*, Ms. Stewart petitioned for a DVPO against Mr. Stewart her former husband and father of their two children, aged 13 and 8. *Id.* at 547. In her DVPO petition, Ms. Stewart made many allegations, going back at least two years prior regarding Mr. Stewart. *Id.* at 547-549. Ms. Stewart alleged that Mr. Stewart smeared gum in her hair and berated her about her love life in front of the minor children, that Mr. Stewart followed her in his car several days after this incident, while leaving her voicemails. *Id.* at 547. Ms. Stewart also alleged that Mr. Stewart shoved his hand down Ms. Stewart's pants and forced his finger in her mouth in the presence of one of the children. *Id.* at 548. Ms. Stewart also alleged that Mr. Stewart barged into Ms. Stewart's home and accused her of sleeping with other men and pulled the sheets off the bed to inspect for evidence of sex in the presence of the children. *Id.* at 548. The final alleged act occurred on Christmas Day 2004 when Mr. Stewart spat on Ms. Stewart during a visitation exchange. *Id.* at 548.

A hearing was held in January 2005 and the superior court commissioner in *Stewart* entered a one-year DVPO prohibiting contact between Mr. Stewart and Ms. Stewart and their two minor children and

suspended the permanent parenting plan. *Id.* at 548-549. At the hearing before the commissioner there was no evidence provided directly by the children as to the acts of domestic violence observed by them or of physical acts committed by Mr. Stewart on them. *Id.* at 549.

Mr. Stewart moved for revision of the superior court commissioner's ruling. *Id.* at 549. Mr. Stewart's motion was denied. On revision the court found that there was "'imminent psychological harm to the children which is a basis for an order of protection as to the children.'" *Id.* at 549. The one-year DVPO remained in effect. *Id.* at 550. Mr. Stewart filed for an appeal to this Court. *Id.* at 550.

On appeal Mr. Stewart argued that psychological harm to two minor children was not a proper basis for the entry of the DVPO. *Id.* at 550. This Court noted that while Mr. Stewart had not assaulted the children, the children were afraid for their mother's safety as a result of the various incidents of domestic violence committed by him. *Id.* at 551. This Court determined that the fear the children had for their mother's safety would alone sufficed to establish the "fear of imminent physical harm, bodily injury or assault" requirement of RCW 26.50.010(1). This Court affirmed the DVPO on appeal. *Id.* at 556.

This Court in *Stewart* recognized the well-founded social science and scientific research; that exposure to domestic violence has a

significant harmful impact on children and physical domestic violence need not be present for children to be harmed. In other words, witnessing or being present during episodes of domestic violence *is itself* domestic violence for the issuance of a DVPO pursuant to RCW 26.50.010(1).

Research on Exposure of Children to Domestic Violence

The percentage of children who witness violence in the home is staggering. Recent figures indicate that more than one in five children have witnessed a family assault in their lifetimes.⁸

Studies which evaluated childhood problems associated with exposure to domestic violence are consistent in their findings that children who witness domestic violence exhibit a host of behavioral and emotional problems, and that exposure to domestic violence impacts a child's cognitive functioning and attitudes.⁹ Children who witnessed domestic violence tend to show more anxiety, self-esteem, depression, anger and temperament problems than those who were not exposed to domestic violence in the home.¹⁰ Children's cognitive functioning and attitudes are

⁸ Office of Juvenile Justice and Delinquency Prevention. *Children's Exposure to Violence, Crime, and Abuse: An Update* (OJJDP; 2015). Available online at <http://www.ojjdp.gov/pubs/248547.pdf>

⁹ Jeffrey L. Edleson, *Problems associated with child witnesses of domestic violence* (1999). Available online at: http://www.vawnet.org/print-document.php?doc_id=392&find_type=web_sum_AR

¹⁰ *Id.*

potentially impacted in such a way so that they can justify their own violence as a result of the violence they have themselves witnessed.¹¹

The type of violence a child is exposed to need not be “severe” or a physical assault per se in order to have an impact on a child. For example, infants have shown distress after having been exposed to arguing and yelling between adults.¹² Young children exposed to arguing and yelling have shown increased levels of aggression with their own playmates.¹³

More recent research relating to the neuroscience behind the impact of witnessing domestic violence indicates a whole host of additional negative internal impacts of witnessing domestic violence. Exposure to repeated domestic violence releases powerful stress hormones in the brain of children.¹⁴ The release of these hormones affects the part of the brain responsible for learning and memory.¹⁵ Children may either develop a “fight-or-flight” response or “dissociate.”¹⁶ The damage to the

¹¹ *Id.*

¹² Betsy M. Groves, *Children Who See Too Much: Lessons Learned from the Witness to Violence Project* 56 (Beacon Press Books, 2002).

¹³ *Id.*

¹⁴ Lynn Hecht Schafran, *Domestic Violence, Developing Brains, and the Lifespan New Knowledge from Neuroscience*, 53 *Judge’s Journal*, 34 (2014).

¹⁵ *Id.*

¹⁶ *Id.*

brain is serious. In children who develop a “fight-or-flight” response, their system “is predisposed to symptoms related to hyperarousal,” which is further linked to “startle response, serious sleep disorders, anxiety, hyperactivity, conduct disorder, attention deficit and hyperactivity disorder (ADHD) and PTSD [post-traumatic stress disorder].”¹⁷ Children who “dissociate” are predisposed to “somatic complaints, withdrawal, helplessness, dependence, anxiety disorders and major depression.”¹⁸

In addition to the impact of domestic violence exposure to children’s emotional health and development, children who witness domestic violence are, unsurprisingly, at great risk of physical abuse. It is estimated that at least 40% of children exposed to domestic violence are also direct victims of physical violence themselves.¹⁹ Other studies have found an even higher correlation; that up to 70% of children who witnessed domestic violence are direct victims of violence themselves.²⁰

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Alicia Summers, *Children’s Exposure to Domestic Violence: A Guide to Research and Resources*, National Council of Juvenile and Family Court Judges (2006), at 26.

²⁰ *Id.* at 27

The Legislature in enacting the DVPA was aware of the seriousness of the issue of domestic violence and the impacts on children.

In modifying the DVPA the Legislature found as follows:

Domestic violence is a problem of immense proportions affecting individuals as well as communities. Domestic violence has long been recognized as being at the core of other major social problems: *Child abuse*, other crimes of violence against person or property, juvenile delinquency, and alcohol and drug abuse.”
Laws of 1992, ch. 111, § 2 (emphasis added) (Legislative finding).

Even though this Court decided *Stewart* in 2005, its decision encompassed a very modern and accurate understanding of domestic violence, consistent with the intent of the Legislature to protect children. However, Washington courts continue to misunderstand domestic violence, and the impact that exposure to domestic violence has on children.²¹ The superior court here erred when it concluded that only N.L.M. was a victim of domestic violence for purposes of the DVPA and the issuance of a DVPO.

Application of the Aforementioned to this Case

In this case Judge Garrat adopted Commissioner Hillman’s findings in her order denying revision. RP 27:14-15. After reviewing the photographs of injuries sustained by N.L.M. and obtaining a confession

²¹ Jake Fawcett, *Up To Us! Lessons Learned and Goals for Change After Thirteen Years of the Washington State Domestic Violence Fatality Review*, Washington State Coalition Against Domestic Violence, (December 2010), at 33.

from Ms. Maldonado regarding the assault on N.L.M., the superior court rendered its decision. RP 6:3-25, 10:17-11:23. The superior court made at least three references that the only allegations in the petition involved N.L.M. and that there was no evidence of other domestic violence to the other two minor children, despite evidence to the contrary. RP 9:22-23, 10:7-8, 21-22.²² The superior court's decision regarding what encompasses domestic violence was solely and directly focused on the assault on N.L.M., her injuries and Ms. Maldonado's confession. RP 10-11. When adopting the Commissioner's findings, Judge Garrat further commented that "Commissioner Hillman also noted – when the father wanted to bring in more information about the other children – said, what's in front of me just involves [N.L.M.]; it doesn't involve any of the other children, *so that's a separate action.*" RP 26:6-10 (emphasis added).

The superior court's limited view of what constitutes domestic violence is made even clearer when it reviewed the statute pertaining to use of force, RCW 9A.16.010, which was used to support the conclusion

²² The superior court stated on three occasions that there was no evidence of domestic violence as to the two children not included in the DVPO as follows: "I don't have any evidence of abuse regarding the other children. The only allegations that I have involve [N.L.M.] (phonetic)." RP 9:22-24. "[T]he only allegations contained in the petition concern [N.L.M.]" RP 10:7-8. "There are no other allegations that are brought before me regarding the 14-year-old or the 6-year-old..." RP 10:21-22. These findings were also adopted by Judge Garrat. RP 27:13-16.

that physical domestic violence had occurred as to N.L.M. only because a bruise had developed. RP 11:1-10.

The DVPO petition stated that all three children were visiting Ms. Maldonado when the assault on N.L.M. occurred. CP 4. Ms. Maldonado herself admitted that at least the first part of the assault on N.L.M. occurred when all three children were at a store together. RP 6. The older child reported being present during the assault on N.L.M. CP 98. The DVPO petition also stated that Ms. Maldonado reprimanded N.L.M. at all three children's next visitation as a result of N.L.M.'s report. CP 5. Ms. Maldonado threatened N.L.M. that she intended to call the police on Mr. Maldonado. CP 5. The petition stated that all three children were in fear of Ms. Maldonado as a result. CP 4-5. The petition also stated that the children had been fearful of their mother as a result of her violent behavior against them.²³ CP 4-5, 7.

The superior court, stated, in error on at least three instances that there was no evidence of domestic violence as to the two remaining minor children.²⁴ However the basis for including these two children in the

²³ Evidence was produced in the superior court proceedings that Ms. Maldonado had also hit the son with a belt and the eldest daughter with a flip-flop on the same day that N.L.M. was assaulted. CP 8. There was no discussion by the superior court as to any of these incidences and it is unclear if the superior court considered them at all.

²⁴ See *supra* note 22. See also CP 8.

DVPO petition was, in part, because they were exposed to the domestic violence committed on N.L.M. and their “fear of imminent physical harm, bodily injury or assault, between family or household members.” CP 5-7. (The superior court ignored evidence of physical abuse of the other two children.²⁵)

What makes this case particularly disturbing is that the superior court failed to protect all three children even after concluding that domestic violence occurred and that a DVPO was therefore required under the DVPA. The superior court’s decision was inconsistent and dangerous. “As the title of the Act indicates – Domestic Violence Prevention, the Legislature has made it clear that the intent of chapter 26.50 RCW is to prevent domestic violence.” *Muma v. Muma*, 115 Wn. App. 1, 7, 60 P.3d 592 (2002). It would be inconsistent with the intent of the DVPA for the superior court to have found domestic violence, but then not issue a DVPO, but that is what happened here; one child is protected but the other two must continue unsupervised visitation with an abusive parent.²⁶

²⁵ *Id.*

²⁶ The superior court gave no written reasons why it declined to issue a DVPO for all three children despite the requirement of RCW 26.50.060(7) which states, “[i]f the court declines to issue an order for protection or declines to renew an order for protection, the court shall state in writing on the order the particular reasons for the court's denial.”

Once domestic violence was found as to N.L.M., the superior court *was required* to include the two remaining minor children in the DVPO. How could a child exposed to domestic violence not be in “fear”? A child who is exposed to domestic violence must be in fear. This is consistent not only with *Stewart*, but also Washington’s policy in protecting victims of domestic violence. Additionally as to the particular facts before the superior court, “fear” of all children was pled in the petition and otherwise unchallenged by Ms. Maldonado.

The superior court erred as a matter of law when it determined that the children who were exposed to domestic violence were not victims of domestic violence.

Appellant respectfully requests that this Court remand this case to the superior court with instructions that all three minor children are victims of domestic violence pursuant to RCW 26.50.010(1) and that a one-year DVPO be entered as to all children.

B. The superior court erred as a matter of law when it held that a request to include the parties’ minor children in domestic violence order for protection was an improper modification of the permanent parenting plan.

The superior court erred as a matter of law when it determined that all three minor children were not entitled to protection in the DVPO because it was a “backdoor” attempt to modify the permanent parenting

plan. In denying the revision motion the superior court specifically stated as follows:

So the father believes that the DVPO should have listed all three children and should have been for a full year's duration, but the problem with this calculation is that that's a *back door modification* of a parenting plan and is *contrary to the statute*. Modification of a parenting plan requires specific statutory steps including a hearing to establish adequate cause." RP 26:21-23.

Established case law clearly holds that a DVPO is not a "back door modification" of the pre-existing parenting plan, nor is it "contrary to the statute." *See Stewart*, 133 Wn. App. at 554-555.

In addition to the facts stated above in *Stewart*, at the time Ms. Stewart filed for a DVPO, the parties had a permanent parenting plan in effect for a period of approximately two years. *Stewart*, 133 Wn. App. at 547. When the superior court entered a DVPO protecting Ms. Stewart and the minor children, it also included language in the DVPO which suspended the permanent parenting plan. *Id.* at 549. On appeal Mr. Stewart challenged the superior court's suspension of his time with the minor children. *Id.* at 551-556.

In rejecting Mr. Stewart's arguments and affirming the superior court's decision in full, this Court set forth important principles on the interplay between the DVPA and the Parenting Act (RCW 26.26). In doing so, this Court held that a DVPO "cannot actually suspend a

parenting plan” but may rather *only* suspend “the provisions allowing for contact between Wilson [Mr. Stewart] and his children.” *Id.* at 554. This Court also explicitly held that a DVPO is not an “improper modification of the residential provisions of the parenting plan” but rather “[a] temporary proceeding pending further proceedings.” *Id.* at 554. This Court also expressly rejected Mr. Stewart’s argument that the entry of the DVPO was a “de factor modification of a parenting plan.” *Id.* at 554. In doing so, this Court stated that “[n]o rational person would voice an objection to temporary suspension of contact where a parent has physically abused his children.” *Id.* at 555.

In addition to this Court’s decision in *Stewart*, the DVPA also expressly states that the entry of a DVPO and its protections “shall not be denied or delayed on the grounds that relief is available in another action.” RCW 26.50.025(2). Whether or not Mr. Maldonado had the ability to file, or whether he wanted to file a modification of the permanent parenting plan and obtain relief protecting the children in that action should have had no bearing on whether a DVPO should or should not be entered in this case.²⁷

²⁷ While “restraining orders” are available in proceedings filed pursuant to RCW 26.09, they differ from DVPOs. The level of protection available in a restraining order is less significant, for example, they do not allow for a provision prohibiting all contact and generally speaking law enforcement does not view them as serious of an order, so

The superior court erred as a matter of law when it determined that all three children should not be protected by the DVPO because it was perceived as an attempt to modify the parenting plan. RP 26:19-21. Appellant respectfully requests that this Court remand to the superior court with instructions directing the superior court to enter a one-year DVPO that protects all three minor children.

C. The superior court erred as a matter of law when it failed to comply with the residential provisions requirements of the DVPA.

1. The superior court erred as a matter of law when it failed to enter protective residential provisions for all three minor children in the domestic violence order for protection.

The superior court erred as a matter of law when it failed to enter protective residential provisions for all three children in the DVPO. The DVPA requires that a court make protective residential provisions upon a DVPO's entry. RCW 26.50.060(1)(d). Instead of ordering the required protective residential provisions, the superior court instead directed Mr. Maldonado to file for a modification of the permanent parenting plan. RP 11:21-23, 27:6-10.

enforcement is frequently an issue. Restraining orders are also more cumbersome to obtain than a DVPO which is usually its own free-standing case. Part of the process in obtaining a restraining order in a modification of a permanent parenting plan action is described further below, *infra* section C 1.

RCW 26.50.060(1)(d) states that “[o]n the same basis as provided in chapter 26.09 RCW, the court *shall* make residential provision with regard to the minor children of the parties. However, parenting plans as specified in chapter 26.09 RCW *shall not* be required under this chapter.” RCW 26.50.060(1)(d) (emphasis added).²⁸ Even though the creation of a parenting plan is not required pursuant to a DVPO, the DVPA mandates that a residential schedule created in a DVPO still be made on the same basis as provided for in RCW 26.09.

The Parenting Act (RCW 26.09) specifically addresses domestic violence in RCW 26.09.191. RCW 26.09.191 requires a restriction on a parent’s residential time and decision making if that parent has engaged in *physical abuse* or emotional abuse of any child and/or has engaged in a *history of acts of domestic violence as defined in RCW 26.50.010(1)*. When the Legislature last significantly modified RCW 26.09.191 in 1994 to provide additional safeguards for children, it found “[t]his act is *necessary for the immediate preservation of the public peace, health, safety, or support of the state government and its existing public*

²⁸ The parenting plan form is “FL All Family 140” which may be found on the Washington Courts’ website:
<http://www.courts.wa.gov/FORMS/index.cfm?fa=forms.static&staticID=14>

institutions, and shall take effect immediately.” Laws of 1996, ch. 303, § 3 (emphasis added) (Legislative findings).

The superior court found that Ms. Maldonado engaged in domestic violence pursuant to RCW 26.50.010 when it issued the DVPO. RP 11:15-17. The superior court ordered that Ms. Maldonado have supervised visits with N.L.M., who she physically assaulted, but made no provisions protecting the other two children. CP 45; RP 12:8-9. This allowed the permanent parenting plan, and its every other week visitation to remain in place. However, once domestic violence was found and a DVPO issued, the superior court was required to enter protective residential provisions pursuant to RCW 26.50.060(1) and RCW 26.09.191 *for all three children*, not just the one who had been physically abused. This is required under the plain language of RCW 26.50.060(1). While the superior court may have correctly determined the appropriate residential time for the minor child who was physically abused, it failed entirely in its obligation to protect the other two minor children.

Appellant respectfully requests that this Court remand to the superior court with instructions directing the superior court to enter protective residential provisions for all three children in the DVPO consistent with those entered for the child who was directly physically abused.

2. **The superior court erred as a matter of law when it directed Mr. Maldonado to seek a modification of the parenting plan instead of entering the required protective residential provisions for all three minor children in the domestic violence order for protection.**

The superior court erred as a matter of law by denying the entry of the required protective residential provisions in the DVPO and instead directing Mr. Maldonado to modify the permanent parenting plan. CP 45; RP 11:21-23, 27:6-9. RCW 26.50.025(2) states that “[r]elief under this chapter *shall not be denied or delayed* on the grounds that the relief is available in another action.”

It is clear that the superior court in this matter denied relief; specifically the superior court denied protective residential provisions for all three minor children, directing Mr. Maldonado to seek relief in a separate action. CP 45; RP 11:21-23, 27:6-9. The superior court directed Mr. Maldonado “to file a petition to modify the parenting plan if you want to look into other protections for the children.” RP 11:21-23. In adopting the Commissioner’s findings, Judge Garrat further commented that “Commissioner Hillman also noted – when the father wanted to bring in more information about the other children – said, what’s in front of me just involves [N.L.M.]; it doesn’t involve any of the other children, so that’s a separate action.” RP 26:6-10.

The Legislature included the language of RCW 26.50.025(2) in the DVPA for good reason. Relief in other actions can be especially difficult and time consuming to obtain. When domestic violence has been found, warranting the entry of a DVPO, protection of victims should be determined then and there, not later.

Unlike the immediate relief and pro se friendly process of a DVPO, a permanent parenting plan modification is a cumbersome process requiring a number of steps. *See* RCW 26.09.260 and .270. The first is a determination as to whether “adequate cause” exists to modify the permanent parenting plan. Adequate cause is the required finding to allow the case to move forward to determine whether the parenting plan should actually be modified.

RCW 26.09.270...requires a party seeking to modify a ‘custody decree or parenting plan [to] submit together with [the] motion, an affidavit setting forth facts supporting the requested order or modification...’ A court is required to deny the motion unless it finds that ‘adequate cause for hearing the motion is established by the affidavits, in which case it shall set a date for hearing on an order to show cause why the requested order or modification should not be granted.’

In the Matter of the Parentage of C.M.F., 179 Wn.2d. 411, 420, 314 P.3d 1109 (2013) (emphasis added in original citation) (internal citations omitted).

Prior to an adequate cause hearing, an individual needs to prepare, file and serve numerous documents and, depending on local procedure,

learn how to note various hearings. At a minimum in order to get to an adequate cause hearing, a litigant will need to prepare the Summons (FL Modify 600), Petition to Change Parenting Plan (FL Modify 601), Motion for Adequate Cause (FL Modify 603).²⁹ A written Declaration (FL All Family 135) of the party requesting the modification is also required. A completed calendar note scheduling the hearing with the court is also required.³⁰ Because a Petition to Change Parenting Plan is a new action, personal service arranged by the moving party will also need to be accomplished pursuant to the requirements of CR 4. Unlike a DVPO, personal service of the modification action will not be provided at no cost by law enforcement. *See* RCW 26.50.090.

Filing and requesting that the court find adequate cause to modify a permanent parenting plan will still not accomplish the goal of protecting minor children. Protecting the minor children will require another motion

²⁹ The forms referenced in this section may all be found on the Washington Courts' website:
<http://www.courts.wa.gov/FORMS/index.cfm?fa=forms.static&staticID=14>

³⁰ Snohomish County where the permanent parenting plan case between these parties is venued, has its own required calendar note form along with complex instructions on how to obtain and confirm a family law hearing pursuant to local court rules. Additionally, individuals who are limited in English, can obtain an interpreter, but Snohomish County only has one calendar per week to hear all family law matters which require an interpreter. That calendar is on Fridays in Department D at 1pm. The calendar note form for Snohomish County family law cases may be found here:
<http://snohomishcountywa.gov/DocumentCenter/Home/View/29708>

for the entry of a temporary parenting plan, which the litigant will need to prepare and file with the court (FL All Family 140). In order for the court to consider the request for the temporary parenting plan, a motion needs to be filed and served on the opposing party as well (FL All Family 180). If an individual seeks an emergency order from the court, such as a restraining order under RCW 26.09 in addition to the aforementioned documents they will need to prepare a Motion for an Ex Parte Order (FL Divorce 221 or FL Parentage 322) and appear in Ex-Parte for the court to consider immediate relief.³¹

In this case, as was noted previously, because the superior court failed to enter protective residential provisions the permanent parenting plan that was previously in effect went back into effect pending Mr. Maldonado's attempts at modification. Requiring Mr. Maldonado to immediately file another action in lieu of granting the relief protecting the children pursuant to the DVPA is contrary to Washington's stated policy of preventing domestic violence.

Appellant respectfully requests that this Court remand to the superior court with instructions directing the superior court to enter protective residential provisions for all three children in the DVPO

³¹ See *supra* note 27.

consistent with those entered for the child who was directly physically abused. Appellant also specifically requests that this Court find that the DVPA *requires protective residential provisions* consistent with RCW 26.09.191.

D. The superior court erred as a matter of law when it failed to grant a one-year domestic violence order for protection.

The superior court erred as a matter of law when it failed to grant a statutorily presumed one-year DVPO. While the DVPA does not expressly mandate a minimum duration for a DVPO, its language and historical changes indicate a presumptive one-year DVPO is preferential to orders of shorter duration, especially in cases that involve the parties' minor children. DVPOs entered for a period of less than one-year are contrary to the goal of providing meaningful protection to victims of domestic violence.

RCW 26.50.060 is the section of the DVPA that addresses relief and duration. RCW 26.50.060(2) provides that a DVPO prohibiting a respondent's contact with their children *cannot exceed one-year* but all other restraints may be longer or even permanent, if the court finds it likely a respondent will resume acts of domestic violence. However, if the petitioner seeks relief on behalf of a respondent's minor children "the court shall advise the petitioner that if the petitioner wants to continue

protection for a period beyond one-year the petitioner may either petition for renewal pursuant to the provisions of this chapter or may seek relief pursuant to the provisions of chapter 26.09 or 26.26 RCW.” RCW 26.50.060(2). RCW 26.50.060 is ambiguous as to the minimum duration of a DVPO and a review of its construction and its legislative history is warranted. *See Scheib*, 160 Wn. App. at 350.

RCW 26.50.060(2) is important for what it not only authorizes the court to do, but what it requires the court to do and when. Courts are prohibited from entering DVPOs as to minor children of the parties in excess of one-year. However, courts are required to provide very specific information to petitioners on how to protect minor children past the one-year statutory limit once relief has been granted for one-year. The DVPA *does not* direct the court to provide this information if and when a short-term DVPO is entered, even though a petitioner could request renewal of the DVPO pursuant to RCW 26.50.060(3) for up to one-year and/or file a separate action. It is illogical to conclude that the if the intent of the DVPA is to prevent domestic violence, that the DVPA would only require courts to provide information on protection of minor children in a DVPO that was entered for one-year, but would *not require* courts to also provide this information when an order of shorter duration, protecting children is entered. The reason the DVPA does not require courts to provide these

options to a petitioner is because it presumes that DVPOs will be ordered for at least one-year.

Additional guidance on the presumption that a DVPO should last for a minimum of one-year can be found in RCW 26.50.085 which sets forth the DVPA requirements for when service by publication may occur and the language required to be included when service by publication is ordered. RCW 26.50.085(3) requires that the published summons state as follows “[i]f you fail to respond, an order of protection will be issued against you pursuant to the provisions of the domestic violence protection act, chapter 26.50 RCW, *for a minimum of one-year from the date you are required to appear.*” RCW 26.50.085(3) (emphasis added).

In addition to the current text of RCW 26.50.060(2) and RCW 26.50.085(3), their legislative history is also of importance. When the DVPA was first enacted in 1984, the Legislature determined that *all* DVPOs were limited to one-year only. Laws of 1984, ch. 263, § 7. However in 1992 the Legislature amended RCW 26.50.060(2) and created RCW 26.50.085 in the same legislation. Laws of 1992, ch. 143, § 2 and 12. One of the changes specifically to RCW 26.50.060(2) was that DVPOs with restrictions that apply to minor children of the parties “shall be for a fixed period not to exceed one-year.” Laws of 1992, ch. 143, § 2. At the same time, the Legislature enacted the service by publication

section of the DVPA which includes RCW 26.50.085(6) which stated then and still states today that a DVPO will be entered for a period of one-year. Laws of 1992, ch. 143, § 12. These changes show that the Legislature already limited the duration of a DVPO, especially as it relates to children, and so the superior court's ability to limit the duration even further, should itself be limited.

In addition to the current language and the history of its enactment, there are other provisions within the DVPA which also strongly support the presumption of a one-year DVPO because any other application is unworkable. RCW 26.50.060 allows the petitioner to "renew" or extend the DVPO past its initial termination date. RCW 26.50.060(3). A petitioner seeking renewal must file a request within the three months before the DVPO expires. *Id.* Upon filing the renewal the burden shifts to the respondent; "The court shall grant the petition for renewal unless the *respondent proves* by a preponderance of the evidence *that the respondent will not resume acts of domestic violence* against the petitioner or the petitioner's children or family or household members when the order expires." *Id.* (emphasis added).

In this case the superior court granted a four-month DVPO, a length of time that makes little sense with the DVPA's renewal provision. CP 43. Under the renewal provision, Mr. Maldonado would have to file

for renewal shortly after receiving the DVPO. Second, Ms. Maldonado, who was ordered to attend parenting classes in the DVPO, would need to complete the entire program before the returning to court at the renewal hearing in order to avoid renewal from being granted. Given the difficulty generally in enrolling in these types of programs, it does not actually give Ms. Maldonado the meaningful opportunity to enroll and therefor succeed in order to not only meet her own burden under the renewal provision, but to also address the reasons underlying her propensity to commit domestic violence. In essence the parties will be forced to re-litigate the DVPO instead of focusing on the other issues, whether it is parenting classes or a modification of the parenting plan or the healing required when domestic violence affects families. The intent of the DVPA is to protect victims of domestic violence, not create more havoc, uncertainty and litigation, however this is exactly what is currently ongoing in this case.

In addition, as a policy matter DVPOs entered for less than one-year are contrary to Washington's stated goal of protecting victims of domestic violence.

Separation assault and recurrent violence often takes place over time as the batterer seeks to regain power over the survivor or punish the survivor for leaving, and our laws should respond to the reality that domestic violence is dangerous when the survivor is in the relationship, leaving or remaining apart. Brief protection orders lasting only

three months to one-year often will not provide sufficient protection from harm.³²

Social science data suggests that a minimum two-year order is preferable to orders of other lengths.³³

It is unequivocal in this case that Mr. Maldonado requested a DVPO for one-year; he affirmatively checked-off on the petition that any DVPO entered last for more than one-year. CP 3. While the DVPA does not specifically state that DVPOs are required to last one year, it is unequivocal that there is a presumption that one-year DVPOs be entered by courts to fulfill the legislative intent of preventing further domestic violence.

Appellant respectfully requests that this Court remand to the superior court with instructions directing the superior court to enter a one-year DVPO that protects all three minor children. Appellant also requests that this Court find that the DVPA presumes that DVPOs be entered for a period of one-year.

³² Jane K. Stoeber, *Enjoining Abuse: The Case for Indefinite Domestic Violence Protection Orders*, 67 Vand. L. Rev. 1015, 1027 (2014).

³³ *Id.* at 1083

V. CONCLUSION

Appellant, Mr. Maldonado, respectfully requests that this Court remand this case to the superior court to enter a domestic violence order for protection for one-year which protects all three children. Appellant respectfully requests that this Court remand to the superior court with instructions directing the superior court to enter protective residential provisions for all three children in the DVPO consistent with those entered for the child who was directly physically abused.

Appellant also specifically requests that this Court find that the DVPA requires protective residential provisions consistent with RCW 26.09.191. Appellant also requests that this Court find that the DVPA presumes that DVPOs be entered for a period of one-year.

RESPECTFULLY SUBMITTED on this 4th day of August, 2016.

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**COURT OF APPEALS
OF THE STATE OF WASHINGTON, DIVISION I**

JOSE MALDONADO,

Petitioner/Appellant,

vs.

NOEMI LUCERO MALDONADO,

Respondent.

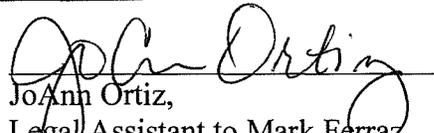
COA No. 75146-8-I

**CERTIFICATE OF
SERVICE**

I declare under penalty of perjury under the laws of the State of Washington that on the 4th day of August, 2016, I caused to be delivered via electronic mail in pdf format and via ABC Legal Messenger Services, Inc., a true and correct copy of the OPENING BRIEF OF APPELLANT JOSE MALDONADO addressed to the following:

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