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STATE OF WASHINGTON
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No. 34155-7-II

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

In re the Marriage of:

FREDERICK J. COX,

Appellant,

vs.

DARLENE D. COX,

Respondent.

APPEAL FROM THE SUPERIOR COURT
FOR KITSAP COUNTY
THE HONORABLE SALLY OLSEN

BRIEF OF RESPONDENT

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I. INTRODUCTION

The husband appeals the trial court's division of property after a 17-year second marriage. Both parties are in their 70s and had significant separate assets in addition to community property. The family home, which was mostly community property, and the husband's federal pension, which was mostly separate, were the most valuable assets before the court for distribution. The trial court characterized the marriage as long-term and divided the entire estate, community and separate, equally between the parties, awarding the wife 30% of the husband's pension payments to ensure relatively equal future incomes and guarantee the wife's access to continued federal health insurance.

The court was careful to ensure each party left the marriage with an adequate future income and equal and significant assets, and did not err by dividing the husband's pension to ensure roughly equal incomes or by dividing the marital estate equally instead of providing for maintenance. If the court should have explicitly noted the mixed character of the family home, any error was harmless because irrelevant to the court's overall goal of dividing the property equally. This court should affirm and award the wife her fees for being required to respond to this meritless appeal.

II. RESTATEMENT OF ISSUES

1. Did the trial court abuse its discretion by considering all assets, community and separate, and dividing the marital estate equally between parties in their 70s who had been married 17 years?

2. Did the trial court abuse its discretion by dividing a pension to ensure equal incomes for the parties and then calculating an equal division of property with reference to the divided pension?

3. Did the trial court abuse its discretion by providing for the retired parties' future incomes by equally dividing the marital estate instead of awarding maintenance?

4. Is remand required because the trial court's findings did not explicitly reference stipulated separate portions of the family home where the court's clear intent was to combine all assets and divide the marital estate equally?

5. Should the husband be ordered to pay the wife's attorney's fees incurred in responding to this meritless appeal?

III. RESTATEMENT OF THE CASE

A. Background.

The parties were married in 1987, when the wife was 57 and the husband was 59. (1RP 6) At the time of trial they were 74 and 77. (FF 2.8(2), CP 7) The wife was a waitress at the time of marriage and had worked 16-17 years as a meatcutter prior to the marriage. (1RP 12) The husband worked for the FAA installing navigational systems for airports. (1RP 14) Both parties brought significant assets into the marriage: the wife owned a home in Las Vegas (1RP 16) and the husband had savings of \$130,000. (2RP 119-20)

The wife stopped working, except for one two-week period in 1988, following marriage. (1RP 12) The husband worked for the FAA for another nine weeks after marriage. (2RP 117) The couple lived in a trailer while the husband moved from airport to airport about every three weeks. (1RP 14-15)

The husband began drawing on his federal pension after retiring from the FAA in 1988, but only after withdrawing some of his contributions, thus permanently and significantly reducing his monthly pension. (2RP 140) The couple was not able to survive on the husband's federal pension, so he returned to work with

Raytheon in July 1989. (1RP 15, 2RP 134) The husband worked for Raytheon off and on, including periods of part-time employment, until retiring again in 2001. (1RP 16) His work again required the couple to live in a trailer and travel from airport to airport. (1RP 15)

At age 60, the wife elected early receipt of her separate pension from employment as a meatcutter, and began receiving \$192 a month. (1RP 12-13) At the husband's urging, she also applied for early receipt of Social Security at age 62, permanently reducing the benefit amount she will receive each month. (1RP 28-29) After initially applying early for Social Security benefits himself at age 62, the husband eventually began receiving full benefits at age 66. (1RP 29)

The couple bought their family home on Beach Drive, near Port Orchard, around 1994. (1RP 40-41, 44) The wife's separate home in Las Vegas was rented to her son for \$480 a month, but he paid only about 17 months of rent in the 17 years before separation. (1RP 78, 80-81) In addition to the two homes and two pensions, the parties' assets included numerous bank and securities accounts, as well as cars and a trailer. (CP 7; CP 32)

In 1988, the couple signed a nuptial agreement that defined the parties' separate property but did not make any provision for

distribution at the time of divorce. (2RP 118-19, 3RP 7) Prior to taking testimony in this action, the parties stipulated that the husband's separate share was \$71,000 and the wife's \$9,000 of the family home, but again did not agree to any particular division of this asset. (1RP 4)

B. The Trial Court's Decision.

After a two-day trial, the court found, based on its length and the parties' ages, that the marriage was long-term (3RP 4, 8, FF 2.8(2), CP 7), and expressed its intent to put the parties in as equal a position as possible. (3RP 8, FF 2.8(3), 2.9, CP 7-8, 9) The court characterized the marital estate, finding what the parties had called "mixed" or "joint" assets to be community property. (3RP 5) The court valued the family home at \$400,000, and ordered it sold and the proceeds split evenly. (3RP 5-6) In doing so, the court did not explicitly reference the parties' stipulation to their separate interests in the home.

To provide the wife with an adequate income and ensure she could keep her eligibility for federal health insurance, the court split the husband's monthly pension payments 70/30 between the parties. The court anticipated that the wife's future income would be her 30% share of the husband's pension, her meatcutter's

pension, Social Security benefits, and \$500 a month from renting her Las Vegas home. (3RP 12)

The court awarded each party their remaining separate assets, and divided the community property to leave each with an equal net amount. (3RP 9, 12; FF 2.8(3), FF 2.9, CP 7-8, 9) In its calculations, the court determined the present value of the parties' respective portions of the husband's pension and allocated them to the parties, \$62,538 to the wife, and \$145,922 to the husband. (3RP 8-9) Because the wife had more separate property than the husband, this resulted in him receiving a larger share of the community assets. (FF 2.8(1), CP 7, CP 25, 2RP 166-67, 176, 3RP 7, 9-10) By the court's final tally, the husband received assets worth \$650,101 and the wife \$651,799. (3RP 11-12)

The trial court's oral decision, Findings of Fact/Conclusions of Law, and Decree of Legal Separation are attached as appendices to this brief.

IV. ARGUMENT

A. The Court Did Not Abuse Its Discretion By Equally Dividing A Marital Estate Between Parties In Their 70s At The End Of A 17-Year Marriage.

A trial court's distribution of property must be just and equitable after consideration of all relevant factors, including but not limited to:

1. The nature and extent of community property;
2. The nature and extent of separate property;
3. The duration of the marriage; and
4. The economic circumstances of each spouse at the time the division of property is to become effective.

RCW 26.09.080. Whether property is community or separate is just one factor among others in determining the property division, and the court need cite no extraordinary circumstances to award one party's separate property to the other. *Marriage of Griswold*, 112 Wn. App. 333, 348, 48 P.3d 1018 (2002). Given the length of the marriage and the parties' ages, the court properly equalized their assets and income even if doing so required dividing the husband's separate pension.

The court's paramount concern is the economic condition of the parties at the time of division, taking into account parties' health and ages. *Marriage of Gillespie*, 89 Wn. App. 390, 399, 948 P.2d

1338 (1997); **Marriage of Mathews**, 70 Wn. App. 116, 121, 853 P.2d 462, rev. denied, 122 Wn.2d 1021 (1993). Especially at the end of a long-term marriage, the trial court's goal should be to place the parties in roughly equal financial positions for the rest of their lives. Robert Winsor, *Guidelines for the Exercise of Judicial Discretion in Marriage Dissolution*, Wash. St. B. News, 14,16 (cited in Washington Family Law Deskbook, § 32.3(3) at 17 (2d ed. 2000)). See, e.g. **Marriage of Terry**, 79 Wn. App. 866, 871, 948 P.2d 1338 (1995) (unlike a short-term marriage, where goal is to return parties to their premarital financial conditions, paramount concern in long-term marriage is economic position at time of division).

The husband has not assigned error to the court's finding that the marriage should be treated as long-term (FF 2.8(2), CP 7), and thus it is a verity on appeal. **Interest of Mahaney**, 146 Wash.2d 878, 895, 51 P.3d 776 (2002) (unchallenged findings of fact are verities on appeal).¹ The finding is, nevertheless, supported by the length of marriage, the parties' ages, the wife's

¹ Appellant's brief does not comply with the requirements of RAP 10.3(g); he does not assign error to any of the findings of fact, nor identify any by number.

sacrifice of her career for the husband, and the fact that both parties prepared for retirement by making decisions regarding their benefits while married. (1RP 14-15, 28-30) Cf. **Marriage of Sheffer**, 60 Wn. App. 51, 55, 802 P.2d 817 (1990) (citing with approval treatment of 19-year marriage as long-term in **Marriage of Tower**, 55 Wn. App. 697, 780 P.2d 863 (1989), *rev. denied*, 114 Wn.2d 1002, 788 P.2d 1077 (1990)).

The court thus correctly focused on ensuring both parties sufficient income and assets for their remaining years. In the course of doing so, the court awarded a portion of the husband's separate pension to the wife.² However, it did so as part of an overall equal division of the marital estate that was, if anything, adverse to the wife. Compare **Marriage of Konzen**, 103 Wn.2d 470, 477-78, 693 P.2d 97, *cert. denied*, 473 U.S. 906 (1985) (after 10-year marriage, wife properly awarded 30% of husband's separate military pension and 50% of remaining community property).

² Because the husband worked nine weeks after marriage before retiring from the FAA, a small percentage of the federal pension was community property. (FF 2.9, CP 9)

In this case, the wife had more separate assets than the husband – the husband’s separate assets totaled \$267,681 and the wife’s \$352,642. (FF 2.8(1), CP 7, CP 27, 3RP 7,9-10)³ Thus, the consequence of the court combining all assets for equal division was that the husband received a greater share of the community property. By dividing the combined marital estate in half, the court treated the husband fairly and set both parties on an equal footing for continued retirement.

B. The Court Did Not Err By Dividing A Pension To Equalize The Parties’ Future Income And Then Valuing The Divided Portions For Purposes Of Property Division.

The court divided the pension between the parties to ensure both parties an adequate income, while also valuing the divided portions of pension for purposes of determining the remaining distribution of property. This decision was an ordinary exercise of the court’s obligation to provide for the future economic well-being of the parties in equitably dividing the marital estate.

³ This calculation does not take into account the separate portions of the family home, not referenced by the court in its opinion or findings, but stipulated to be \$9,000 for the wife and \$71,000 for the husband. (1 RP 4) If those numbers are included, the wife’s advantage in separate property narrows, but is still significant: \$361,642 to the husband’s \$338,681.

A pension is a divisible asset at dissolution, whether or not matured. See **Chavez v. Chavez**, 80 Wn. App. 432, 436, 909 P.2d 314. *rev. denied*, 129 Wn.2d 1016 (1996). In determining the value of a pension for purposes of making a property distribution, the court calculates the pension's present value. **Marriage of Kraft**, 119 Wn.2d 438, 450, 832 P.2d 871 (1992) (trial court did not err in reducing nondisability portion of husband's retirement pension to present value).

Once a pension is valued, the actual distribution is a distinct question, to be decided based on the circumstances of the case. The court can award the entire pension to one party, and compensating assets to the other, or require pension payments be split between the parties. See **Marriage of Wright**, 147 Wn.2d 184, 190, 52 P.3d 512 (2002). If the court does split a pension, it may also calculate a present value of the separate portions, to determine a fair division of property. See **Kraft**, 119 Wn.2d at 450 (approving trial court's calculation of present value of divisible portions of military pension and use of present values in calculation of overall equity of property distribution).

The court may divide property to ensure both parties have adequate incomes. See e.g. **Marriage of Soriano**, 31 Wn. App. 432, 436, 643 P.2d 450 (1982) (community property evenly divided between parties; wife awarded income producing properties because husband has earning capacity); **Marriage of Young**, 26 Wn. App. 843, 845, 615 P.2d 508 (1980) (monthly payments were property distribution, not maintenance; court was “sensitive to the realities facing a trial court in attempting to fairly divide a couple's assets while seeking to insure that each party will be provided with adequate means of support”). Here, the court did nothing more than provide for both parties' future incomes by dividing the pension and then taking that division into account when calculating an equal property division.

This was a completely ordinary and unexceptionable exercise of the trial court's discretionary power to provide for the parties' economic future. RCW 26.09.080(4). Every division of property has income consequences, as property either produces income or can be converted into an income-producing investment, and a trial court does not err by attempting to produce particular income consequences in its division of the marital estate. See e.g. **Konzen**, 103 Wn.2d at 472 (trial court properly split separate

pension instead of disproportionate share of community property because pension was a more liquid asset). When the trial court divides a pension disproportionately, in a division of property otherwise intended to be equal, it must take that division into account when dividing the remaining property. Otherwise, the party receiving the larger share of the pension is unfairly advantaged.

The husband's assertion that the pension “**has no value**” (App. Brief at 13 (emphasis in original)) is wrong. The guaranteed right to receive payments in the future has an obvious value, and the trial court properly recognized that in its division of the marital estate. The fallacy of the husband's argument is most clearly demonstrated by its implication that the court had only two choices with regard to the husband's pension: to either assign it completely to the husband (or wife), or divide the income equally between them. Neither law nor logic supports putting a trial court into such a straight jacket.

C. The Trial Court Had The Discretion To Provide An Equitable Distribution Of Property Instead Of Awarding Maintenance.

The trial court did not err by awarding the wife a portion of the pension as a division of property, and not as maintenance. A court's decision whether to award maintenance is discretionary.

Marriage of Estes, 84 Wn. App. 586, 593, 929 P.2d 500 (1997). In deciding whether to award maintenance, a court must consider, among other factors, the financial resources of the party seeking maintenance, including the separate and community property apportioned to each spouse. RCW 26.09.090. A court may consider the property division when deciding whether to award maintenance, and maintenance when determining an equitable property division. ***Estes***, 84 Wn. App. at 593

The court's property division may achieve the same purpose of providing for the economic needs of parties as an award of maintenance. No precedent is advanced by the husband for the proposition that maintenance is preferred. To the contrary, courts award maintenance if the marital estate is insufficient to provide for the parties entirely through property division. ***Marriage of Barnett***, 63 Wn. App. 385, 388, 818 P.2d 1382 (1991). Here, the court acknowledged the wife's need for future income, and provided it by dividing the pension. (FF 2.12, CP 9) Nothing different was required.

The husband claims maintenance should have been awarded because of the supposed negative tax consequences for the husband of the division of his pension, and because

maintenance allows the possibility of future adjustments based on changes in financial circumstances. But both these factors are within the court's discretion, and the latter is based on speculation. Moreover, dividing the property as it did, the trial court also avoided the disadvantages of a maintenance award, which would have continued the wife's dependence on the husband providing funds, as opposed to direct ownership of a share in the federal pension, along with the associated entitlement to federal health insurance.

D. The Trial Court Did Not Err By Failing To Specifically Define The Character Of The Family Home Where The Court's Ultimate Decision Was To Equally Divide The Marital Estate.

The largest asset before the court was the family home. The court valued the home at \$400,000 and ordered it sold and the proceeds divided between the parties,⁴ without specifically referencing its character. The husband contends the court erred by not referencing the parties' stipulation at the beginning of trial that both spouses had separate interests in the home. (1RP 4-5)

The failure to properly characterize property is not grounds for setting aside a property distribution that is otherwise fair and

⁴ The house actually sold for \$570,000, resulting in a \$250,000 award to each party. (CP 30)

equitable. ***Marriage of Griswold***, 112 Wn. App. 333, 346, 48 P.3d 1018, *rev. denied*, 148 Wn.2d 1023 (2002); ***Marriage of Olivares***, 69 Wn. App. 324, 330, 848 P.2d 1281, *rev. denied*, 122 Wn.2d 1009 (1993). Where there is a mischaracterization, the trial court will be affirmed unless the reasoning of the court indicates (1) that the property division was significantly influenced by characterization and (2) that it is not clear that the court would have divided the property in the same way in the absence of the mischaracterization. ***Marriage of Shannon***, 55 Wn. App. 137, 142, 777 P.2d 8 (1989).

There is no question the trial court was aware of the parties' stipulation the family home was partly separate property. Not only was the stipulation made in open court (1RP 4-5), but the wife's attorney referenced the separate characterization in her closing argument, that all the property should be combined and split 50/50. (2RP 166) However, the court announced: ". . . my intent is to try to have them equal out at the bottom;" (3RP 8) ". . . to award to each party their separate property and to give each party the same amount of assets" (3RP 9) and that is precisely what the court did. (3RP 12)

There is no question that the court would not have altered its distribution had it explicitly referenced the separate portions of the family home. There is no basis for remanding the case based on the trial court's failure to expressly reference the parties' stipulation in its equal division of the marital estate.

E. The Court Should Award Attorney's Fees To Respondent On Appeal.

The husband has failed to assign error to any factual findings and provides no precedent to support his claims that a court is barred from both dividing a pension and additionally calculating the present value of the divided pension, or that it is reversible error to guarantee income to the parties through property division, rather than maintenance, or that the failure to explicitly characterize the family home requires reversal of an equal division of the marital estate that, if anything, benefits the husband. His claims are without merit, and the husband has substantial assets and benefited from the recent favorable sale of the family home. (CP 30) The husband should pay the wife's attorney's fees on appeal, and this court should award attorney's fees under RAP 18.1, RCW 26.09.140, and *Marriage of Greenlee*, 65 Wn. App. 703, 710, 829 P.2d 1120, *rev. denied*, 120 Wn.2d 1002 (1992).

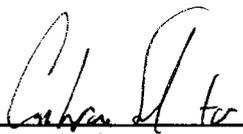
V. CONCLUSION

This court should affirm the trial court and award the wife her fees on appeal.

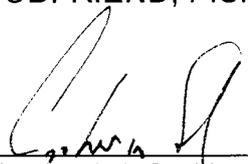
Dated this 15th day of September, 2006.

LAW OFFICE OF PAULA
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By: 

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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 September 15, 2006, I arranged for service of the foregoing Brief of Respondent to the court and the parties to this action as follows:

| | |
|--|--|
| Office of Clerk Court of Appeals - Division II 950 Broadway, Suite 300 Tacoma, WA 98402 | <input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Overnight Mail |
| Todd A. Buskirk Attorney at Law 9657 Levin Road N.W., Suite 240 Silverdale, WA 98383 | <input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Overnight Mail |
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DATED at Seattle, Washington this 15th day of September, 2006.

Tara M. Holland
Tara M. Holland

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

| | | |
|-----------------------|---|---------------------|
| In re the Marriage of |) | COA No. 34155-7-II |
| |) | |
| DARLENE D. COX, |) | KC No. 05-3-00061-4 |
| |) | |
| Petitioner, |) | |
| |) | |
| and |) | |
| |) | |
| FREDRICK J. COX, |) | |
| |) | |
| Respondent. |) | |

COPY

VERBATIM TRANSCRIPT OF PROCEEDINGS
COURT'S ORAL DECISION

BEFORE THE HONORABLE SALLY F. OLSEN
PORT ORCHARD, WASHINGTON

DATE REPORTED: 8-19-05
REPORTED BY: PAUL J. FREDERICKSON, CCR

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1 AUGUST 19, 2005

2 JUDGE OLSEN: First matter we'll put on the
3 record is State versus -- sorry, I've been in criminal all
4 morning. This is Cox versus Cox, for court's oral ruling.

5 Mr. Cox, can you hear me all right?

6 MR. BUSKIRK: Not now. He's putting them on.

7 JUDGE OLSEN: All right. I'll wait until
8 you're ready.

9 MR. COX: Working on it.

10 MS. CRANE: Your Honor, if you could pull the
11 microphone. It's pretty far. Can you make it come closer?

12 JUDGE OLSEN: Sure. Sure I can.

13 Mr. Cox, can you hear me?

14 MR. COX: One side.

15 JUDGE OLSEN: Can you hear me now?

16 MR. COX: Yes.

17 JUDGE OLSEN: All right.

18 Well, counsel, I've had a chance to review the
19 exhibits in this matter. I've reviewed portions of the
20 testimony.

21 In giving my oral findings and conclusions, I'm
22 going to be referring quite a bit to the -- it was not an
23 exhibit but it was a spreadsheet, Excel spreadsheet, I
24 believe prepared by Mr. Buskirk, I think just for ease of
25 reference, and the figures that were set forth in there.

1 MR. BUSKIRK: If I could ask a favor. When
2 you're referring to the spreadsheet, if you could refer to
3 the actual cell number. I believe I put the vertical axis
4 numbers 1 through whatever and the horizontal axis A
5 through --

6 JUDGE OLSEN: You did. I modified them a bit.
7 I made the numbers correspond to the admitted exhibits in
8 evidence.

9 MR. BUSKIRK: All right.

10 JUDGE OLSEN: But I think we'll be able to
11 figure it out.

12 MR. BUSKIRK: All right.

13 JUDGE OLSEN: First of all, I find this is a 17
14 year ~~marriage~~. I'll find it fits into the classification
15 of long term, even though the article provided by Ms. Crane
16 indicates ~~it~~ could be called midterm. But I am classifying
17 it as long ~~term~~.

18 The sole issue ~~in~~ this case, since there were no
19 children of the marriage, is property division. And before
20 I proceed to do that, I'm going to indicate now I've
21 classified items, whether they're community or separate.

22 And I will let the parties know, according to the
23 spreadsheet, what I've done is there is testimony that the
24 things indicated as joint were community, and the mixed
25 were commingled, and there was no real evidence as to what

1 it should be. Based on that, I am finding that both joint
2 and mixed -- I am lumping those two categories together and
3 referring to those as community property items.

4 ~~the wife's separate~~ property is listed in her
5 exhibits under column E and the husband's separate property
6 was listed in column D.

7 Other items of property that were not put on the
8 form, which I have added, there is testimony about
9 insurance proceeds in the amount of 8,000 dollars. That
10 will be classified as community property.

11 The '99 Ford truck, I believe, was community
12 property. I understand the husband is primarily using that
13 vehicle.

14 The Federal Credit Union savings was community.

15 And the personal property, both parties agreed, was
16 20,000 dollars. I'm deeming that to be community property.

17 The house, which was -- the Beach Drive house,
18 Exhibit No. 19, for purposes of my final ruling, I am
19 holding it to have a value of 400,000 dollars. There is an
20 appraisal indicating it was worth 380, but I believe both
21 parties agreed to and testified during trial that they
22 would stipulate that it more accurately should be valued at
23 400,000. I also note that both parties were of the opinion
24 that, if it were put up for sale, it would likely possibly
25 be sold for more than that.

1 Unless I've missed itemizing any object, I'm
2 prepared to rule as follows:

3 There are several proposals of how the court should
4 divide these, and I'm going to tell the parties how I've
5 done the two primary items, the house on Beach Drive and
6 the pension.

7 And as both parties know, and I've reviewed the case
8 law, the court does have the authority, and it will
9 exercise the authority, to order that the house be sold.
10 I'm not awarding it to either party.

11 Case law indicates that a house should be awarded to
12 a party, usually the party that has children. We don't
13 have children in this case. I know both parties like the
14 house, both want it, both enjoy it. Unfortunately, I think
15 the fairest thing to do under these circumstances is to
16 order that it be sold and the proceeds divided equally.
17 Hopefully, it can be sold for more than 400,000, and that
18 each of you would have sufficient moneys to purchase a
19 condo or townhome or something to satisfy your needs. So
20 I'm ordering that the house be sold, and I want it listed
21 at least within the next 30 days.

22 The parties may continue to reside in it, of course,
23 until it sells, as apparently they've continued to do since
24 January.

25 And the court's going to retain jurisdiction. I am

1 not going to set a deadline by which the house must be
2 sold, but I am going to leave it open, in case six months
3 or a long period drags on and nothing has happened, either
4 party can then bring it back to court if they wish a special
5 master or some other mechanism to hurry things along.

6 Regarding the CSRS pension, that was the second
7 biggest item that was addressed during the trial. I note
8 that it was separate property of the husband's. He had
9 ~~earned~~ that 30 years prior to their even getting married
10 there is no doubt at the time they got married it was
11 separate property.

12 I also take note that they signed a separate
13 antenuptial shall property agreement. It wasn't as
14 extensive as many I have seen, but clearly intent was to
15 keep separate property separate. The paper did not discuss
16 what would happen if the parties got divorced. It
17 primarily dealt with the issues of what the parties
18 intended, should either of them die or pass on. But I take
19 into consideration the intent of that document in trying to
20 keep the property separate as possible.

21 On the other hand, the court notes that the parties
22 were living on the income from the pension for the duration
23 of their marriage. So the income from his separate
24 property asset was used for community purposes. They lived
25 on it in conjunction with their Social Security and the

1 small, very small pension that the wife had.

2 And it was only in 2004 when the husband took the
3 CSRS moneys and then put it back into a separate property
4 account. But I'm finding that the income generated from
5 the pension was used for community purposes.

6 What the court is trying to do, finding that it's a
7 long-term marriage, I think it's in the parties' best
8 interest to put them as -- in as equal a position as
9 possible. And I believe case law is -- supports that for
10 this duration of a marriage.

11 To do that I am awarding the wife a portion of the
12 CSRS. And let me kind of go through the math. But my
13 intent is to try to have them equal out at the bottom.

14 I am awarding her approximately 30 percent. The
15 court's intent is that she should receive a monthly payment
16 of about 700 dollars from his pension. This is important
17 to give her sufficient income on which to live, and it's
18 also important, as I understood the parties, that she
19 needed to be on his CSRS in order to continue being on his
20 health insurance.

21 Because I'm awarding it, I've tried to use some
22 figures of what -- there is testimony as to the present day
23 value of the pension, and that's reflected in the work
24 spreadsheet of 208,460 dollars. Taking 30 percent of that
25 is about 62,538. So from that I made two columns of the

1 husband's ~~assets and the wife's~~.

2 So on each side I've got 200,000 for the house,
3 either share of the house. The 62,538 for the wife's share
4 of the pension and the husband is 145,922 dollars.

5 Thereafter an attempt to keep -- to award each party
6 their separate property and to give each party the same
7 amount of assets.

8 At the end of it I divided the assets as follows:

9 The Timberlake II I found was separate property of
10 the husband and I awarded it to him.

11 The house in Nevada was clearly the wife's separate
12 property, and it will be awarded to her. So that amount is
13 in her column.

14 The trailer I find is community property but I'm
15 going to award it to the husband.

16 The Sun America account, the separate property of
17 the wife, and that will go in her column.

18 The Best America is also the wife's separate
19 property and will be awarded to her.

20 The WaMu Roth IRA is the wife's separate property
21 and it will be awarded to her, as well as the WaMu regular
22 IRA, also separate property of the wife.

23 The American or what's referred to as Amex, Exhibit
24 No. 6, will be awarded to the wife. That's her separate
25 property.

1 The WaMu IRA is the husband's separate property and
2 I'm awarding it to him.

3 He will also receive the American funds. It's
4 number 15 on the chart. Not an exhibit number but number
5 15 on the chart.

6 The Ford truck I am finding is community property
7 and I am awarding it to the husband.

8 The FAA Federal Credit Union is separate property of
9 the husband and he shall receive it.

10 Personal property was community, and I divided it
11 equally, 10,000 for each column.

12 The Manchester Lippert contract is community
13 property but I award it to the husband.

14 The WaMu Mutual, community property, is awarded to
15 the husband.

16 Let's see. The WFMM savings is community, which is
17 awarded to the husband.

18 The Vanguard IRA, community property, which is
19 awarded to the husband.

20 And there is a temporary order regarding ordering
21 the husband to repay the wife 5,000 dollars. I am not
22 doing that, in order to equalize the money. So that 5,000
23 dollars will stay in his column. I'm not ordering that he
24 has to reimburse the community or reimburse the wife for
25 that.

1 And I'm wide open for corrections, but that was in a
2 temporary order, that we can address when I'm done.

3 MS. CRANE: We'll talk about it.

4 JUDGE OLSEN: The Bank of America is community
5 property. I'm awarding that to the husband.

6 The WaMu checking, community property, will be
7 awarded to the husband.

8 The WaMu S -- let's see. Try to get the name right
9 on this last one. I apologize.

10 The WaMu savings, community property, will be
11 awarded to the husband.

12 And the Wells Fargo, community property, it's number
13 7, Exhibit-7, will be awarded to the husband.

14 The wife shall also receive the B of A account --
15 I'm sorry, I have to back up.

16 Some of these that were community, what I have done,
17 I can tell by the figures, is I have divided them.

18 The community property Bank of America account I
19 divided equally. So each party gets 15,167. I divided
20 that account in half.

21 The WaMu checking I divided in half, each party
22 getting 7,199 dollars.

23 The WaMu savings I divided equally, each party
24 receiving 14,203 dollars.

25 Adding these figures up, if I've done it correctly

1 the husband receives a total of 650,101 dollars. The
2 husband receives 651,799 dollars [sic].

3 MS. CRANE: Your Honor, could you back up?
4 That didn't make sense. The whole last sentence, try it
5 again.

6 JUDGE OLSEN: Adding up their columns of all of
7 their assets, I believe the husband's share was a total of
8 650,101 dollars. And if you add up the wife's column of
9 all of her property, her total amounts to 651,799 dollars.

10 And even though I'm awarding ~~the house to be sold~~, I
11 was trying to equate the parties' income after they're
12 done. And in awarding the wife 30 percent, or
13 approximately 700 dollars, I did that for two reasons.
14 Because I agree with respondent in this case that she needs
15 to earn additional income from the house.

16 By awarding the wife about 700 dollars a month from
17 the husband's CSRS, he will have approximately 2,100
18 dollars a month to live on. And I was trying to have the
19 similar figure for the wife.

20 I think if she adds the pension money she'll
21 receive, plus her retirement and her Social Security, she
22 would have a total of 1,493 dollars. I believe she needs
23 to rent out the house that her son currently lives in.
24 There is testimony that before the marriage she was renting
25 that out to her son for 500 dollars. So certainly I

1 believe she should be able to get that much rent from him
2 some 18 years later.

3 It's the court's intent to try to -- unless -- I'm
4 open to suggestions, but until the house sells, I
5 considered leaving the temporary order in place, in terms
6 of how to divide, make sure bills were paid, and each of
7 them having money. But, again, I'm not -- I won't become
8 rigid to that, if either counsel has a suggestion in that
9 regard, while -- or if they have a different idea of what
10 to do while the house is on the market.

11 MS. CRANE: Continue -- for my client,
12 continuing the present status quo.

13 JUDGE OLSEN: All right. That was --

14 MR. BUSKIRK: If we're going to -- I assume
15 we're going to try to get final papers entered today, which
16 means both parties have roughly the same income. They
17 should be dividing the debts from the house 50-50 from here
18 forward. The majority of the money that's been used to pay
19 it is Mr. Cox's pension. She hasn't been contributing any
20 income into the household to pay the bills.

21 MRS. COX: Yes, I have.

22 MR. BUSKIRK: She's testified that she's been
23 withholding the money that she receives to pay taxes on
24 that. And so if we're going to enter final papers today
25 that equalizes their income roughly, they should here

1 forward be splitting the bills on the house 50-50.

2 JUDGE OLSEN: Well, the equalization is going
3 to occur. I mean, it won't be truly equal until the house
4 sells, which may be a couple months --

5 MR. BUSKIRK: The equalization in the income?
6 If he starts giving her 700 dollars a month from his CSRS,
7 and she starts taking 500 dollars a month in addition to
8 her current income, it's my understanding then their income
9 should be roughly equal.

10 JUDGE OLSEN: That is true.

11 So if -- until the house sells, the court will order
12 that debts will be paid equally. But I want to give the
13 wife additional time. It --

14 MR. BUSKIRK: Sure. Understandable. I don't
15 expect her to call up her son this evening and say, "Send
16 me a check for" --

17 JUDGE OLSEN: So that won't take place for 60
18 months.

19 MR. BUSKIRK: 60 days?

20 JUDGE OLSEN: 60 days, I'm sorry. In case she
21 needs to make other arrangements with her son.

22 MR. BUSKIRK: Okay. So the temporary order
23 will remain in effect for 60 days. If the house takes
24 longer to sell than that, then it will be 50-50.

25 JUDGE OLSEN: Correct. Then 50 -- then the

1 temporary will remain in place in terms of the income
2 distribution. The only portion that will change is the
3 division of debt after the 60 days.

4 MR. BUSKIRK: Okay.

5 JUDGE OLSEN: Once she's receiving hopefully
6 the rental income, then the debt part will be divided
7 equally.

8 MR. BUSKIRK: Okay.

9 JUDGE OLSEN: All right. Okay.

10 Counsel, have I -- any other issues I've neglected
11 to raise in my final ruling?

12 MS. CRANE: Is it your intent -- I hope the
13 answer is yes -- that the parties have access to the money
14 that they are being awarded herein as of the divorce?

15 JUDGE OLSEN: Oh, yes.

16 MS. CRANE: It's not awaiting the house.

17 JUDGE OLSEN: No, no.

18 MR. BUSKIRK: Payment of health insurance
19 through the CSRS and payment of the survivor beneficiary
20 annuity.

21 JUDGE OLSEN: Well, one of the main reasons I'm
22 awarding her part of the CSRS is so she remains on the
23 health insurance.

24 MR. BUSKIRK: There is a cost to that though.

25 JUDGE OLSEN: And do you know how much it is?

1 MR. BUSKIRK: Yes, we do.

2 JUDGE OLSEN: How much?

3 [Discussion off the record.]

4 MR. BUSKIRK: Well, that's up to Paula whether
5 or not you want to -- it's that memo I gave you.

6 MS. CRANE: I thought that was the survivor
7 benefit.

8 MR. BUSKIRK: I think it was the health
9 insurance

10 I guess we need to address the issue on how to pay
11 for the cost of the health insurance. And the survivor
12 beneficiary annuity is 256 dollars a month. And the health
13 insurance, Mr. Cox is telling me, is about 300 dollars a
14 month.

15 MR. COX: Well, the health insurance is back
16 here.

17 MR. BUSKIRK: Excuse me. If you were enrolled
18 in the Mail Handlers benefit standard option monthly
19 premium, is that for both of you?

20 97.84 a month for health insurance for both of them.

21 JUDGE OLSEN: 97.84?

22 MR. BUSKIRK: Yeah.

23 [Discussion off the record.]

24 MR. BUSKIRK: For both of them it's 207.22.

25 And if he were single it would drop down to the 97.84. But

1 I'm assuming it's going to remain the same, because she's
2 being awarded a portion of it which will entitle her to
3 ~~continue~~ to receive health insurance benefits.

4 JUDGE OLSEN: All right.

5 Well, I --

6 MS. CRANE: What I would look for, your Honor,
7 is an order that says that these things are taken off the
8 top. Because actually, when you did your math, you had
9 already taken them out. So that the cost of the survivor
10 benefit and the cost of his and her medical insurance are
11 both paid before we expect her to make 500 dollars in rent
12 and then equalize the incomes. You know, she starts up 500
13 because she's got the rent.

14 JUDGE OLSEN: Okay.

15 MS. CRANE: Because they're assuming that her
16 medical insurance will not be anymore expensive than their
17 medical insurance, and I think that may be in error.

18 If you recall, I talked about there was a good
19 reason to have a legal separation. And -- well, if we do
20 papers today, that's kind of hard. But Mr. Buskirk and I
21 will talk about it. But if your purpose is to leave them
22 equal, those necessities should be paid off the top. And
23 then we can do the math. Charging her 500 dollars rent for
24 her son starting in 60 days, and then leave them equal.

25 JUDGE OLSEN: That was the court's intent, to

1 take both of those off the top, and leave them in an equal
2 position.

3 MS. CRANE: Do you understand?

4 MR. BUSKIRK: Uh-huh.

5 MS. CRANE: Okay.

6 JUDGE OLSEN: Any other issues?

7 MS. CRANE: No, your Honor.

8 JUDGE OLSEN: Thank you.

9 And did you have papers to present? Or I guess I
10 anticipated --

11 MS. CRANE: I brought my laptop. We're going
12 to work on them.

13 JUDGE OLSEN: All right.

14 MS. CRANE: We're going to try.

15 JUDGE OLSEN: All right.

16 [Conclusion of hearing.]

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C E R T I F I C A T E

I, Paul J. Frederickson, Notary Public in and for the State of Washington, hereby certify that the proceedings occurred before me at the time and place indicated and were stenographically recorded by me and subsequently transcribed by me;

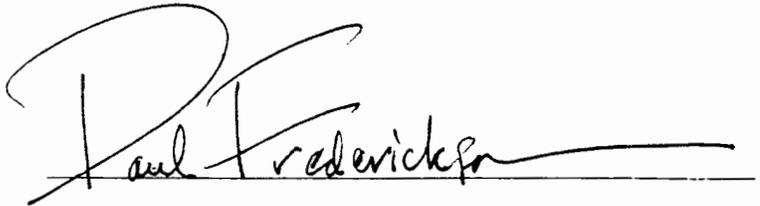
I further certify that I am in no way related to any party to this cause of action, nor to any counsel, nor do I have a financial interest in the outcome of this cause of action;

I further certify that the foregoing is a true, accurate and correct transcript from the record of proceedings contained herein.

My commission expires 11-19-2008.

4.27.06

Date



Paul J. Frederickson, CCR
CCR # 2419
Fox Island, Washington

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**SUPERIOR COURT OF WASHINGTON
COUNTY OF KITSAP**

| | | |
|-------------------------------|---|-----------------------------|
| In re the Marriage of: |) | NO. 05 3 00061 4 |
| |) | |
| Darlene D. Cox |) | FINDINGS OF FACT AND |
| Petitioner, |) | CONCLUSIONS OF LAW |
| and |) | (FNFL) |
| |) | |
| Fredrick J. Cox |) | |
| Respondent. |) | |

I. BASIS FOR FINDINGS

The findings are based on trial. The following people attended:

- Petitioner.
- Petitioner's Lawyer Paula T. Crane.
- Respondent.
- Respondent's Lawyer Todd A. Buskirk

II. FINDINGS OF FACT

Upon the basis of the court record, the court FINDS:

2.1 RESIDENCY OF PETITIONER.

The petitioner is a resident of the State of Washington.

FINDINGS OF FACT/CONCLUSIONS OF LAW
WPF DR 04.0300 (9/2001)
CR 52; RCW 26.09.030; .070(3)
Page 1 of 6

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2.2 NOTICE TO RESPONDENT.

The respondent appeared, responded or joined in the petition and was served in the following manner:

With Summons and Petition for Dissolution January 20, 2005.

2.3 BASIS OF PERSONAL JURISDICTION OVER THE RESPONDENT.

The facts below establish personal jurisdiction over the respondent.

The respondent is presently residing in Washington.

The parties lived in Washington during their marriage.

2.4 DATE AND PLACE OF MARRIAGE.

The parties were married on 10/23/87 at Las Vegas, NV.

2.5 STATUS OF THE PARTIES.

Husband and wife separated on 1/19/05.

2.6 STATUS OF THE MARRIAGE.

The petitioner wishes to be legally separated.

2.7 SEPARATION CONTRACT OR PRENUPTIAL AGREEMENT.

There is a written postnuptial agreement.

2.8 COMMUNITY PROPERTY.

1. A spread sheet was used by both parties during closing argument. It listed some assets as Husband's, some as wife's and some "joint" and some "mixed". For purposes of analysis, the court treats both the "joint" and the "mixed" property as community property.

2. This is a marriage of 17 years. In addition, the parties are now 77 and 74. Based on the duration of the marriage and the parties' ages, the court treats this as a long term marriage.

3. The parties should be left in a position as nearly

FINDINGS OF FACT/CONCLUSIONS OF LAW

WPF DR 04.0300 (9/2001)

CR 52; RCW 26.09.030; .070(3)

Page 2 of 6

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2 equal as is possible, both in terms of assets and
income.

4 4. As wife's separate property, she is awarded a paid
6 for house in Nevada. It is occupied by her son and she
has not been charging him rent. Rent of \$500 per month
8 is imputed to her as received on that rental.

10 5. Not listed on the spread sheet but found to be
community property are:

12 \$8000 in insurance proceeds on wife's car.
14 ~~1999 Ford truck at \$19,400~~
~~Federal community savings~~
16 ~~personal property worth with \$6225 going to husband
and \$7910 going to wife.~~ *ARC 22*

18 6. The house owned by the parties at #4977 Beach Drive,
20 Port Orchard was valued by an appraiser at \$380,000 but
both parties said they wanted to be awarded the house
22 and would accept the house in the property division at
\$400,000.

24 7. Because both of the parties wished to be awarded the
26 house and because the house represents such a large
portion of the property division, making balancing
28 difficult, the court orders that the house be sold.

30 8. Both parties may remain living in the house until it
is sold. For the next 60 days, they shall manage
32 finances as they have been doing under the prior court
order. After sixty days, because their incomes will be
34 equalized, they will share the expenses equally.

36 9. Though the court orders that the house be listed
within 30 days, if the parties agree on an alternate
38 selling method, the use of a broker and the multiple
listing service may be delayed.

40 10. The parties may jointly agree as to what items of
42 personal property are to be sold with the house.

44 11. The court retains jurisdiction to resolve any
46 disputes about the listing and sale of the house if
such becomes necessary.

48 2.9 SEPARATE PROPERTY.

The spread sheet delineates the parties' separate

FINDINGS OF FACT/CONCLUSIONS OF LAW
WPF DR 04.0300 (9/2001)
CR 52; RCW 26.09.030; .070(3)
Page 3 of 6

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2 property. To the extent possible while still
4 effectuating an equal total property division, the
court is providing to each party their separate
property.

6 Respondent earned a Civil Service Retirement System
8 pension both prior to and during the marriage. Of the
total of 30 years he was employed in the CSRS system,
29 years were prior to the marriage.

10 The CSRS pension is the major income source for the
12 parties. During the marriage, the lived on it and
shared it.

14 The court orders that a portion of the CSRS be
16 allocated to the wife. Thirty (30%) percent of the CSRS
shall be allocated to the wife. This shall be
18 calculated after the cost of the SBP and the cost of
the medical insurance of both of the parties.

20 2.10 COMMUNITY LIABILITIES.

22 There are no community liabilities except purchase
24 money contracts.

26 2.11 SEPARATE LIABILITIES.

28 The husband has no known separate liabilities except
any he may have incurred since date of separation.

30 The wife has no known separate liabilities except any
32 she may have incurred since date of separation.

34 2.12 MAINTENANCE.

36 ~~There is a need for spousal maintenance.~~ *Wife's need for future income PJC JB* It is handled
38 by the division of the civil service pension so that
each of the parties have equal incomes after the SBP is
40 paid and after medical insurance is paid for both of
the parties and after wife is credited with \$500 rent
42 from the Nevada house.

44 2.13 CONTINUING RESTRAINING ORDER.

46 Does not apply.

48 2.14 FEES AND COSTS.

There is no award of fees or costs.

FINDINGS OF FACT/CONCLUSIONS OF LAW
WPF DR 04.0300 (9/2001)
CR 52; RCW 26.09.030; .070(3)
Page 4 of 6

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2.15 PREGNANCY.

The wife is not pregnant.

2.16 DEPENDENT CHILDREN.

The parties have no dependent children of this marriage.

2.17 JURISDICTION OVER THE CHILDREN.

Does not apply because there are no dependent children.

2.18 PARENTING PLAN.

Does not apply.

2.19 CHILD SUPPORT.

Does not apply.

III. CONCLUSIONS OF LAW

The court makes the following conclusions of law from the foregoing findings of fact:

3.1 JURISDICTION.

The court has jurisdiction to enter a decree in this matter.

3.2 GRANTING OF A DECREE.

The parties should be granted a Decree of Legal Separation.

3.3 DISPOSITION.

The court should determine the marital status of the parties, consider or approve provision for the maintenance of either spouse, and make provision for the disposition of property and liabilities of the parties. The distribution of property and liabilities as set forth in the decree is fair and equitable.

3.4 CONTINUING RESTRAINING ORDER.

Does not apply.

FINDINGS OF FACT/CONCLUSIONS OF LAW
WPF DR 04.0300 (9/2001)
CR 52; RCW 26.09.030; .070(3)
Page 5 of 6

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3.5 ATTORNEY'S FEES AND COSTS.

Does not apply.

Dated:

9/30/05

Sally F. Olson
Judge/Commissioner

Presented by:

Paula T. Crane

Approved for entry:

Notice of presentation waived:

Todd A. Buskirk

PAULA T. CRANE
W.S.B.A. #9504
Attorney for Petitioner

TODD A. BUSKIRK
W.S.B.A. #30517
Attorney for Respondent

FINDINGS OF FACT/CONCLUSIONS OF LAW

WPF DR 04.0300 (9/2001)

CR 52; RCW 26.09.030; .070(3)

Page 6 of 6

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SUPERIOR COURT OF WASHINGTON
COUNTY OF KITSAP

| | | |
|------------------------|---|-----------------------------|
| In re the Marriage of: |) | NO. 05 3 00061 4 |
| |) | |
| Darlene D. Cox |) | DECREE OF LEGAL SEPARATION |
| Petitioner, |) | (DCD) |
| and |) | |
| |) | |
| Fredrick J. Cox |) | |
| Respondent. |) | |
| |) | [] Clerk's Action Required |

I. JUDGMENT/ORDER SUMMARIES

- 1.1 Restraining Order Summary:
Does not apply.
- 1.2 Real Property Judgment Summary:
Does not apply.
- 1.3 Money Judgment Summary:
Does not apply.

II. BASIS

Findings of Fact and Conclusions of Law have been entered in this case.

DECREE
WPF DR 04.0400 (9/2001)
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III. DECREE

2 IT IS DECREED that:

4 3.1 STATUS OF THE MARRIAGE.

6 The parties are granted a decree of Legal Separation.

8 3.2 PROPERTY TO BE AWARDED THE HUSBAND.

10 The husband is awarded as his separate property the
12 property set forth in Exhibit A. This exhibit is
14 attached or filed and incorporated by reference as part
of this decree.

16 3.3 PROPERTY TO BE AWARDED TO THE WIFE.

18 The wife is awarded as her separate property the
20 property set forth in Exhibit B. This exhibit is
22 attached or filed and incorporated by reference as part
of this decree.

24 3.4 LIABILITIES TO BE PAID BY THE HUSBAND.

26 The husband shall pay the community or separate
28 liabilities set forth in Exhibit A. This exhibit is
attached or filed and incorporated by reference as part
of this decree.

30 Unless otherwise provided herein, the husband shall pay
32 all liabilities incurred by him since the date of
separation.

34 3.5 LIABILITIES TO BE PAID BY THE WIFE.

36 The wife shall pay the community or separate
38 liabilities set forth in Exhibit B. This exhibit is
attached or filed and incorporated by reference as part
of this decree.

40 Unless otherwise provided herein, the wife shall pay
42 all liabilities incurred by her since the date of
44 separation.

46 3.6 HOLD HARMLESS PROVISION.

48 Each party shall hold the other party harmless from any
collection action relating to separate or community
liabilities set forth above, including reasonable

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2 attorney's fees and costs incurred in defending against
any attempts to collect an obligation of the other
4 party.

6 3.7 SPOUSAL MAINTENANCE.

8 There is a provision for the division of the CSRS
pension herein. This division is in lieu and is
enforceable by the court as spousal maintenance. In
10 addition, there is a provision that if husband converts
this to a dissolution, he will be responsible for 1/2
12 of the cost of wife's medical insurance. This
provision will also be enforceable as maintenance.

14 3.8 CONTINUING RESTRAINING ORDER.

16 Does not apply.

18 3.9 JURISDICTION OVER THE CHILDREN.

20 Does not apply because there are no dependent children.

22 3.10 PARENTING PLAN.

24 Does not apply.

26 3.11 CHILD SUPPORT.

28 Does not apply.

30 3.12 ATTORNEY'S FEES, OTHER PROFESSIONAL FEES AND COSTS.

32 Does not apply.

34 3.13 NAME CHANGES.

36 Does not apply.

38 3.14 EXECUTION AND EXCHANGE OF DOCUMENTS.

40 That to implement the terms and provisions contained
42 herein, each of the parties shall make, execute and
44 deliver to the other party instruments of conveyance,
assignment and other documents as may be required. In
46 the event either party fails to do so, the Judgment and
Decree shall operate as said conveyance.

48 3.15 OTHER

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Should Respondent convert this decree of Legal Separation into a Decree of divorce and thereby increasing the cost of Petitioner's medical insurance, he shall reimburse Petitioner monthly for 1/2 of the cost of her medical insurance. This is one of the provisions that is enforceable as spousal maintenance if Respondent fails to comply. ~~cost of her medical insurance~~ *PVC 7/8*

Dated: 9/30/05

Robert Olsen

~~Judge/Commissioner~~

Presented by:
Paula T. Crane

PAULA T. CRANE
W.S.B.A. #9504
Attorney for Petitioner

Approved for entry:
Notice of presentation waived:
Todd A. Buskirk

TODD A. BUSKIRK
W.S.B.A. #30517
Attorney for Respondent

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EXHIBIT A

PROPERTY AWARDED TO RESPONDENT HUSBAND

- 1. 70% of his CSRS pension
- 2. 1/2 of the proceeds from the sale of the Beach Street house.
- 3. Timberlake #2
- 4. The travel trailer
- 5. His WAMU IRA
- 6. American Funds (#15 on spread sheet)
- 7. Ford Truck at \$19,500
- 8. FAA savings
- 9. 1/2 the value of the personal property @ Stokes *PJC*
- 10. the Lippert Contract
- 11. WAMU mutual fund
- 12. Wells Fargo checking *ZB*
- 13. VANGUARD IRA
- 14. 1/2 Bank of America Account
- 15. 1/2 WAMU joint checking
- 16. 1/2 WAMU joint savings
- 17. ~~Wells Fargo~~ Wells Fargo MM savings. *PJC ZB*

Husband shall pay and hold wife harmless on all debts related to the assets allocated to him herein.

The 70% share of CSRS will be paid to husband after the payment of the SBP and the cost of medical insurance for both of the parties are paid.

Should Respondent convert this decree of Legal Separation to a decree of Dissolution and thereby increase the cost of medical insurance for the wife, he shall reimburse her 1/2 of the cost of her medical insurance.

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EXHIBIT B

PROPERTY AWARDED TO PETITIONER WIFE

1. 1/2 of the proceeds from the sale of the Beach Drive house.
2. 30% of the CSRS pension of the Respondent.
3. The house in Las Vegas Nevada.
4. The Sun America account
5. The Best of america account
6. Her WAMU Roth IRA
7. Her WAMU regular IRA
8. Amex.
9. 1/2 of the personal property @ Stokes
10. 1/2 of the Bank of America account
11. 1/2 of the WAMU joint checking
12. 1/2 of the WAMU joint savings
- ~~13. 1/2 of the Wells Fargo MM savings. PJC JB~~

Wife shall pay and hold husband harmless on all debts related to the assets allocated to her herein.

The 30% of the CSRS pension awarded herein will be after the payment of the cost of the Survivor benefit and the cost of medical insurance for both of the parties. Wife's share will receive the same cost of living increases as the CSRS pension as a whole.

Should Respondent convert this decree of Legal Separation to a decree of Dissolution and thereby increase the cost of medical insurance for the wife, he shall reimburse her 1/2 of the cost of her medical insurance.

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