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DIVISION II

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STATE OF WASHINGTON

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NO. 43025-8-II

COURT OF APPEALS OF THE STATE OF WASHINGTON,

DIVISION II

In re the matter of

Jeremiah J. Larsen
Appellant,

vs.

Rebecca A. Larsen
Respondent.

BRIEF OF APPELLANT

Jeremiah J. Larsen
3270 Oak St
Longview, WA 98632
(360) 931-9655

I. TABLE OF CONTENTS

Page

TABLE OF CONTENTS I

INDEX OF AUTHORITIES ii

Table of Law ii

I. INTRODUCTION.

II. ASSIGNMENT OF ERROR.

III. ISSUES PERTAINING TO ASSIGNMENT OF ERROR.

IV. STATEMENT OF THE CASE.

1. Factual History

2. Procedural History

V. ARGUMENT.

VI. CONCLUSION.

VII. APPENDIX.

INDEX OF AUTHORITIES

Table of Law .....

CR 60 Relief from Judgment or Order

LCR 88 (d)

RCW 26.18.190

RCW Chapter 26.09 Dissolution proceedings

RCW 26.09.050, Decrees, Contents, Restraining Orders

RCW 26.09.100 Child Support

RCW 26.09.181 Procedure for determining Parenting plan, 26.09.184, Permanent parenting plan, 26.09.191 Restrictions in Parenting plans.

RCW 26.09.290 Final Decrees

RCW 26.09.300 Restraining Orders

RCW 26.16.030 Community Property Laws

I. INTRODUCTION

This is an appeal from a Decree of Dissolution; Final Parenting Plan; Order of Child Support and worksheets; and Findings of Facts and conclusions following a divorce trial that took place on December 22, 2011 before the Trial Court in Cowlitz County, WA.

The appellant, Jeremiah J. Larsen, (hereinafter appellant) appeared, responded and argued facts relevant and sufficient to overcome the judgment and orders ruled that were brought by Rebecca A. Larsen (now Bamberg, hereinafter respondent). After Trial Court made final rulings, Appellant timely filed appeal here.

II. ASSIGNMENTS OF ERROR

Assignment of Error No. 1.

The Trial Court erred in granting and adopting the language of the respondent's orders filed in this appeal as Respondent presented to Trial Court proposed orders that were entirely different than the proposed orders that were properly served upon appellant and used to build appellant's defense. Respondent's new proposed orders were handed to Appellant in the court room just moments before the trial commenced by Jeanine Selix-Ford, a witness for respondent. As a result, Appellant was not permitted a fair and just trial. Trial Court adopted all of the

respondents proposed orders without giving consideration to appellants proposed orders.

(RP pages 96–139, 140 line 6–line 25, page 155 lines 21-25, 208 lines14-20), CP; 2, 3, 7,99,110,126. CR 88 (d),

Assignments of Error No. 2.

The Trial Court erred in granting respondent's Anti-Harassment Order; as such orders were denied and dismissed in their entirety at the beginning of this matter. Further, the appellant has never done anything to warrant such orders in the past or present. CP; 2, CP 3, CP 4, CP 16 pages, CP 27, RP pages 3-12, 140 lines 19-25, 193 lines 13-14, 196 lines 1-3).

RCW 26.09.300

Assignments of Error No. 3.

The Trial Court erred in ordering a judgment of $15,535 with a 5% APR against the appellant, while at the same time ordering appellant to refinance the mortgage on the jointly-owned marital home which is/was upside down, in order to keep the home awarded to him and assume liability of the mortgage within two years as specified by the Trial Court. This is not possible until the judgment is either satisfied by payment or otherwise vacated by the authority of the Court. RP pages; 158-161, 194 lines 22-25, 195 lines 1-22, and page 207 lines 1-15. CP; 55 pages 85-93, 174 pages, 230-236, CR 60, RCW 26.18.190

Assignments of Error No. 4.

The Trial Court erred by ordering a judgment of $15,535 plus 5% interest against appellant. Appellant testified in trial and filed documents that show the marital home was purchased by the parties in Oct 2002 for 97,500. The parties refinanced the home in 2007 and used the equity to pay off the respondent's credit card debt from her previous marriage. Appellant requested on the record in trial, for the Court to reduce the judgment amount by at least half of the $15,737 ($ 7868) negative equity that is/was the current value of the jointly owned marital home in the beginning of and finalization of this matter, wherein the Trial Court denied such a request based on hope and speculation rather than fact that the economy would turn around.(RP pages; 145 line 25- page 149, 196 lines 6-23, and page 197 lines 7-9). CP; 55 pages 85-93, 148 pages 194 -196,
149 pages 197-207, CR 60, RCW 26.18.190

Assignments of Error No. 5.

The Trial Court further erred in ordering a judgment of $15,535 against appellant to pay for respondent's student loans, personal credit card debt, and half of the 2010 joint tax return. Student loans and credit card debts were incurred after the parties separated and the full amounts and dates of purchases thereof are undisclosed and have never been revealed to the Court. The Trial Court further erred in this ruling as this order creates a

substantial financial hardship for the appellant, as he is on a fixed limited disability income, while respondent is fully employed and full income amount has not been disclosed to the court. RP pages 146-149, 153-160, 194 line 22- page 197, 203 line 24 - page 204 line15. CP; 28, 102, 103, 150, 173, RCW 26.18.190, CR 60

Assignments of Error No. 6.

The Trial Court erred in incorporating the language in Section 3.3 of the respondent's Parenting Plan ordering the appellant to pick up his younger children at the same time as his older children, which is not possible as the children live approximately 1 hour apart. RP page 208 lines 7-20, CP 120 RCW 26.09.181, RCW 26.09.182, RCW 26.09.184

Assignments of Error No.7.

The Trial Court erred by incorporating language in Section 3.13 of the respondent's Parenting Plan, ordering the appellant to provide a full separate wardrobe for each child while they reside with him. On average, the children only spend four days per month at the appellant's home, while the appellant already pays child support to the respondent that typically covers this expense. RP pages, 208- 212, CP 120 RCW 26.19.001, 26.19.080, RCW 26.09.184

Assignments of Error No 8.

The Trial Court erred by incorporating the Dispute Resolution language in

Section V. of the respondent's Parenting Plan. As such provisions were previously stricken from respondent's proposed Parenting Plan by The Court on August 17, 2011, on the grounds of appellant's insufficient income. RP page 49 lines 19-24, RCW 26.09.187 (1, a, c), CP 126 section V.

Assignments of Error No. 9.

The Trial Court erred by adopting the respondent's Child Support Worksheets and Child Support Order as final rulings. The Child Support Worksheets are inaccurate and do not reveal respondent's full income, as proven by the respondent's Facebook pages. This information was brought to the Courts attention by appellant in trial. Respondent claims to only earn $841 per month yet publicly stated that she was able to decline employment opportunities as recent as December 15, 2011, was able to purchase her own office for her private practice in massage therapy, and has additional income that has never been revealed to the court. The Trial Court stated that the Child Support Order "leaves her income low."

(RP) pages 198 line 25 - page199 lines 1-2, RP 154 line 22–155 line 21, pages 203 line 24 – page 204 line 15. CP 173, RCW 26.19.080, 26.19.075

Assignments of Error No. 10.

The Trial Court erred by adopting the respondent's Child Support Worksheets and Child Support Order as final rulings. Trial Court failed to

grant a deviation from the standard calculation to appellant in regards to his two older children for whom he owes support. Further, Trial Court refused to look into the file to see the orders that the appellant was attempting to refer to that are and were relevant to this case at the time of trial. RP pages 198 line 25 – page 205 line 20. CP 90, 102, 103, RCW 26.18.190, RCW 26.19.075 (c), (e), 26.19.080

Assignments of Error No. 11.

The Trial Court erred in adopting the language of the Child Support Order in Section 3.15 regarding daycare. Appellant and respondent agreed, that respondent would be allowed both child tax exemptions, as long as the appellant would not be financially responsible for any expenses regarding home schooling. This is shown in section 3.13 of the Parenting Plan; "School expenses are to be the responsibility of the mother, **including, but not limited to** curricula, field trips, extra-curricular activities, and supplies." RP pages 161 lines 8-11. Daycare expenses are also to be included in this provision. RCW 26.18.190, RCW 26.19.100, 26.19.075 (a, c, d, e) 26.19.080.

Assignments of Error No. 12.

The Trial Court erred by incorporating the respondent's Child Support Worksheets and Child Support Order as final orders, because the Proportional Share of Income stated is inaccurate based on the

respondent's income information, the Household Assets are also inaccurate as the respondent listed the appellant's house as an asset valued at $126,000 although the appellant has filed two separate Certified Market Analysis' showing the value of property at $95,000. CP 55 & 174, 147,148,149,173, RP 145 line 25, 146-149, 196 lines 6-23, and page 197 lines 7-9, RCW 26.16.030

Assignments of Error No. 13.

The Trial Court erred by incorporating the Finding of Fact and Conclusions of Law in Section 2.10, where the respondent has listed her student loans as a community liability. The respondent left the marital home only 3 weeks after she enrolled into East/West College. Student loans were incurred after this time, as were credit card debts that have never been revealed to the court. The Trial Court further erred by incorporating the language of the Finding of Fact and Conclusions of Law in Sections 2.14 and 3.16, ordering a Protection Order against the appellant, Such orders were denied and dismissed in their entirety at the beginning of this matter. No new evidence has ever been filed against appellant to substantiate the order. RP pages 146-149, 153-156, 194 line 10 - page 197, 203 line 24 - page 204 line15. CP; 28, 102, 103, 150, 173, RCW 26.18.190, CR 60, RCW 26.16.030

III. **ISSUES PERTAINING TO ASSIGNMENTS OF ERROR**

1. Based on the information given, Trial Court's statement (RP 208 lines 14-17), along with the directive questions the appellant was asking his witnesses; RP 96-139, could the Trial Court have factually been looking at different documents than the appellant was prepared for, resulting in an unfair or unjust trial? (Assignment of Error 1.)

2. Has Trial Court erred by ordering respondent's Anti-Harassment Order? Were such orders denied and dismissed in the beginning of this matter? Is there substantial evidence to warrant such orders? (Assignments of Error 2.)

3. Has the Trial Court erred by ordering a $15,535 judgment against appellant, while ordering appellant to refinance his mortgage at the same time, creating an extremely difficult situation for appellant to comply with the orders? Further, could the Trial Court have reviewed the Certified Market Analysis filed on December 21, 2011 and/or the previous Certified Market Analysis filed on February 16, 2011 to determine that there was in-fact a negative equity of $15,737 against the marital home? (Assignments of Error 3.)

4. Has the Trial Court erred by ordering a judgment in the full amount plus a 5% annual interest charge while denying reducing the judgment amount by at least half of the negative equity value in the jointly owned marital home, based on hope and speculation? (Assignment of Error 4.)

5. Should the Trial Court have ordered respondent to disclose full statements of her credit cards and student loans dating from the time first she left the marital home, until the finalization of dissolution prior to ordering a judgment against the appellant? Further, is the respondent fully employed with undisclosed income? Can this order create a financial hardship for the appellant being disabled on a fixed income? (Assignments of Error 5.)

6. Should the Trial Court have reviewed the appellant's previous Parenting Plan (CP120) regarding his older children and the respondent's Parenting Plan before incorporating the language of the respondent's Parenting Plan ordering the appellant to pick up his younger children at the same time that he is obligated to pick up his older children who live approximately an hour apart? (Assignments of Error 6.)

7. Has the Trial Court adopted language in Section 3.13 of the respondent's Parenting Plan requiring the appellant to provide a

separate wardrobe for each child, which would normally be included in the transfer amount of child support? (Assignments of Error 7.)

8. Has the Trial Court incorporated Dispute Resolution language in Section V. of the respondent's Parenting Plan, forcing the appellant to be responsible for 50% of mediation costs without the substantial income to comply? (Assignments of Error 8.)

9. Having been presented with evidence of a private practice and additional income of the respondent through her own words on her Facebook pages and herein filed with the Court, should the Court have made a different ruling while calculating the Child Support Order and Child Support Worksheets by using the median income for the respondent? (Assignments of Error 9.)

10. Has the Trial Court failed to grant a deviation from the standard calculation on behalf of appellants older children?
Further, did the trial court refuse to look up documents that were filed with the court on the day of the trial?

11. Has the Trial Court adopted language in Section 3.15 of the respondent's Child Support Order ordering the appellant to pay day care expenses not included in the Transfer Payment?
Further, does the language conflict with the parties agreement

in section 3.13 of the respondent's Parenting Plan? (Assignments of Error 10.)

12. Should the Trial Court have adopted the respondent's Child Support Worksheets without full knowledge of the respondent's full income amounts? Further, should the Trial Court have adopted the Child Support Worksheets and Child Support Order without consideration as to the Certified Market Analysis revealing the actual value of the marital home? (Assignments of Error 11-12.)

13. Has the Trial Court erred by incorporating the language the Findings of Facts and Conclusions in section 2.10 where the respondent's student loans are listed as a community liability debt? Further, has the Trial Court erred by ordering a anti-harassment order and incorporating the language presented in sections 2.14 and 3.16 in the Findings of Fact document? (Assignments of Error 13.)

IV. STATEMENT OF THE CASE

1. **Procedural history** is as follows: On October 12, 2010, the Respondent filed a Summons and Petition for Legal Separation and also filed a Petition for an Order of Protection-Harassment.(CP; 2,3,4), At that

time there was a Temporary Order granted. On November 2, 2010, appellant responded to the petition with several facts being presented to the Court. (CP16)

This matter was heard on November 8, 2010, whereby the Court found that the appellant had/has not harassed the respondent. The Protection-Harassment Order was then and there denied and dismissed in its entirety as of November 8, 2010 at 5:20pm. (CP 27), Also on November 8, 2010, appellant filed a proposed Parenting Plan, personal health records and six declarations from witnesses on his behalf (none of which are from his personal family).(CP 18–24)

On November 17, 2010, the parties had a hearing for Temporary orders, whereas this matter was hereby converted to dissolution of marriage. The Court also ordered a family court investigation, a temporary visitation schedule awarding the appellant unsupervised parenting time each Saturday from 9:00am until 6:00pm pending the Family Court recommendation; and a Family Support Order for the appellant to pay $750.00 per month in addition to the $465.00 respondent was receiving from Social Security on appellants behalf while the respondent was enrolled in and attending college. (CP 30-32)

On December 6, 2010, appellant filed a concerning declaration with 10 pages of handwritten rules by respondent. (CP 35),

Declaration of Trevor and Kayleen Watson. (CP 38)

Declaration from appellant, regarding respondent's 3000 mile trip, where she used credit cards and appellant was not welcome to join prior to separation. (CP 39)

On December 15, 2010, Family Court had not yet spoken with either of the parties; therefore, the Temporary Visitation Schedule was set over to February 2, 2011.

On, February 2, 2011, the Court awarded the appellant a non-supervised weekend visitation schedule to align with his two older children's schedule via the Family Court's recommendation. (CP 46)

On February 16, 2011, Appellant filed Certified Market Analysis. (CP 55)

On March 10, 2011, Appellant filed a declaration regarding alarming emails respondent was sending to online friends. (CP 63)

On May 24, 2011, appellant filed a Motion to Review Temporary Support Orders. On May 27, 2011, respondent filed response.

On June 6, 2011, Appellant filed Petitioner's Resume to show Court her employment abilities. (CP 84)

On June 8, 2011 the Court signed bench order re visitation. (CP 87)

Also on June 8, 2011, Court ordered a Temporary Order of Child Support for the appellant to pay $300.00 per month in addition to the $322.00 that Social Security was paying to the respondent for the children on behalf of

appellant. This order aligned with the appellant's Child Support Order in Clark County, WA for his older two children. The Court also ordered the appellant to pay $450 per month as temporary spousal maintenance, until finalization of dissolution. At this time the Court further ordered the appellant to draw up the Child Support Order to match the amount of support owed for his older children in his Clark County Child Support Order. On June 15, 2011, the Court signed the above mentioned orders. (CP 89-90)

On June 24, Family Court filed recommendation. (CP95)

On July 15, 2011, respondent filed a proposed temporary Parenting Plan; proposed Order of Child Support and worksheets to be presented at the Mandatory Settlement Conference set for July 25, 2011. (CP 99 – 102) Appellant used his Proposed Parenting Plan and Child Support orders previously filed with the Court.

On July 25, 2011, Parties met with Commissioner Dennis Maher, to commence the Mandatory Settlement Conference. After meeting with both parties, Commissioner Maher found that settlement issues had not been resolved.

On July 27, 2011, respondent filed another proposed Parenting Plan with the same restrictions that she previously filed for the MSC that appellant was not in agreement with, and a motion for docket hearing set

for August 17, 2011. (CP 110)

On August 11, 2012, appellant filed a Temporary Parenting Plan to be presented to the court on August 17, 2011. (CP 114)

On August 17, 2011, the Court ordered a Temporary Parenting Plan drafted by the respondent to coincide with the residential schedule of the appellant's Clark County Parenting Plan regarding his older children. At this time, the court also dismissed the restrictions and dispute resolution process that the respondent had written into her proposed Parenting Plan. (CP 126)

On September 1, 2011, appellant filed for order to show cause re: contempt on custodial interference and coercion against respondent.

On September 14, 2011, respondent filed response.

On September 23, 2011, The Court did not find contempt; however, the Court awarded the appellant an additional week of parenting time in August 2012, on grounds that respondent did not allow the appellant a week of parenting time in August 2011, although she proposed it in her order signed by the Court on August 17, 2011. (CP 132)

On December 13, 2011, appellant filed a secret letter from respondent to appellant's Dr., financial documents, Mortgage statements, and credit card statements. (CP 147–150)

On December 21, 2011, appellant filed a declaration regarding petitioner's

Facebook pages verifying additional income that was to be hidden.

On December 22, 2011, after hearing, the Trial Court granted a judgment and incorporated all of the respondent's proposed orders as final rulings. The appellant timely filed appeal here.

2. **Factual History** is as follows: On August 7th, 2010 the respondent officially moved out of the marital home taking our children with her to live with her parents in Cornelius, OR. Respondent never gave appellant notice and appellant since learned that this was not legal. At this time respondent also began to enforce supervised visitation on appellant with respondent being the supervisor, while claiming that she and the children are afraid of appellant. (Respondent had been telling the children including appellant's older daughters that "Daddy's head is sick". This is where the children's fear stems from.) (CP 2, 3, 4, 7, 9)

Prior to leaving the marital home, the respondent became very controlling and instituted numerous rules on the appellant and children. (CP 35, Pages 62-72)

Appellant was diagnosed with Multiple Sclerosis since April, 2006 and has been medically retired on September 12, 2008. It was over these years that the respondent became very controlling in her behaviors. Appellant thought at first that she was looking out for the family's best interest (his inclusive.) However, appellant would learn otherwise.

Appellant discovered that for 2 years, the respondent had been telling their friends, neighbors and family that he was losing his cognitive abilities. (CP 19-24).

Appellant discovered that in 2009, the respondent wrote letters to his neurologist and psychologist asking them to diagnose him with a loss of cognitive abilities, of which they did/have not. (CP 147)

Further, in April 2010 the respondent went the down stairs of the marital home, to speak with appellant. (CP 35)

Respondent stated she'd been thinking that with appellant's cognitive abilities declining, then it would be in his best interest to sign his Power of Attorney over to her, in the event that he becomes unable to make decisions for himself, then she would have the authority to determine what other methods would be best. She also told him that he was becoming increasingly difficult to take care of and she could no longer help him. Appellant said he would have to think about it because he's not ready to go to a retirement home. The respondent then fired back "Jeremy, you are becoming an increasingly difficult patient and I can't be your care taker anymore!" Appellant then shot back "I didn't know you were my care taker, I thought you were my wife!"

The respondent then said "I'm not your wife and I'm not your caretaker." Hurt and in disbelief, Appellant simply walked out to his shop.

Then again in May 2010, the respondent came down the stairs informing appellant that there was an issue upstairs because her shower water wouldn't turn on. Respondent asked appellant if he could go look at it and informed him that she was giving him permission to go upstairs. (CP 35) Appellant went up to look at the faucet. 2 hours later it was repaired and as appellant was washing his hands and face in her bathroom, appellant looked on her mirror and found there were 6 different retirement facilities with phone numbers written in red lipstick on respondent's mirror. When appellant asked respondent what that was about, she yelled at him "**That is my personal Information and you are not welcome to come up here and go through my personal things!** Appellant yelled back **"If that's about me, that's my information and I don't see you needing a retirement home!"** The respondent then began to control the amount of time she would allow appellant to spend with the children. Appellant has been a father for over 15 years and has never been ordered supervised visitation with his older children.

In, July 2010, the respondent began attending East/West college of Massage Therapy. On July 5th 2010, the respondent began staying with their friends Kevin and Evelyn Coughtry in Camas, WA. (CP 20 & 21). This was supposed to be so that she wouldn't have to drive from Portland, OR to Longview WA everyday. This would also allow her more time to

study. However, the following events would prove to be alarming and reveal that the respondent had been planning to leave the marital home.

On August 7th 2010, respondent left the marital home. After leaving the marital home, respondent only permitted appellant to see his younger children on August 14th, and 21st for 3 ½ hours each, then again on Aug. 30th 2010, for a hour and a half. In September 2010, respondent only permitted appellant to see his younger children on the 11th for one hour only as appellant had a witness, (Kevin Coughtry) which made the respondent uncomfortable as he could and did later testify that the children are/were not afraid of him. Then appellant saw the children again on September 19th 2010 for about an hour and a half. At this time, appellant had his older children with him. They attempted to have lunch with the respondent and younger children. However, while they were all at the restaurant, appellant picked up Annike (the youngest child) so she could watch her meal being cooked as they were at a Mongolian grill. Upon holding Annike, the respondent became angry telling appellant that she could tell his balance was off and he was being dangerous, and if he didn't put her down then she was going to take them and leave. Appellant wasn't being dangerous as he set Annike on the counter to watch her food being cooked but he put Annike down calmly and quietly. Appellant then stated to the respondent "I am a good father." and asked "why do you have to

have so much control on me?" The respondent then grabbed the children and took them out of the restaurant with them screaming that they are hungry and didn't want to go! (Their food was being cooked right in front of them.) Annike was in tears yelling "I want to be with Daddy"! This would be the last time appellant was able to see his younger children until November 20th 2010.

On October 12, 2010, the respondent petitioned the court for a legal separation and anti-harassment order. (CP 2 ,3, 4) The Court dismissed the temporary protection order in its entirety based on the grounds that the appellant had never committed an act to warrant such an order. (CP 27)

On November 17, 2010 the Court ordered appellant a temporary visitation schedule from 9:00am until 6:00pm every Saturday until the Family Court was able to meet with the parties which would came on February 2, 2011. (CP 46) This was all based on the respondents false allegations that appellant has/had been abusive and/or she and the children are afraid of him. Through the duration of this marriage, there was never a domestic violence issue, and there has never been a police report against the parties because the police had never been called.

V. **ARGUEMENT**

1. adequate Service/response time.

The appellant did not have equal rights to a just trial for the following reasons: (a) Respondent's orders that were properly served upon appellant were entirely different than the orders respondent presented in and Trial Court used. The new copies were served to the appellant in the court room on December 22, 2011, the morning of the trial but prior to commencing the trial by Jeanine Selix a witness of testimony for respondent. (RP pages 96–139, 140 line 6–line 25, page 155 lines 21-25, 208 lines14-20), CP; 2, 3, 7, 99,110,126. CR 88 (d),

(b) This did not allow for legal service time nor did it allow the appellant adequate time to review the new proposed orders prior to the trial resulting in an unfair and unjustified trial as the appellant built his case and called witnesses based on the properly and timely served orders. (RP 96-139, witness testimony) Respondent's Proposed Orders are completely different than any orders respondent previously proposed to the Court or appellant. This is significant because prior to the trial, appellant designed his defense around restrictive orders, and did not have a chance to review the new orders prior to the trial because he was served in the court room by the respondent's friend Jeanine Ford as she hand delivered them just moments before the trial began. Further, Trial Court also informed

appellant that his Dr's testimony would not do him any good as she was not concerned with the information that he would provide. This is substantial information because of the restrictions and stipulations the respondent was attempting to place on appellant. (CP 126), RP page 140 line 19-22, page 155 line 21-25, page 208 lines14-20).

Respondent wrote a three and a half page letter to appellant's Doctor attempting to convince him that appellant was losing his cognitive abilities. Which is not true? (CP 147) By the end of the trial,

Trial Court was frustrated and appellant was reluctant to speak because he was extremely caught off guard. Trial Court refused to listen to appellant or look in the court file to find the documents appellant was attempting to refer to. RP page 198 line 25, page 199- page 202 line 21,

Local Court Rule 88
(d) Preparation and Presentation of Orders. Orders will be prepared by the party bringing the motion. The court will set a presentation date at the time of the hearing on the motion. The proposed order shall be provided to the other party or his/her counsel not less than five (5) court days prior to the presentation date. Objections to the form of the order shall be provided, in writing, not less than two (2) court days prior to the presentation date.

2. Anti-Harassment

The appellant has never done anything against the respondent to warrant an anti-harassment order. There has never been any documentation so substantiate such orders as the necessary evidence simply does not exist. The only time the appellant has come anywhere close to the respondent is

when it is time for the parties to commence the parenting times. Each parent must arrive at the other parent's home. Even then the parties never approach each other. During this process the appellant has never committed an act that warrants such an order against him. Appellant has never attempted to harass, stock, or go on to the grounds of the respondent's work place. Further, appellant does not know nor does he care to know the location of respondent's workplace. There is no restrictive language in the parenting plan although the respondent consistently pressed the matter until December 22, 2011, the day of the trial. CP; 2, CP 3, CP 4, CP 16 pages, CP 27, RP pages 3-12, 140 lines 19-25, 193 lines 13-14, 196 lines 1-3). RCW 26.09.300 Protection orders, RCW 26.09.191 (parenting plan, restrictive factors.)

3. Judgment

The judgment against appellant is unjust. The home was jointly owned by the parties. The appellant requested in Court and on the record for the Court to at least award half the negative equity toward the judgment amount. However, the Court denied his request and did not take the negative equity into consideration when granting the judgment amount. This was based on speculation and hopes that the economy would turn around to where the home value would recover the negative equity of $15,737. This was/is the home value in the beginning and finalization of

this matter. RP page 196 lines 8 - page 197 lines 9. When the Court makes a final ruling, such rulings shall be based on present facts and not on speculation or hope. The appellant has been ordered all financial liabilities of the jointly-owned marital home, relieving the respondent from any liability of the home, which had/has a negative equity of $15,737 at time of separation and finalization. Furthermore, the appellant has been ordered by the Court to refinance the jointly-owned marital home within two years. The judgment that has been ordered against the appellant prevents the appellant from being able to refinance because a person with a judgment is ineligible to qualify for refinancing until the judgment is either satisfied by the obligee or vacated by authorization of the Court. This order creates a significant hardship to appellant. This could also cause him to forfeit his home in 2 years leaving him no place for with his children if the judgment is not amended. Appellant has paid timely and faithfully on all his financial obligations including his mortgage. It was further brought to the courts attention that the home was originally purchased for 97,500 in 2002, using the appellant's income and the respondent's credit. The parties refinanced the home in Nov. 2007. They pulled out the equity to pay off the respondent's credit card debt at that time, which was incurred during her first marriage. This took the home balance from approximately $95,000 to $116,500 of which the respondent currently owes $110,737. Furthermore,

the appellant was ordered to pay for the respondent's student loan liabilities, as those figures are also included in the figures used to calculate the judgment amount. The respondent's student loans were incurred after the parties separated and she has a larger earning potential than appellant.

Appellant was never an authorized user on any of the respondent's credit card accounts; many of the respondent's purchases were made without the appellant's knowledge; many of the credit card debts were used to fund the respondent's extravagant trips/vacations of which the appellant was not welcome to join or attend. Further, some of the credit card debts were incurred after the parties separated and the amounts and purchases thereof have not been revealed to the Court and are undisclosed.

Lastly, appellant was further ordered to pay for all of his own debts without calculating his liabilities into the respondent's liabilities.

Appellant is on a fixed limited disability income, while the respondent is fully employed as a Licensed Massage Therapist at Massage Envy LLC. Respondent also has her own private practice in Massage Therapy of which no information of income has ever been disclosed to the court.

Respondent has never at any time revealed to the court any of her **full** credit card statements and balances thereof, dating from the time she left the marital home up to this current point in time for review of purchases made.

(RP pages; 145 line 25-pg 149, 158-161, 194 lines 22-page 195 line 22,

page, and page 207 lines 1-15). (CP; 55 pages 85-93, 174 pages, 230-236, CP; 28, 102, 103, 150, 173), RCW 26.18.190, CR 60

4. Parenting Plan

Prior to and from the very beginning the litigation regarding this matter, The respondent has been avidly attempting to force the appellant to have supervised visitation with their children with absolutely no factual basis for it to be granted other than for her to be in control.

RP page 47 lines 7-11, page 48 lines 11-24, CP 120, CP 126

This parenting plan does not allow for any flexibility whatsoever. The purpose of a **Parenting plan** is just that a plan to parent the children by. It is neither intended nor acceptable to utilize a parenting plan as a means to control the other parent. This is exactly what the respondent uses this document for. The appellant only has his children for 50 hours from the time he arrives to until they return. During these times appellant takes his children home to get chores done, to his girl friends home, the mountains, the beach, and to visit friends. Occasionally appellant arrives home just prior to the respondent's arrival to pick up the children and the appellant hasn't had time to and/or occasionally forgets to remove the child seats from his vehicle. The appellant has never approached the respondent nor does he intend to. However, if he or the children do forget to take something out of vehicle, and the respondent arrives, she pulls out her

smart phone and records the appellant's every move because he is outside of his home while she is there. This is absolutely absurd and awkward! Further, if the appellant is down in Vancouver, WA or Portland, OR (which is closer to the respondent) on a day that the children are to return, and the appellant calls the respondent to arrange meeting at a public place that is closer than having to drive to his home, the respondent absolutely refuses telling him that she is afraid of him. This makes absolutely no sense because this creates a safer situation than meeting at his home. The appellant has never committed an act to warrant the respondent to behave like this. The only thing the appellant has done is fought hard to be a father for his children. Quite honestly it's ridiculous that a father, who loves his children and has never been violent toward anybody, has to fight for their parental rights the way I've had to. The respondent has re-married. She has failed and refuses to provide any information about her husband to the appellant including his name. This man is now living with the appellant's young daughters, yet the appellant can't even be outside of his home because the respondent pulled into his driveway, something is extremely out of balance here.

RCW 26.09.184

(1) OBJECTIVES. The objectives of the permanent parenting plan are to:

(a) Provide for the child's physical care; (b) Maintain the child's emotional stability;

(c) Provide for the child's changing needs as the child grows and matures, in a way that minimizes the need for future modifications to the permanent parenting plan;

(d) Set forth the authority and responsibilities of each parent with respect to the child, consistent with the criteria in RCW and ;

(e) Minimize the child's exposure to harmful parental conflict;

(f) Encourage the parents, where appropriate under RCW and , to meet their responsibilities to their minor children through agreements in the permanent parenting plan, rather than by relying on judicial intervention; and

(g) To otherwise protect the best interests of the child consistent with RCW .

In section 3.3 of the Parenting Plan, the appellant is ordered by separate Parenting Plans to pick up all of his children at 8pm on Christmas Eve. This is not possible as his two older children live about an hour away from the respondent. CP 120, RCW 26.09.182, Before entering a permanent parenting plan, the court shall determine the existence of any information and proceedings relevant to the placement of the child that are available in the judicial information system and databases.

The language regarding time stating, 8pm Christmas Eve should be amended to 7pm. This presented to be a major issue last Christmas, when the respondent forced the appellant and his older children to wait in the appellant's vehicle for over an hour as she refused to let the children go at 7:00pm. The appellant had to wait in his vehicle because the respondent lived in Cornelius, OR and the closest town is 20-30 minutes away, not to mention everything was closed. By precedence for winter break, the

language should read: " In odd years the children shall remain with the father commencing 4:00pm the day school releases until 7:00pm on Christmas eve. In even years from 7:00pm Christmas Eve until the day before school resumes." This is because the appellant is already ordered to pick up his older children in this arrangement with the exception of time because he is ordered to receive his older children at 5:00pm and return them at 8:00pm. Precedence has been set for the appellant to receive and return his younger children an hour before he is ordered to receive his older children. This is evident in the schedule times between the two Parenting Plans. Further, the language "until 6pm the **Sunday** before school resumes" should be amended to the "the **day** before school resumes." As this is when he is to return his older children and this language caused the children to miss 2 days of winter break with their father last year. This will be the case almost every year, as Christmas is a specific day that changes which day of the week it is on every year.

Lastly, appellant is no longer in agreement with homeschooling provisions, as it is not in the children's best interest. Respondent has changed the children's names forcing them to be called by their middle names, the respondent has re-married and the children have mentioned that they use the respondent's new last name Bamberg as an alias.

Appellant will have no way to know if this is truly happening if the

children are home schooled, Further, respondent has attempted to force her school schedule onto the appellant by sending the children school homework in the mail during the 9 days they spend with their father each Summer month. This caused the children to feel very guilty and scared that the respondent would be angry, because I informed them that they were on summer break they don't have to complete it. This was discussed in previous court proceedings; The Court ruled, that the children's residential schedule will align with the public school schedule. The respondent has the ability to be flexible. The Court also ruled "Each parent may freely enroll the children in enrichment activities which shall not unreasonably interfere with the other parent's time".

RP page 49 lines 12-18, RP page 208 lines 7-20, CP 120, CP 126

Further, in this parenting plan, the appellant is ordered to provide a separate wardrobe for the children. This expense should be included in the Child Support Order and Worksheets and vacated from the parenting plan. This expense is normally included in child support. The children only reside an average of 4 days per month with the appellant. The children out grow their clothing before the ever really have a chance to wear it. (CP 90)

Further, on this order the dispute resolution language in section V. of the parenting plan should be stricken for the following reason: On August 17th 2011, The Court struck the language regarding the mediation process

stating "the Court doesn't have this available, I can't require anybody to it if they don't have the funds or feel they don't have the funds."

RP page 49 lines 19-24.) RCW 26.09.187 (1, a, c), CP 126 section V.

5. Child Support and Worksheets

The respondent's Child Support Order and Worksheets are not accurate. They do not accurately reflect appellants child support credits paid from Social Security on appellant's behalf. RCW 26.18.190, CP 90

The worksheets do not accurately address the Petitioner's income. Petitioner claims to only earn 841.00 per month, however there are other figures that have never been revealed to the Court and these earnings are less than the current State Minimum Wage.

Respondent has graduated college and is fully employed as a Licensed Massage Therapist with a larger earning Potential than the Respondent. She also has her own private practice in massage therapy. Respondent has never revealed any income amount to the court.

RP pages 198 line 25 – page 205 line 20, RP 154 line 22–155 line 21, pages 203 line 24 – page 204 line 15. CP 90, 102, 103, 173,

RCW 26.18.190, 26.19.075 (c), (e), 26.19.080

Under chapter 26.18.190 RCW, The Social Security Administration is currently paying 201.00 per child each month for child support purposes on behalf of appellant. Appellant currently pays $300 per month

in addition to this amount for his older children whose mother works at Taco Bell for minimum wage in Milwaukee, OR.

Appellant is requesting the court to use the standard median income amount for respondent, as full amount of income has not been disclosed to the Court or appellant. It is less expensive to raise younger children and whom are the subject of this matter. Currently the Respondent has been ordered to pay the respondent more money each month than he is ordered to pay for his older children and Under the current order the father is significantly struggling to pay all of his monthly financial obligations.

The appellant is disabled and on a fixed disability income, while the respondent has graduated college and is fully employed as a Licensed Massage Therapist with a larger earning potential than the appellant.

It is important to note: At the time of separation the Respondent was a student enrolled at East/West college for Massage Therapy. She began college in July 2010 just before leaving the marital home.

She graduated in June 2011. Respondent has had her own private practice since August 2011. She has been employed at Massage Envy LLC since September 2011. Respondent has consistently requested an unreasonable amount of support while omitting income information regarding her Private Practice in Massage Therapy.

VI. **CONCLUSION**

My name is Jeremiah J. Larsen. I am not an attorney nor very well versed in Law. I have done my very best in this matter and I can honestly say, this has been the hardest challenge of my life. However, I am humbly asking the Court of Appeals to look this matter over. I am requesting the Court of Appeals to grant a new trial. As I was served different documents in the court room just moments before the trial commenced.

I was not prepared for the orders that the respondent proposed. This had a great effect on the testimony of my witnesses as well as my structure of defense in trial. I do not believe this was a fair trial. I made attempts to share this fact with the trial court, however, I don't feel as though the Trial Court was listening to me. I simply could not regain my footing as I was blind sided. Many of these rulings are out of the ordinary.

If this is too much to ask then I am humbly requesting the Court to vacate the harassment order as I have never done anything to warrant such an order against me. I am humbly seeking relief in the judgment by ordering the respondent her own debts and liabilities and myself my own debt liabilities. I am paying off the respondent's credit card debt in my mortgage from when we refinanced together in November 2007 as the balance of the home increased $20,000 from where it was at that time.

I have the negative equity on my home of $15,000 and I have my own debt

liabilities to satisfy. I am also seeking relief in the amount of Child Support ordered as it has been extremely difficult to fulfill my financial obligations. I am requesting that I be granted Emilia Larsen as a dependent child for tax purposes, until she is no longer deemed a dependent by the IRS. I am seeking relief in the Parenting Plan where the children come with clothing and the clothing is sent back with the children. Also in the Parenting plan, I would like to modify the language so that I am not ordered to be two places at once.

The respondent is gainfully employed, and has her own private practice in Massage Therapy also. Respondent is remarried, and is able to move forward with her life. I am only requesting the same opportunity.

I am seeking relief in the parenting plan so that I may simply be a father and spend time with my children. I am no longer seeking to change the summer schedule, only the sections that are in error.

Again, I am requesting The Court to vacate the anti-harassment order as I sincerely have never done anything to hurt nor harass anyone in my life.

Thank you kindly for your time as I sincerely appreciate it greatly.

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:

Jeremiah J. Larsen (Appellant) 8-24-12

APPENDIX

CR 60 Relief from Judgment or Order

LCR 88 (d); Preparation and Presentation of Orders. Orders will be prepared by the party bringing the motion. The court will set a presentation date at the time of the hearing on the motion. The proposed order shall be provided to the other party or his/her counsel not less than five (5) court days prior to the presentation date.
not less than five (5) court days prior to the presentation date.
Objections to the form of the order shall be provided, in writing, not less than two (2) court days prior to the presentation date.
[Amended effective September 1, 2005; emergency amendment effective March 1, 2006; amended effective September 1, 2006; amended effective September 1, 2007.]

RCW 26.18.190

RCW Chapter 26.09 Dissolution proceedings

RCW 26.09.050, Decrees, Contents, Restraining Orders

RCW 26.09.100 Child Support

RCW 26.09.181 Procedure for determining Parenting plan, 26.09.184, Permanent parenting plan, 26.09.191 Restrictions in Parenting plans.

RCW 26.09.290 Final Decrees

RCW 26.09.300 Restraining Orders

RCW 26.16.030 Community Property Laws

RCW 26.09.170 Modification of decree for maintenance or support, property disposition

Rcw 26.09.100Child support — Apportionment of expense — Periodic

adjustments modifications.

of habeas corpus shall not be suspended, unless in case of rebellion or invasion the public safety requires it.

Text of Section 3 Personal Rights; No person shall be deprived of life, liberty, or property, without due process of law.

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DIVISION II

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STATE OF WASHINGTON

BY _____
DEPUTY

Superior Court of Washington
County of Cowlitz

In re: The marriage of Rebecca A. Larsen Petitioner, and Jeremiah J. Larsen Respondent.	**Court of Appeals No. 43025-8-II** **Return of Service (Optional Use) (RTS)**

I Declare:

1. I am over the age of 18 years, and I am not a party to this action.

2. I served the following documents to Rebecca Larsen

   [X] Verbatim Report of Proceedings .

3. The date, time and place of service were (if by mail refer to Paragraph 4 below):

   Date: _____ Time: _____ a.m./p.m.

   Address: _____

   _____

4. Service was made:

   [ ] by delivery to the person named in paragraph 2 above.

   [ ] by delivery to (name) _____, a person of suitable age and discretion residing at the respondent's usual abode.

   [ ] by publication as provided in RCW 4.28.100. (File Affidavit of Publication separately.)

AUG. 28. 2012 11:43AM PROVIDENCE PACE 503-215-7751 NO. 9804 P. 3

[ ] by publication as provided in RCW 4.28.100. (File Affidavit of Publication separately.)

[X] (check this box only if there is a statute authorizing service by mail) by mailing a copy postage prepaid to the person requiring service by any form of mail requiring return receipt. (Tape return receipt below.) The copy was mailed on July 11, 2012.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) Longview, (state) Washington on (date) August 13, 2012.

Signature

Jeremiah J. Larsen
Print or Type Name

(Tape Return Receipt here, if service was by mail.)

File the original Return of Service with the clerk. Provide a copy to the law enforcement agency where protected person resides if the documents served include a restraining order signed by the court.

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STATE OF WASHINGTON

BY _____
DEPUTY

Superior Court of Washington
County of Cowlitz

In re: The marriage of Rebecca A. Larsen Petitioner, and Jeremiah J. Larsen Respondent.	**Court of Appeals No. 43025-8-II** **Return of Service (Optional Use) (RTS)**

I Declare:

1. I am over the age of 18 years, and I am not a party to this action.

2. I served the following documents to Rebecca Larsen

   [X] Appellants opening brief.

3. The date, time and place of service were (if by mail refer to Paragraph 4 below):

   Date: _____ Time: _____ a.m./p.m.

   Address: _____

   _____

4. Service was made:

   [ ] by delivery to the person named in paragraph 2 above.

   [ ] by delivery to (name) _____, a person of suitable age and discretion residing at the respondent's usual abode.

   [ ] by publication as provided in RCW 4.28.100. (File Affidavit of Publication separately.)

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[X] (check this box only if there is a statute authorizing service by mail) by mailing a copy postage prepaid to the person requiring service by any form of mail requiring return receipt. (Tape return receipt below.) The copy was mailed on July 11, 2012.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) Longview, (state) Washington on (date) August 24, 2012.

Signature

Jeremiah J. Larsen
Print or Type Name

(Tape Return Receipt here, if service was by mail.)

File the original Return of Service with the clerk. Provide a copy to the law enforcement agency where protected person resides if the documents served include a restraining order signed by the court.

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