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DIVISION III
STATE OF WASHINGTON
By _____

No. 337201

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION III

Yakima Co. Superior Court No. 14-3-00358-0

SHELLEY RENEE WILLSON, Appellant

v.

ROY CHARLES WILLSON, Respondent.

BRIEF OF RESPONDENT

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Appendix A: Amended Findings of Fact and Conclusions of Law..... A

COMES NOW the Respondent, Roy Charles Willson, by and through his attorney, Blaine T. Connaughton, of Connaughton Law Office, and responds as follows:

I. INTRODUCTION

The parties to this action were married in 1991 and separated in 2014, resulting in a 23-year marriage. At the time the dissolution was filed, Appellant Shelley Willson (hereinafter Shelley) was well-employed as the manager of the Yakima Wastewater Treatment Plant. Her annual income was over \$100,000 per year, plus generous pension, healthcare, and vacation benefits. With trial pending, the then 54-year old Shelley voluntarily quit her job.

Shelley testified she advised her attorney in advance of this voluntary quitting of her job. This appeared to be a calculated trial tactic. Some months after she quit her job and shortly before trial, Shelley filed a motion to amend the Petition to assert a claim for maintenance. However, on the day of trial, this was abandoned, and it was stipulated that neither party would request maintenance.

At the time of separation, Roy Willson (hereinafter Roy) was the long-retired former Chief of Police for the City of Yakima. At 62 years of age, he had multiple health issues, including a form of leukemia, a heart condition (atrial fibrillation) and post-traumatic stress disorder.

The home that the parties lived in during the marriage had been awarded to wife in her prior dissolution, subject to substantial mortgage debt. After the marriage, major improvements and expansion were done to the home. Much of the funds for these improvements were withdrawn from Roy's retirement account, a large percentage of which was his separate property acquired before marriage.

In 2003, Shelley executed a Quit Claim Deed for the parties' home to the marital community, with the stated purpose to "create community property." At trial, Shelley stipulated the property was community.

Rather than pursue division of the parties' pensions through use of a Qualified Domestic Relations Order, Shelley had the pensions valued. Roy then hired an expert to value the

pensions as well. As a result, each party's pension had a community value and separate property value in the form of an expectation of future retirement income if each party lived to the age designated in the life expectancy tables. That portion accrued during the marriage was the community property.

As a law enforcement officer, Roy had never paid into the Social Security system. As a result, he will never receive Social Security benefits. A portion of his pension was for, or in lieu of Social Security. This portion of the pension was valued by Shelley's expert and deducted from the value of Roy's pension consistent with Marriage of Rockwell, 171 Wn.App. 235, 170 P.3d 572, 170 P.3d 572 (2007).

The trial court took into consideration the undisputed fact that Shelley voluntarily quit her job while the dissolution was pending. The court also took into consideration Shelley's future earning capacity consistent with Marriage of Rockwell, supra. The judge determined that Shelley had the ability to earn \$95,000 to \$100,000 per year consistent with the job she

quit, plus benefits. Shelley testified she was looking for another job consistent with her experience and qualifications.

The court stated it had determined a 55/45 split in favor of Roy of the community property was fair and equitable under the facts of the case. However, the actual division turned out to be closer to 53/47 percent, which was referenced by the court. The court awarded each party their separate property, which was largely in the form of the present value of the expectancy of future pension benefits.

II. STATEMENT OF THE CASE

A. Roy Willson.

Roy was 62 years old at the time of trial (RP 217). Roy was drafted out of high school and spent three years in the military. As soon as he was discharged, he was hired by the Yakima Police Department and worked for the Yakima Police Department for 28 years (RP 218). He retired in September of 2003, and his retirement was something that was planned for a very long time (RP 218, Lines 22-24). At the time of

retirement, Roy was the Chief of Police for the Yakima Police Department (RP 218).

Roy has numerous health issues. This includes a form of leukemia called polycythemia vera (RP 219). Roy testified that his body makes too many red blood cells, and he has to go in every six weeks to have blood removed. There will come a point when he will have to go through chemotherapy (RP 219). Roy testified that his leukemia has been a longstanding medical issue, and he has been treated for this for 10 years (RP 219).

Roy also testified he has a heart condition, that being atrial fibrillation (RP 220, Line 16). He testified his heart will stop beating once in awhile and then it takes off and beats fast. As a result, it is necessary to try and regulate the heartbeat. He is on blood thinners to prevent blood clots. When his heart does not beat, the blood pools up in the bottom of his heart and then when it takes off again, it is coagulated, and you can potentially have a stroke (RP 220, Lines 16-20). Roy testified that this condition was discovered two or three years prior to

his testimony. He receives treatment at the local cardiac care center (RP 220, Lines 24-25).

Roy also testified he suffers from post-traumatic stress disorder (RP 221, Line 4). This resulted from a dive incident in 1997 in the Roza Canal. He was a volunteer with Yakima County Search and Rescue as a rescue diver. The Roza Canal is a large irrigation canal that goes underground. He explained that it was basically like a big tube where the water goes down. Someone pushed a stolen car that went to the bottom of the canal. Before they could start the canal back up, they needed to remove the car. Roza Canal hired two divers to go into the water to help remove the vehicle. Six people ultimately went down, and only two came back alive. Roy went in to recover the bodies (RP 221). Two of the bodies recovered were firefighters, and one of them was the best friend of Roy's brother (RP 221, Lines 21-25 and RP 222, Lines 1-3). Roy had not been employed since he retired in 2003.

B. Shelley Willson.

Shelley was born on July 27, 1960 and was 54 years old at the time of trial (RP 17). She earned a four-year Bachelor's degree at Washington State University during the marriage in 2004. She also had a two-year civil engineering technical degree (RP 107).

Shelley was a utility engineer with the City of Yakima Wastewater Treatment plant (RP 88). She was then appointed to the job of Wastewater Treatment Manager in August of 2013 (RP 88). This became a permanent position for her in January of 2014 (RP 88). She was paid more money in this position (RP 88). Shelley's pay stub through September of 2014 showed an income for the year of \$95,876.55 (RP 102, Ex. 2.12). This results in a monthly income of \$10,652.95, or \$127,835.40 annually.

Shelley voluntarily resigned her high-paying job on October 24, 2014 (Ex. 2.48, Page 69). She told her attorney that she was planning on resigning prior to doing so (Ex. 2.48, Page 69). She testified she was served with interrogatories

and requests for production but did not update her interrogatories and let Roy or his attorney know she had resigned (Ex. 2.48, Page 69). Shelley testified that when she decided to quit her job, she knew she was giving up the health insurance benefit provided by her employer (RP 102). After quitting her job, she began collecting unemployment benefits and she was receiving it at the time of trial (RP 19).

When questioned about jobs she applied for, she was specifically asked about a City Administrator job for Selah. She testified she did not apply for the job because, "I am not going to apply for any local governmental, political job until this divorce is finalized" (Ex. 2.48, Pages 71-72). At trial, she testified she was planning on moving and would get another job at another location (RP 198). She testified that when she voluntarily quit her job that paid her in excess of six figures per year, she knew she would be losing her health insurance (RP 210). At trial, Shelley testified she was receiving unemployment benefits. She also testified she would not take

a job back with the City of Yakima if it were offered tomorrow (RP 169).

C. The Parties' Home.

Shelley testified that she was awarded the home in her prior 1990 divorce and the award was subject to a mortgage debt of \$68,000 to \$69,000 (Ex. 2.48, Page 86). When asked if the home had a value at that time of \$90,000, her response was, "I don't know" (Ex. 2.48, Page 87). She also had an additional payment or judgment of \$9,000 arising out of that divorce. (*Id.*)

While this divorce was pending, Roy resided at the family home. He paid the mortgage, taxes and insurance on the house during this time (RP 227).

Roy testified that during the marriage, he performed substantial improvements on the home. He took the existing two-bay garage and converted it to a family room, bedroom, and large utility room and created a large pantry area and then added a three-car garage (RP 228, Lines 11-14).

Roy testified he put brand-new windows into the home, and there were 29 windows replaced. He testified he believed the cost of the windows was \$13,000 to \$15,000 (RP 228, Lines 16-19).

Roy also put a new roof on the house. He testified the bid for the roof was \$16,000, but that he did the labor himself, and the cost of materials was \$6,000 (RP 228-229).

With regard to the interior of the house, he replaced all of the interior doors. All of the doors and closets were re-cased and re-trimmed and had new doors put on. He personally did all of the work and also encased all of the windowsills with wood (RP 229).

Roy testified that when the house was originally built, a used electric furnace was put in, which was too small for the house. He withdrew \$10,000 from his retirement to buy a wood-fired boiler with a heat exchanger (RP 229). He also put a brand-new heat pump and air conditioning system into the home more recently, at a cost of over \$10,000 (RP 230).

Roy testified he installed 1,000 square feet of Australian cypress hardwood flooring into the home. He also installed new cabinets which he built. The wood cost \$6,000 (RP 232).

Roy put in a new master bath with \$5,000 worth of tile, along with an old claw-foot tub. He performed the work on the master bath (RP 233).

In 2003, the house was the subject of a Quit Claim Deed, wherein it was transferred from Shelley to the marital community for the express purpose of “creating community property” (Ex. 2.24). On the first day of trial, Shelley’s attorney stipulated the home was community property (RP 5).

D. Roy’s Retirement.

Roy testified that he had a deferred comp account through his employment with the City of Yakima Police Department when he retired, which had a value of \$130,000 to \$140,000. At separation, this amount had dwindled to \$40,000. He testified that much of this money was used on the home improvements (RP 247, Lines 6-12).

Roy testified that he is not qualified or able to collect Social Security benefits (RP 248, Lines 23-25). He explained that the reason for this is that he had not paid into the Social Security system during his work with the police department (RP 249). He also provided a copy of his Social Security statement which confirmed this (Ex. 2.9). His Social Security statement was admitted into evidence (RP 250). As a result, a component of his pension was for or in lieu of Social Security.

III. LEGAL ARGUMENT

A. Standard of Review.

The trial court has broad discretion to determine what is just and equitable. In re Marriage of Rockwell, 141 Wn.App. 235, 242, 170 P.3d 572 (2007). A just and equitable distribution requires fairness over mathematical precision. In re Marriage of Crosetto, 82 Wn.App. 545, 556, 918 P.2d 954 (1996). 'Fairness is attained by considering all circumstances of the marriage and by exercising discretion, not by utilizing inflexible rules.' In re Marriage of Tower, 55 Wn.App. 697,

700, 780 P.2d 863 (1989), *review denied*, 114 Wn.2d 1002 (1990).

A trial court's decision in a dissolution will rarely be changed on appeal. In re Marriage of Buchanan, 150 Wn.App. 730, 735, 207 P.3d 478 (2009) (quoting In re Marriage of Williams, 84 Wn.App. 263, 267, 927 P.2d 679 (1996), *review denied*, 131 Wn.2d 1025 (1997)). "Appellate courts should not encourage appeals by tinkering with [dissolution decisions]" because the interests of the parties are best served by the finality of the trial court's decision. In re Marriage of Landry, 103 Wn.2d 807, 809, 699 P.2d 214 (1985).

Accordingly, a trial court's property distribution in a dissolution will be reversed "only if there is a manifest abuse of discretion." In re Marriage of Muhammad, 153 Wn.2d 795, 803, 108 P.3d 779 (2005). A spouse challenging a trial court's decision in a dissolution bears "the heavy burden of showing a manifest abuse of discretion on the part of the trial court." Landry, 103 Wn.2d at 809 (citing In re Marriage of Konzen, 103 Wn.2d 470, 478, 693 P.2d 97, *review denied*, 473 U.S.

906 (1985)). “The trial court’s decision will be affirmed unless no reasonable judge would have reached the same conclusion.” Landry, 103 Wn.2d at 809-10. In the present case, there was no abuse of discretion by the trial court.

B. Shelley’s Brief Does not Comply with the Rules of Appellate Procedures.

Shelley’s brief misstates facts and provides no reference to the record as required by RAP 10.3(5) in her Statement of the Case. RAP 10.3(5) provides that “reference to the record must be included for each factual statement.” RAP 10.3(6) also requires “references to relevant parts of the record.” Shelley has ignored the requirements of RAP 10.3(5) and (6).

RAP 10.3(8) provides an appendix may be submitted with a brief. However, “an appendix may not include materials not contained in the record on review without permission from the appellate court, except as provided in Rule 10.4(c).” In her appendix, A is something referenced as a part of the record. It is not, rather it is something generated

by counsel to support Shelley's appeal. Appendix B is likewise generated by counsel and not part of the underlying record. Appendix C is generated by counsel for Shelley and was not part of the record at the trial court. Interestingly, but not surprisingly, it fails to include the \$100,000 per year in income imputed to Shelley for having voluntarily quit her job due to an apparent failed trial strategy. For the seven years to age 62, this would result in her earning \$700,000 plus benefits.

Appendix D is again something prepared by counsel and not part of the record at the trial court level. There was absolutely no evidence at trial about what the value of Roy's health insurance was. There was no evidence of the actual cost of the health insurance. No expert valued this claimed benefit for either Roy or Shelley, who voluntarily gave up her health insurance benefit when she quit her job. If counsel for Shelley thought that Roy's or Shelley's health insurance benefits should be valued, he did not do so at trial. Rather, he presents as his own "expert" for the appeal in the form of

Appendix D. Interestingly, he fails to value Shelley's benefits she voluntarily relinquished.

Appendix E was not an exhibit at trial that this attorney is aware of, although there was reference by the experts as to life expectancy.

Appendix F was likewise not an exhibit at trial and is not otherwise admissible under the Rule.

The appendix should be stricken and terms awarded.

C. Assignments of Error.

Shelley failed to support each of her claimed assignments of error with appropriate argument and citations to the record. Failure to do so for an assignment of error waives the assignment. RAP 10.3(a)(5-6); Milligan v. Thompson, 110 Wn.App. 628, 635, 42 P.3d 418 (2002); Holland v. City of Tacoma, 90 Wn.App. 533, 538, 954 P.2d 290 (noting that “[p]assing treatment of an issue or lack of reasoned argument is insufficient to merit judicial consideration”), *review denied*, 136 Wn.2d 1015 (1998); In re Estate of Lint, 135 Wn.2d 518, 532, 957 P.2d 755 (1998)

(concluding that “[i]t is incumbent on counsel to present the court with argument as to why specific findings of the trial court are not supported by the evidence and to cite to the record to support that argument”); In re Rosier, 105 Wn.2d 606, 616, 717 P.2d 1353 (1986) (“[N]aked castings into the constitutional sea are not sufficient to command judicial consideration and discussion.”) (quoting United States v. Phillips, 533 F.2d 1364, 1366 (8th Cir. 1970), *cert. denied*, 401 U.S. 917 (1971))).

D. Issues on Appeal.

In Shelley’s brief, she lists what she believes are the issues on appeal. RAP 10.3(a)(4) states that appellant is to list the issues pertaining to the assignments of error. However, many of the claimed “issues” are not issues. Rather, they misstate the Court’s Findings of Fact.

Number 1 is not an issue.

At Issue #2, Page 13, it states that “the Court failed to find that Roy was 7 years and 3 months older than Shelley.” Apparently, counsel failed to read the Court’s amended

Findings of Fact and Conclusions of Law. At Page 1 of those Findings, Paragraph 3, it states:

“The wife’s date of birth is July 27, 1960, and the husband’s date of birth is April 30, 1953. At the time of trial, they were 54 and 62 respectively. The husband is 7 years and 3 months older than the wife.”

(CP 250).

Issue #2 goes on to state correctly, further findings of the Court. It is unclear why it’s believed this is an “issue on appeal.”

For issue #3, it’s stated that the Court noted that the parties had stipulated at the time of trial that neither party would be seeking maintenance. This is a correct statement of the parties’ stipulation. It is unclear why this would be an issue on review.

For issue #4, it states that the trial court found the residence the parties were living at was converted to separate property as a result of their refinance on Shelley’s residential property. This is a misstatement of fact. Actually, the parties stipulated that the property was community property, which is what the Court stated in its findings (CP 5; CP 251, Lines 11-

12). In fact, at Page 2 of Shelley's brief, it states, "the parties also stipulated that the marital community residence located at 581 Hill Road, Moxee, Washington is community property." It is unclear why this would be an appeal issue when Shelley stipulated that the property was community.

Issue #5 is a finding, not an issue.

For Issue #6, it states that the trial court found that "the Social Security of Shelley was backed out in regards to Roy's assets." What actually occurred was Shelley's expert testified that the community portion of Roy's retirement in lieu of Social Security had a value of \$162,000 (RP 62). It is unclear why Shelley has an issue with the testimony of her own expert. Consistent with her expert's testimony and Marriage of Rockwell, supra, this amount reduced the community value of Roy's pension. The trial court made a finding consistent with the evidence (CP 251, Lines 16-22).

At Issue #7, it references that health insurance premiums were paid for Roy by the City of Yakima but the Court did not value that asset. What counsel for Shelley fails

to reveal is the trial court had absolutely no evidence on which to value Roy's health insurance. No evidence was provided as to the cost of the insurance by Shelley, and Shelley's expert did not value this claimed asset. Apparently, Shelley believes that the Court should have guessed at a value.

At Issue #8, it appears that the reputed issue is that "the trial court failed to note that part of the treatment is simply giving blood," referencing Roy's leukemia treatment. Again, it is unclear how that would be an issue since the primary evidence about his treatment came from Roy, although Shelley did offer some limited testimony consistent with Roy's. The evidence was uncontroverted.

Issues 9 and 10 mention Roy's medical condition as testified to at trial, suggesting that Roy should return to work. However, as the trial court pointed out in its Findings, "future earning capacity for Mr. Willson was not developed well on the record" (Amended Findings, Page 3, Lines 5-6; CP 253). Shelley's failure to provide any evidence of earning capacity

for Roy would put the trial court in the position of having to guess about what he might be able to earn. Further, Roy had been fully retired at the time of trial for 12 years and had multiple significant health problems.

“Contentions unsupported by argument or citation of authority will not be considered on appeal.” Camer v. Seattle Post-Intelligencer, 45 Wash.App. 29, 36, 723 P.2d 1195 (1986) (citing RAP 10.3(a)(5)), *review denied*, 107 Wash.2d 1020, *cert. denied*, 482 U.S. 916, 107 S.Ct. 3189, 96 L.Ed.2d 677 (1987).

E. The Trial Court Properly Considered Shelley’s Future Earning Capacity.

Shelley raises two issues in her Argument. She claims the division was not fair, primarily because the trial court considered her future earning capacity. She also claims the Court based its decision on “fault.” The basis for the fault claim is that the court determined Shelley’s earning capacity, based primarily on the job she voluntarily quit.

The trial court, in its written findings, determined that Shelley's 2014 earnings were \$137,315, which included a \$32,070.62 cash out of her vacation and sick leave (CP 253, Lines 7-11). Evidence at trial showed Shelley only worked through October 24, 2014. Her September, 2014 pay stub, which did not include the cash out, showed she had earned \$95,876.55, or \$10,652.95 per month (Ex. 2.12). In 2013, Shelley earned \$98,745, which was before her permanent promotion in January of 2014 (RP 88).

The trial court found, "it is clear from the record she is capable of earning between \$95,000 to \$105,000 gross per year plus benefits, in addition to her retirement from the City of Yakima" (CP 253). The Court went on to find that if Shelley "fully retired at 62, she will have seven years to accumulate more wealth in addition to retirement/pension" (CP 253, Page 3, Paragraph 9, Lines 7-11).

Shelley testified she planned to continue to work and was, in fact, looking for work and expected to be "employed within a few months." (RP 198, Lines 17-18). The Court's

finding that she could earn in excess \$700,000 plus benefits over seven years consistent with the job she quit is well supported in the record.

Future earning potential is a substantial factor to be considered by the trial court in making a just and equitable property distribution. In re Marriage of Hall, 103 Wn.2d 236, 248, 692 P.2d 175 (1984), and In re Marriage of Rockwell, 141 Wn.App. 234, 248, 170 P.3d 572, 579 (2007), “further in considering a party’s future earning capacity, a trial court may consider the age, health, vocational training, and work history of the party.” Washington Family Law Deskbook, § 32.3(3) (2nd ed., 2006)” Marriage of Rockwell, *supra*, at 248. This is precisely what the trial court did with regard to Shelley, who voluntarily quit her job while the dissolution action was pending.

In Rockwell, the parties were married for 26 years. At the time the marriage was dissolved, the husband was 54 years old and the wife was 63. The wife had retired at age 60 because of health concerns. The husband was in good health,

but he had been laid off at age 48. Prior to being laid off, the husband earned approximately \$90,000 per year, but by the time of trial, he had not worked for approximately six years. Despite this, the trial court found that the husband had an earning capacity of \$70,000 per year.

The Rockwell trial court divided the community estate 60% to the wife and 40% to the husband, and confirmed to the wife the separate property portion of her pension. There was no award of maintenance. The trial court's decision was affirmed.

The Rockwell court went on to state that: "where one spouse is older, semiretired, and dealing with ill health, and the other spouse is employable, the court does not abuse its discretion in ordering an unequal division of community property. In re Marriage of Schweitzer, 81 Wn.App. 589, 915 P.2d 575 (1996); Rockwell, supra, at 243.

In Rockwell, supra, the court determined the husband had a earning capacity of \$70,000 per year and would retire at 62. The court relied on his prior work history and earnings to

determine his earning capacity. In finding no error, the Court of Appeals stated,

“If a trial court’s finding is within the range of the credible evidence, we defer.”

In re Marriage of Sedlock, 69 Wn.App. 484, 491, 849 P.2d 1243 (1993); Rockwell, supra, at 248. Rockwell strongly supports the trial court decision in this case, although the facts supporting Shelley’s earning capacity are significantly more compelling.

The best and most reliable evidence of Shelley’s earning capacity is the job Shelley voluntarily quit while the divorce was pending. If anything, the trial court underestimated Shelley’s future earning capacity. Assuming Shelley became employed consistent with her prior work history and earnings, her financial situation would be vastly better than Roy’s, whose income is limited to his pension benefit.

Shelley’s income would be, after employment, \$100,000, or \$8,333 per month plus benefits. She would also receive \$4,126 per month in pension income (RP 58).

Combined, this totals \$12,459 per month. Roy's pension is \$6,817 per month (Ex. 2.7). Additionally, Shelley will receive \$1,710 in Social Security benefits if she takes them at age 62, or \$2,584 if she waits until full retirement age (Ex 2.16).

Certainly, Shelley will be in a greatly superior financial condition than Roy for the rest of her life based on income. She will have roughly double Roy's income until she completely retires, at which point she will collect maximum Social Security benefits for the age she retires.

Lastly, voluntary unemployment is addressed in other parts of the Dissolution Act. For example, RCW 26.19.071, Standards for Determination of Income, provides how income is determined for purposes of child support. It also addresses voluntary unemployment and how the court should determine income in that situation. It provides:

Imputation of income. The court shall impute income to a parent when the parent is voluntarily unemployed or voluntarily underemployed. The court shall determine whether the parent is voluntarily underemployed or voluntarily unemployed based upon that parent's work history, education, health, and age,

or any other relevant factors. . . . In the absence of records of a parent's actual earnings, the court shall impute a parent's income in the following order of priority:

- (a) Full-time earning at the current rate of pay;
- (b) Full-time earnings at the historical rate of pay based on reliable information, such as employment security department data; . . .

RCW 26.19.071(6).

This statute lends further support for the court's decision to determine Shelley's future earning capacity based upon the job she voluntarily quit while the dissolution was pending. If there was no consideration of voluntary unemployment, it would likely be a common trial tactic to avoid maintenance, child support or an equitable property division.

F. The Court did not Entertain Fault.

In the Argument section of Shelley's brief, at Page 33, she argues, "it is apparent from the trial court's decision and allocation of the assets that Shelley was essentially faulted for quitting her job, given the assertion that Shelley took an early retirement." In Shelley's deposition testimony, which was

admitted at trial at the request of counsel for Shelley when she was being cross-examined, she claimed that she quit her job due to “paperwork she was being sent by Roy and his attorney” (Ex. 2.48, Page 56). She attempted to blame Roy for quitting her job.

In response to her claims, the deposition of the then-Yakima City Manager, Mr. O’Rourke, was taken. He was also the subject of a trial subpoena by Roy’s attorney. During opening statements by Roy’s counsel, it was referenced that Shelley voluntarily quit her job but was attempting to blame Roy. The judge stated she was not going to allow evidence of fault by either party (RP 13). As a result, neither Mr. O’Rourke nor another witness subpoenaed by Roy’s attorney, Mr. Cawley, was called as a witness.

Subsequent to trial and the Court’s decision, Shelley filed a declaration on June 23, 2014. In her declaration, she claimed she quit her job due to actions or “threats to give

information” by Roy (CP Sub #90)¹. In response to this attempt to present new evidence, portions of the declaration of City Manager O’Rourke were attached to the Declaration of Blaine T. Connaughton (CP 316-323). The purpose of this submission was to respond to these newly-raised claims of fault pertaining to Roy. The trial court stated she would not consider Mr. O’Rourke’s deposition testimony. (RP June 29, 2015, Page 124, Lines 2-3.)

Nowhere is there any evidence cited by Shelley that the Court either considered fault or based its decision on fault. In fact, the court categorically stated on several occasions that the issues of fault were not admissible. The last time being at the post-trial hearing on June 29, 2015, when Shelley attempted to blame Roy for quitting her job:

“what I will tell the parties at this point is I will not consider for purposes of this hearing any fault that caused the dissolution of the marriage, any reason why Ms. Willson voluntarily terminated her job . . .”

(RP June 29, 2015 Hearing, Page 121, Lines 16-19)

¹ Superior Court docket sub-numbers of court documents designated by Respondent not yet filed by Court Clerk: 42, 55, 56, and 90.

Shelley's claim of an "early retirement" is also devoid of fact. Shelley testified she quit her job. She did not testify she retired from it. She testified she was collecting unemployment and actively looking for work. The Court was mandated by existing case law to determine Shelley's earning capacity. Remarkably, earlier in her brief, Shelley cites Marriage of Rockwell, supra, as authority for her claim that the Court should "put the parties in roughly equal financial positions for the rest of their lives" (Brief, at Page 30).

Apparently, Shelley missed that part of Rockwell, where the trial court found that the unemployed younger spouse had an earning capacity of \$70,000 per year, even though he had been unemployed for years. The evidence clearly established that Shelley is highly-qualified and employable. She quit her job on the advice of counsel while the divorce action was pending. Rockwell does not, in any way, support Shelley's position. Rather, it strongly supports that the trial court acted consistent with the law in its division of property to Roy.

IV. ATTORNEY FEES ON APPEAL

Respondent requests an award of attorney fees and costs pursuant to RCW 26.09.140, based upon intransigence, failure to comply with the Rules of Appellate Procedure, and based on CR 11. The appeal was not well-grounded in fact, is not warranted by existing law, or a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law.

Intransigence at the trial level included Shelley filing and noting the same motion, repeatedly, then not having it heard (CP Sub-Nos. 42 & 55). Shortly before trial, Shelley filed a motion to amend the Petition to include a request for maintenance. Although granted, she stipulated on the day of trial that maintenance was not being requested. This, after Roy subpoenaed the Yakima City Manager, who testified in his deposition he would gladly hire Shelley back. The appeared to be a component of the failed trial strategy to quit her job and have Roy pay for it. In re Marriage of Wallace,

111 Wn.App. 697, 710, 45 P.3d 1131 (2002), provides for fees based upon intransigence.

Appellant's brief is not in compliance with the Rules of Appellate Procedure, as set forth herein. Further, most if not all of Appellant's arguments are effectively eliminated by the case law cited by Shelley, in particular In re Marriage of Rockwell, 141 Wn.App. 234, 248, 170 P.3d 572, 579 (2007).

V. CONCLUSION

Shelley's argument essentially consists of two claims:

(1) that the Court's division of assets was not fair and equitable because the Court considered Shelley's future earning capacity; and (2) the Court relied on fault in determining that Shelley had a future earning capacity consistent with the job she quit.

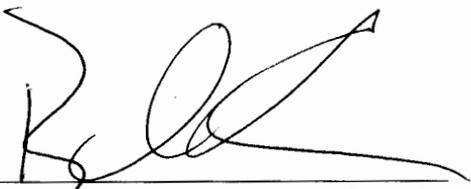
Both arguments are easily resolved by a review of the trial court's Amended Findings and the case repeatedly cited by Shelley, Marriage of Rockwell, supra. There was no manifest abuse of discretion in any aspect of the trial court's decision. A spouse challenging a trial court's decision in a

dissolution bears “the heavy burden of showing a manifest abuse of discretion on the part of the trial court.” Marriage of Konzen, 103 Wn.2d 470, 478, supra. “The trial court’s decision will be affirmed unless no reasonable judge would have reached the same conclusion.” Marriage of Landry, 103 Wn.2d, at 809-10, supra.

The fact is, the trial court was quite generous to Shelley, given her history of earnings and earning capacity. The Court stated on the record that Shelley would be left in a “better position” than Roy when she resumed employment. The judge also referenced she could not ignore the “Rockwell court” in making her decision. (RP July 17, 2015 Hearing, Page 159, Lines 14-25).

The trial court should be affirmed.

DATED: May 6, 2016.

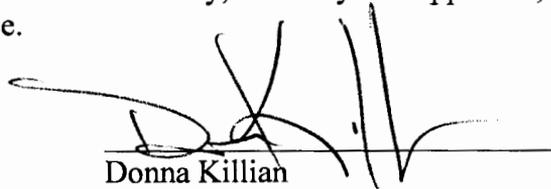


Blaine T. Connaughton, WSBA 19766
Attorney for Respondent

DECLARATION OF SERVICE

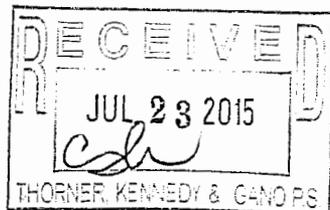
I DECLARE under penalty of perjury under the laws of the state of Washington that the following is true and correct:

1. I am the legal assistant of Blaine T. Connaughton, over the age of 18, and competent to testify herein.
2. On May 6, 2016, I sent a copy of the Brief of Respondent, which includes this declaration, to W. James Kennedy, Attorney for Appellant, by Attorney Messenger Service.



Donna Killian

APPENDIX A



COPY TO CLIENT

YAKIMA COUNTY SUPERIOR COURT
IN AND FOR THE STATE OF WASHINGTON

In re:
SHELLEY RENEE WILLSON,
Petitioner,
and
ROY CHARLES WILLSON,
Respondent.

Case No.: 14-3-00358-0
AMENDED
FINDINGS OF FACT
AND CONCLUSIONS OF LAW

These findings of fact and conclusions of law follow the dissolution trial of May 27-29 and June 1, 2015. The issues at trial were property/debt characterization, valuation and distribution. Testimony was taken from the parties, Kevin Lee Grambush, Rick Lind, and Ryan David Smith.

FINDINGS OF FACT

1. The parties married on September 6, 1991. They separated on March 29, 2014. The marriage lasted a little over 22 years. The parties resided together for one year before the marriage. The court considers it a long-midrange term relationship.
2. The parties resided in Yakima County together until their separation at 581 Hill Road, Moxee, Washington.
3. The wife's date of birth is July 27, 1960 and the husband's date of birth is April 30, 1953. At the time of trial they were 54 and 62 respectively. The husband is 7 years and 3 months older than the wife. There were no children born of the marriage. Each had been married previously and had children from prior relationships.

- 1 4. Both parties were well employed before and during their marriage. Mr. Willson retired
2 as the Chief of Police for the City of Yakima in 2003. He retired at that time and has
3 been unemployed since then, drawing on his retirement pension. He has a high school
4 education and military training. He attended the Washington State Police Academy and
5 the FBI Police Academy. Mrs. Willson has a 2 year degree in civil engineering
6 technology from Yakima Valley Community College and a general studies degree from
7 Washington State University. She worked for many years at the City of Yakima. At the
8 time of separation, she was the manager of the City of Yakima's Waste Water Treatment
9 Plant.
- 10 5. It was stipulated at the time of trial that neither party would be seeking maintenance from
11 the other. It was also stipulated that the marital home located at 581 Hill Road, Moxee,
12 Washington, which was originally Mrs. Willson's separate property, was converted to
13 community property during the marriage in 2003. Both parties contributed their separate
14 property in unknown values to the home which ultimately became community. This
15 leaves only the remaining property and debt issues for the court to decide.
- 16 6. Mr. Willson's pension plan is called LEOFF 1. Members of that plan are not eligible to
17 receive Social Security. Mrs. Willson has earned a pension in PERS II and is eligible for
18 early retirement which she can begin to take as early as late summer of 2015 shortly after
19 she turns 55. She will be eligible to receive Social Security benefits. Sufficient
20 testimony was taken on the record to warrant a "back out" of the portion of Mr. Willson's
21 LEOFF 1 pension that is in lieu of Social Security that he would have received had he not
22 been in the LEOFF 1 plan. Marriage of Rockwell, 141 Wn.App. 235 (2007).
- 23 7. Mr. Willson receives gross income of \$6,817.45 per month from his LEOFF 1 plan,
24 which he has received since 2003. His net is \$5,505.39. He selected the "automatic
25 survivor benefit" option, presumably naming Mrs. Willson as the survivor. The City of
26 Yakima will cover his health insurance premiums and any out of pocket medical costs.
27 However, vision, dental and hearing are excluded.
- 28 8. Mr. Willson is now over 62 years old. He suffers from a number of health issues,
29 including a form of leukemia, "atrial fib" for which he takes blood thinners and PTSD
30 (due to a dive and rescue incident which occurred in 1997). Treatment for his form of
31 leukemia is manageable and occurs every 6 weeks. However, should he progress to
32 Stage 2 of the disease, he may need more aggressive treatment such as chemotherapy. It
appears that he has been a very active person since his retirement in 2003 and would be

1 capable of some unknown type of employment. However, the court is mindful that he is
2 at an age when many people retire and that his retirement was the status quo in this
3 marriage for over a decade before the parties separated. He has 7 years less of future
4 earning capacity than Mrs. Willson. The likelihood of him earning anywhere near what
5 she can earn in the immediate future is slim. Future earning capacity for Mr. Willson was
6 not developed well on the record.

7 9. Mrs. Willson's gross income for 2014 was \$137,315 which included a cash out of her
8 accumulated vacation and sick leave (which combined is \$32,070.62). In 2013 her gross
9 income was \$98,745. She has been actively searching for employment. It is clear from
10 the record that she is capable of earning between \$95,000 to \$105,000 gross per year plus
11 benefits in addition to her retirement from the City of Yakima.

12 10. Mrs. Willson who is now 54 years old, voluntarily resigned her position at the City of
13 Yakima in October of 2014 during the pendency of the petition. At the time of trial, she
14 was receiving \$573 per week in unemployment insurance. Her unemployment benefits
15 will run out this summer. She currently pays approximately \$753 per month for health
16 insurance under COBRA. This summer, she will elect the type of retirement plan she
17 wants from the City of Yakima. If she elects to retire on her 55th birthday this summer,
18 and elects a "2008 early retirement factor," she will receive \$4,126 per month gross. The
19 2008 early retirement factor election means that she will not seek employment with a
20 Department of Retirement Systems (DRS) employer in any capacity before the age of 65.
21 If she selects an alternate plan, she can work for DRS employers part time, but will have
22 her pension reduced and receive only \$3,612 gross per month. At trial she had not
23 decided on which pension plan she would select, but did indicate that she would not work
24 in Yakima County. She would like to move to a different area to begin employment,
25 naming Seattle, Pullman, Olympia, Portland or WallaWalla. She has been actively
26 looking for work.

27 11. Mrs. Willson suffers from depression and anxiety as a result of the dissolution. She takes
28 medication for same and believes she will have to take it for a year. She is capable of
29 working full time in a similar job to the job she quit at the City of Yakima. If she fully
30 retires at 62, she will have 7 years to accumulate more wealth, including additional
31 retirement/pension. She would very likely have medical insurance and other similar
32

1 benefits as she has enjoyed at the City of Yakima. She has extremely good future earning
2 capacity.

3 12. Both parties provided information about anticipated monthly cost of living expenses
4 versus actual current overall expenses. This included \$850 in anticipated rent costs for
5 Mrs. Willson and anticipated \$1,582 mortgage, tax and insurance costs for Mr. Willson in
6 the event that he purchases a new home. Given the court's distribution of assets
7 (Attachments A & B) neither party will have these costs at the time of distribution. Each
8 will be well within their monthly pension and other incomes, assuming that they reside in
9 the property awarded to them. The distribution takes into consideration the likelihood
10 that Mr. Willson will sell the property awarded to him and that there will be considerable
11 labor and expense in doing so.

12 13. Both parties testified about a coffee can that the parties utilized to accumulate cash in
13 over the years. After hearing the testimony of the parties, the court finds that the parties
14 removed the cash over the years and that there were only a few dollars left in the can at
15 the time the parties separated.

16 14. Both parties supported their children during their minorities. Both assisted some children
17 past majority as well financially as many parents do. Money came into the household
18 from child support, the parties earnings and Mr. Willson's pension benefits. The
19 community operated as such during the marriage, supporting one another as well as the
20 children. The family home was added on to and remodeled to make room for the
21 children through Mr. Willson's labor after retirement.

22 15. The parties stipulated to the values of the real property. The marital home and land is
23 valued at \$230,000. The adjacent land with the pole building – shop is valued at
24 \$100,000. The cabin in Ocean Park is valued at \$90,000.

25 16. All other property/debt is valued based upon the evidence presented. Same are set forth in
26 the attachments hereto. The court considered the testimony of the experts as to value of
27 property including social security and pensions. The pensions and social security are
28 valued with a discount rate of 6% for consistency, with 252 months for the husband's life
29 expectancy.

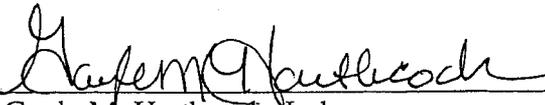
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CONCLUSIONS OF LAW

Based upon the foregoing findings of fact the court makes the following conclusions of law.

1. This court has jurisdiction over the parties and subject matter. Venue is proper.
2. The marriage is irretrievably broken and a decree should be granted.
3. No party is pregnant.
4. Characterization, disposition and value of property and debts are set forth in Attachments A & B hereto. Such award is just and equitable.
5. Additionally, each party is awarded his or her interest in their own Solarity accounts which existed at the time of the separation on 3/29/14.
6. Husband is awarded the contents of the coffee can.
7. The wife is awarded the items set forth in Attachment C (unless the item has been awarded to Mr. Willson in Attachment B) some of which have been valued in Attachment B, some of which have only sentimental value.
8. Mr. Willson is awarded the following items from the cabin: his personal clothing, kites, captain's quarters, quilts, books, floats and captain chair.
9. The cash value of the life insurance on Mr. Willson shall be awarded to Mrs. Willson.
10. The survivor benefit option chosen by Mr. Willson in 2003 on his LEOFF 1 pension shall not be changed.
11. The mural painted by Mr. Willson's mother on the cabin wall shall be removed by Mrs. Willson and is awarded to Mr. Willson. He should receive the mural within 60 days of the entry of the Decree.
12. There are no protection or restraining orders remaining.
13. No fees are awarded to either party.

Dated this 17th day of July, 2015


Gayle M. Harthcock, Judge

In re the Marriage of Willson and Willson
 Yakima County Superior Court Cause No. 14-3-00358-0

| | Value | To Husband | To Wife |
|------------------------------------|------------------|------------------|---------------------|
| COMMUNITY PROPERTY | | | |
| REAL PROPERTY | | | |
| 581 Hill road .8 acres | \$230,000 | \$230,000 | |
| Pole barn apprx 5 acres | \$100,000 | \$100,000 | |
| Cabin - 1406 264 Pl Ocean Park | \$90,000 | | \$90,000 |
| DEFERRED COMP | | | |
| H's ICMA | \$44,000 | \$44,000 | |
| W's ICMA | \$306,659 | \$200,000 | \$106,659 |
| MISCELLANEOUS | | | |
| W's vacation/sick | \$24,588.00 | | \$24,588 |
| H's life ins. - cash value | \$23,583 | | \$23,583 |
| Personal property & debt* | \$90,311 | \$74,667 | \$15,644 |
| Cash in coffee can | \$0 | | |
| TOTAL: | <u>\$909,141</u> | <u>\$648,667</u> | <u>\$260,474</u> |
| PENSIONS COMMUNITY INTEREST | | | |
| H's LEOFF 1 - comm int | \$503,992 | \$503,992 | |
| Rockwell backout** | (\$162,000) | (\$162,000) | |
| W's PERS 11 - comm int | \$602,662 | | \$602,662 |
| TOTAL COM PENSIONS | <u>\$944,654</u> | <u>\$341,992</u> | <u>\$602,662</u> |
| TOTAL COMMUNITY PROP | <u>1,853,795</u> | <u>\$990,659</u> | <u>\$863,136.00</u> |

In re the Marriage of Willson and Willson
Yakima County Superior Court Cause No. 14-3-00358-0

SEPARATE PROPERTY

| | | | |
|------------------------------|------------------|------------------|------------------|
| H's LEOF 1 - separate | \$681,872 | \$681,872 | |
| W's PERS 11 - separate | \$224,830 | | \$224,830 |
| W's vaca/sick - separate | \$7,482 | | \$7,482.00 |
| TOTAL SEPARATE ASSETS | <u>\$914,184</u> | <u>\$681,872</u> | <u>\$232,312</u> |

TOTAL ALL PROPERTY **\$2,767,979** **\$1,672,531** **\$1,095,448**

*See separate sheet

** reflects Rockwell backout at 252 months

Willson and Willson Community Property Debt
 Personal Property Value/Division Debt Value/Division

| Description | Value | Mr. Willson | Mrs. Willson |
|------------------------------------|----------|-------------|--------------|
| 2013 CRV | \$27,500 | | \$27,500 |
| 2006 Chev pick up | \$25,500 | \$25,500 | |
| Antique 5 drawer dresser cabin | \$250 | | \$250 |
| Antique 5 drawer dresser house | \$250 | \$250 | |
| Misc Camp Gear/MC parts | \$200 | \$200 | |
| Rough Cut Lumber | \$200 | \$200 | |
| Outdoor propane cook gear | \$400 | \$400 | |
| Large propane tank | \$350 | \$350 | |
| lap top computer | \$100 | \$100 | |
| 60 VW Bug | \$200 | \$200 | |
| 1997 Jeep Wrangler | \$4,650 | \$4,650 | |
| 1993 Jeep Cherokee | \$3,300 | | \$3,300 |
| Lance Camper | \$4,030 | \$4,030 | |
| Cash flatbed trailer 16' | \$1,200 | \$1,200 | |
| GMC pickup | \$200 | \$200 | |
| 1979 Trailer | \$600 | \$600 | |
| Tear drop Trailer 2001 | \$1,500 | | \$1,500 |
| 1995 Spirit MC Trailer | \$600 | \$600 | |
| 2005 Suzuki MC | \$2,700 | \$2,700 | |
| 1969 1 Ton Truck | \$800 | \$800 | |
| 2000 BMW MC | \$3,770 | \$3,770 | |
| 2003 Cargo Trailer 10' | \$1,200 | \$1,200 | |
| 2005 Arctic Fox Trailer | \$14,590 | \$14,590 | |
| Tools - wood and metal | \$15,505 | \$15,505 | |
| Smoke House and supplies | \$300 | \$300 | |
| Forklift Hyster | \$500 | \$500 | |
| Deck Mower 5' | \$800 | \$800 | |
| Straight Blade for tractor | \$200 | \$200 | |
| Disc 3 point | \$700 | \$700 | |
| Shelf Unit - pallet | \$250 | \$250 | |
| Hay Rake spiral | \$300 | \$300 | |
| Plow two bottom | \$150 | \$150 | |
| John Deere baler | \$1,800 | \$1,800 | |
| New Holland Swather | \$1,500 | \$1,500 | |
| Ford Tractor 3600 diesel | \$6,000 | \$6,000 | |
| New Holland tractor 33d | \$9,000 | \$9,000 | |
| Box level blade | \$300 | \$300 | |
| Buzz saw | \$1,000 | \$1,000 | |
| Vertex House Generator/transfer | \$800 | \$800 | |
| TV Vizio 42" flat screen | \$150 | \$150 | |
| Chair swivel w/ leather foot stool | \$100.00 | \$100 | |
| Wood wagon antique | \$200 | \$200 | |
| Floor lamps 3 | \$75 | \$25 | \$50 |
| Wall clock postal | \$100 | \$100 | |
| Cowboy wall display | \$150 | \$150 | |
| Kitchen table prior Shelley's | \$25 | | \$25 |

ATTACHMENT B

Willson and Willson Community Property Debt
 Personal Property Value/Division Debt Value/Division

| | | | |
|------------------------------------|------------------|------------------|-----------------|
| Oak table 6 chairs | \$500 | \$500 | |
| Refrigerator | \$1,000 | \$1,000 | |
| Kitchen utensils | \$500 | \$250 | \$250 |
| Old scales | \$100 | \$100 | |
| Large oak desk | \$200 | \$200 | |
| Treadmill | \$100 | \$100 | |
| Lopi stove | \$200 | \$200 | |
| TV 32" flat screen | \$100 | \$100 | |
| Antique desk w/mirror | \$200 | \$200 | |
| Oak armoire | \$100 | | \$100 |
| Blue Sofa 2 chairs | \$100 | | \$100 |
| Dover stove enamel | \$150 | \$150 | |
| Sleigh bed set w/o mattress | \$500 | | \$500 |
| Queen mattress | \$100 | \$100 | |
| Electric Fireplace | \$50 | \$50 | |
| Memory foam mattress | \$100 | \$100 | |
| Handmade nightstand | \$50 | \$50 | |
| Queen bed set | \$100 | \$100 | |
| BBQ stainless | \$25 | \$25 | |
| Spa - house fixture no added value | \$0 | | |
| Lawn tractor | \$800 | \$800 | |
| Wood fire boiler | \$1,000 | \$1,000 | |
| Firewood | \$1,000 | \$1,000 | |
| Windmill | \$800 | \$800 | |
| Freezer | \$100 | \$100 | |
| LG Washer/dryer set | \$500 | \$500 | |
| Carpet cleaner | \$150 | \$150 | |
| Milk Truck 1941 | \$200 | \$200 | |
| 2 mopeds | \$500 | \$500 | |
| Dumpster attachment | \$100 | \$100 | |
| Dyson vacuum | \$100 | \$100 | |
| SUBTOTAL PERSONAL PROPERTY | \$143,420 | \$109,845 | \$33,575 |

COMMUNITY DEBTS

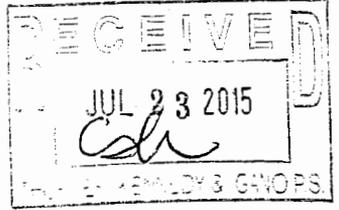
| | | | |
|--------------------------------|-----------------|-----------------|-----------------|
| Chevy Silverado pickup | \$9,101 | \$9,101 | |
| Honda CRV | \$11,714 | | \$11,714 |
| Arctic Fox Trailer | \$10,079 | \$10,079 | |
| Solarity VISA - Husband's name | \$3,775 | \$3,775 | |
| AARP Credit Card - Wife's name | \$6,217 | | \$6,217 |
| Home Equity Loan Solarity | \$1,551 | \$1,551 | |
| Home Mortgage | \$10,672 | \$10,672 | |
| TOTAL COMMUNITY DEBT | \$53,109 | \$35,178 | \$17,931 |
| | | | |
| DIFFERENCE | \$90,311 | \$74,667 | \$15,644 |

ITEMS WIFE WOULD LIKE TO RETRIEVE FROM THE RESIDENCE

Personal clothing and personal items
Items from her mother and father's estates
Items from her Aunt Maria, Dorothy and June
Tear drop trailer, including title
Passport
Birth certificate
Cards, papers, etc. from family members
Title to her vehicle (Honda CRV)
All of her son, Tyler's items
Linens
Kitchen Aid mixer
Kitchen items
Sewing machine
Church chairs
Red rosebush
Blue sofa set (sofa, 2 chairs, ottoman)
Bedroom set - dresser in Tyler's room
Armoire in Living Room
Complete bedroom set in Master Bedroom/Bath
Blue farm truck, including title

PI 1.39

ATTACHMENT C



COPY TO CLIENT

Superior Court of Washington
County of YAKIMA

In re the Marriage of:

SHELLEY WILLSON
Petitioner,
and
ROY WILLSON
Respondent.

No. 14-3-00358-0
Decree of Dissolution (DCD)
(Marriage)
Clerk's Action Required

I. Judgment Summaries

1.1 Real Property Judgment Summary:

Real Property Judgment Summaries are set forth below:

Name of Grantor: Roy Willson Name of Grantee: Shelley Willson

Shelley Willson is awarded the real property located at 1409 264th Place, Ocean Park, Washington, and legally described as:

Lot 11, Ocean Park per the plat thereof recorded in Volume D-1 of Plats, page 11, records of Pacific County, Washington.

Pacific County Assessor's Parcel No. O P 011

Name of Grantor: Shelley Willson Name of Grantee: Roy Willson

Roy Willson is awarded:

1. The real property located at 581 Hill Road, Moxee, WA, legally described as:

Beginning 901.37 feet S of the NW corner of the NW 1/4 of the SW 1/4 of Section 4, Township 12 N, Range 20 EWM, thence N 89° 46' E 106.10 feet, thence S 0°12' E 423 feet to the Southerly line of said subdivision, thence W 105.8 feet to the SW corner, thence N to the Point of Beginning, EXCEPT the county road, records of Yakima County, Washington;

Yakima County Assessor's parcel number: 201204-32003

2. The real property located on Hill Road, legally described as:

Beginning 835.94 feet of the E 1/4 corner of Section 5, Township 12N, Range 20 EWM, thence S 61°57' W to the S line of the NE 1/4 of the SE 1/4, thence E to the SE corner of said subdivision thence N to the Point of Beginning, EXCEPT the Roza Canal right of way and EXCEPT the E 25 feet of the county road right of way, records of Yakima County, Washington.

Yakima County Assessor's parcel number: 201205-41003

1.2 Money Judgment Summary:

Does not apply.

End of Summaries

II. Basis

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

III. Decree

It is decreed that:

3.1 Status of the Marriage

The marriage of the parties is dissolved.

3.2 Property to be Awarded the Petitioner

The petitioner is awarded as separate property the property set forth in Exhibit W and Attachment 1, which are attached and incorporated by reference as part of this decree.

1
2 **3.3 Property to be Awarded to the Respondent**

3 The respondent is awarded as separate property the property set forth in Exhibit H and
4 Attachment 1, which are attached and incorporated by reference as part of this decree

5 **3.4 Liabilities to be Paid by the Petitioner**

6 The petitioner shall pay the community or separate liabilities set forth in Exhibit W and
7 Attachment 1, which are attached and incorporated by reference as part of this decree.

8 Unless otherwise provided herein, the petitioner shall pay all liabilities incurred by the
9 petitioner since the date of separation.

10 **3.5 Liabilities to be Paid by the Respondent**

11 The respondent shall pay the community or separate liabilities set forth in Exhibit H and
12 Attachment 1, which are attached and incorporated by reference as part of this decree.

13 Unless otherwise provided herein, the respondent shall pay all liabilities incurred by the
14 respondent since the date of separation.

15 **3.6 Hold Harmless Provision**

16 Each party shall hold the other party harmless from any collection action relating to
17 separate or community liabilities set forth above, including reasonable attorney's fees
18 and costs incurred in defending against any attempts to collect an obligation of the other
19 party.

20 **3.7 Maintenance**

21 Does not apply.

22 **3.8 Restraining Order**

23 No temporary restraining orders have been entered under this cause number.

24 **3.9 Protection Order**

25 Does not apply.

3.10 Jurisdiction Over the Children

Does not apply because there are no dependent children.

3.11 Parenting Plan

Does not apply.

EXHIBIT W

Assets awarded to Wife

1. Real property at 1409 264th Place, Ocean Park, Washington, and legally described as: Lot 11, Ocean Park per the plat thereof recorded in Volume D-1 of Plats, page 11, records of Pacific County, WA. Pacific County Parcel No. O P 011.
2. Household goods and furnishings currently in wife's possession and specified in Attachment 1, unless otherwise specifically awarded to the husband in Exhibit H.
3. Wife's personal effects and clothing.
4. Any and all bank accounts in wife's name.
5. Any and all life insurance policies in wife's name.
6. Wife's social security, pension, retirement, and work-related benefits incurred by reason of wife's employment.
7. 100% of any and all of the separate portion of wife's PERS 2 Plan, together with all of the community interest in wife's PERS 2 plan.
8. Wife's ICMA account, less \$200,000 awarded to husband in Exhibit H.
9. 100% of wife's accrued vacation and sick leave.
10. All personal property outlined in Attachment 1.
11. 100% of husband's life insurance policy cash value of \$23,583.
12. The survivor benefit option chosen by Mr. Willson in 2003 on his LEOFF 1 pension shall not be changed.

EXHIBIT W

Liabilities to Wife

1. Any and all debts owing on assets awarded to wife.
2. Any indebtedness for credit cards in wife's possession.
3. Any and all debts incurred by wife since date of separation.

EXHIBIT H

Assets awarded to Husband

1. The real property located at 581 Hill Road, Moxee, WA, legally described as: Beginning 901.37 feet S of the NW corner of the NW ¼ of the SW ¼ of Section 4, Township 12 N, Range 20 EWM, thence N 89 degrees 46' E 106.10 feet, thence S 0 degrees 12' E 423 feet to the Southerly line of said subdivision, thence W 105.8 feet to the SW corner, thence N to the Point of Beginning, EXCEPT the county road, records of Yakima County, WA; Yakima County Parcel No. 201204-32003.
2. The real property located on Hill Road, legally described as: Beginning 835.94 feet of the E ¼ corner of Section 5, Township 12 N, Range 20 EWM, thence S 61°57' W to the S line of the NE ¼ of the SE ¼, thence E to the SE corner of said subdivision thence N to the Point of Beginning, EXCEPT the Roza Canal right of way and EXCEPT the E 25 feet of the county road right of way, records of Yakima County, WA; Yakima County Parcel No. 201205-41003.
3. Household goods and furnishings currently in husband's possession and specified in Attachment 1, unless otherwise specifically awarded to wife in Exhibit W.
4. The following items from the cabin which is awarded to the wife: his personal clothing, kites, captain's quarters, quilts, books, floats and captain chair. The mural painted by Mr. Willson's mother on the cabin wall shall be removed by Mrs. Willson and is awarded to Mr. Willson. He should receive the mural and other items listed here and located in the cabin within 60 days of the entry of the Decree.
5. Husband's personal effects and clothing.
6. Any and all bank accounts in husband's name.
7. Any and all life insurance policies in husband's name.
8. Husband's social security, pension, retirement, and work-related benefits incurred by reason of husband's employment.
9. 100% of husband's LEOFF 1 plan.
10. 100% of husband's ICMA account.
11. The sum of \$200,000 from wife's ICMA account.
12. 100% of the cash in coffee can
13. All personal property outlined in Attachment 1.

EXHIBIT H

Liabilities to Husband

1. Any and all debts owing on assets awarded to husband.
2. Any indebtedness for credit cards in husband's possession.
3. Any and all debts incurred by husband since date of separation.

ATTACHMENT 1

In re the Marriage of Willson and Willson
 Yakima County Superior Court Cause No. 14-3-00358-0

ATTACHMENT A

| | Value | To Husband | To Wife |
|------------------------------------|------------------|------------------|---------------------|
| COMMUNITY PROPERTY | | | |
| REAL PROPERTY | | | |
| 581 Hill road .8 acres | \$230,000 | \$230,000 | |
| Pole barn apprx 5 acres | \$100,000 | \$100,000 | |
| Cabin - 1406 264 Pl Ocean Park | \$90,000 | | \$90,000 |
| DEFERRED COMP | | | |
| H's ICMA | \$44,000 | \$44,000 | |
| W's ICMA | \$306,659 | \$200,000 | \$106,659 |
| MISCELLANEOUS | | | |
| W's vacation/sick | \$24,588.00 | | \$24,588 |
| H's life ins. - cash value | \$23,583 | | \$23,583 |
| Personal property & debt* | \$90,311 | \$74,667 | \$15,644 |
| Cash in coffee can | \$0 | | |
| TOTAL: | <u>\$909,141</u> | <u>\$648,667</u> | <u>\$260,474</u> |
| PENSIONS COMMUNITY INTEREST | | | |
| H's LEOFF 1 - comm int | \$503,992 | \$503,992 | |
| Rockwell backout** | (\$162,000) | (\$162,000) | |
| W's PERS 11 - comm int | \$602,662 | | \$602,662 |
| TOTAL COM PENSIONS | <u>\$944,654</u> | <u>\$341,992</u> | <u>\$602,662</u> |
| TOTAL COMMUNITY PROP | <u>1,853,795</u> | <u>\$990,659</u> | <u>\$863,136.00</u> |

In re the Marriage of Willson and Willson
Yakima County Superior Court Cause No. 14-3-00358-0

SEPARATE PROPERTY

| | | | |
|------------------------------|------------------|------------------|------------------|
| H's LEOF 1 - separate | \$681,872 | \$681,872 | |
| W's PERS 11 - separate | \$224,830 | | \$224,830 |
| W's vaca/sick - separate | \$7,482 | | \$7,482.00 |
| TOTAL SEPARATE ASSETS | <u>\$914,184</u> | <u>\$681,872</u> | <u>\$232,312</u> |

TOTAL ALL PROPERTY **\$2,767,979** **\$1,672,531** **\$1,095,448**

*See separate sheet

** reflects Rockwell backout at 252 months

Willson and Willson Community Property Debt
 Personal Property Value/Division Debt Value/Division

| Description | Value | Mr. Willson | Mrs. Willson |
|------------------------------------|----------|-------------|--------------|
| 2013 CRV | \$27,500 | | \$27,500 |
| 2006 Chev pick up | \$25,500 | \$25,500 | |
| Antique 5 drawer dresser cabin | \$250 | | \$250 |
| Antique 5 drawer dresser house | \$250 | \$250 | |
| Misc Camp Gear/MC parts | \$200 | \$200 | |
| Rough Cut Lumber | \$200 | \$200 | |
| Outdoor propane cook gear | \$400 | \$400 | |
| Large propane tank | \$350 | \$350 | |
| lap top computer | \$100 | \$100 | |
| 60 VW Bug | \$200 | \$200 | |
| 1997 Jeep Wrangler | \$4,650 | \$4,650 | |
| 1993 Jeep Cherokee | \$3,300 | | \$3,300 |
| Lance Camper | \$4,030 | \$4,030 | |
| Cash flatbed trailer 16' | \$1,200 | \$1,200 | |
| GMC pickup | \$200 | \$200 | |
| 1979 Trailer | \$600 | \$600 | |
| Tear drop Trailer 2001 | \$1,500 | | \$1,500 |
| 1995 Spirit MC Trailer | \$600 | \$600 | |
| 2005 Suzuki MC | \$2,700 | \$2,700 | |
| 1969 1 Ton Truck | \$800 | \$800 | |
| 2000 BMW MC | \$3,770 | \$3,770 | |
| 2003 Cargo Trailer 10' | \$1,200 | \$1,200 | |
| 2005 Arctic Fox Trailer | \$14,590 | \$14,590 | |
| Tools - wood and metal | \$15,505 | \$15,505 | |
| Smoke House and supplies | \$300 | \$300 | |
| Forklift Hyster | \$500 | \$500 | |
| Deck Mower 5' | \$800 | \$800 | |
| Straight Blade for tractor | \$200 | \$200 | |
| Disc 3 point | \$700 | \$700 | |
| Shelf Unit - pallet | \$250 | \$250 | |
| Hay Rake spiral | \$300 | \$300 | |
| Plow two bottom | \$150 | \$150 | |
| John Deere baler | \$1,800 | \$1,800 | |
| New Holland Swather | \$1,500 | \$1,500 | |
| Ford Tractor 3600 diesel | \$6,000 | \$6,000 | |
| New Holland tractor 33d | \$9,000 | \$9,000 | |
| Box level blade | \$300 | \$300 | |
| Buzz saw | \$1,000 | \$1,000 | |
| Vertex House Generator/transfer | \$800 | \$800 | |
| TV Vizio 42" flat screen | \$150 | \$150 | |
| Chair swivel w/ leather foot stool | \$100.00 | \$100 | |
| Wood wagon antique | \$200 | \$200 | |
| Floor lamps 3 | \$75 | \$25 | \$50 |
| Wall clock postal | \$100 | \$100 | |
| Cowboy wall display | \$150 | \$150 | |
| Kitchen table prior Shelley's | \$25 | | \$25 |

ATTACHMENT B

Willson and Willson Community Property Debt
 Personal Property Value/Division Debt Value/Division

| | | | |
|------------------------------------|------------------|------------------|-----------------|
| Oak table 6 chairs | \$500 | \$500 | |
| Refrigerator | \$1,000 | \$1,000 | |
| Kitchen utensils | \$500 | \$250 | \$250 |
| Old scales | \$100 | \$100 | |
| Large oak desk | \$200 | \$200 | |
| Treadmill | \$100 | \$100 | |
| Lopi stove | \$200 | \$200 | |
| TV 32" flat screen | \$100 | \$100 | |
| Antique desk w/mirror | \$200 | \$200 | |
| Oak armoire | \$100 | | \$100 |
| Blue Sofa 2 chairs | \$100 | | \$100 |
| Dover stove enamel | \$150 | \$150 | |
| Sleigh bed set w/o mattress | \$500 | | \$500 |
| Queen mattress | \$100 | \$100 | |
| Electric Fireplace | \$50 | \$50 | |
| Memory foam mattress | \$100 | \$100 | |
| Handmade nightstand | \$50 | \$50 | |
| Queen bed set | \$100 | \$100 | |
| BBQ stainless | \$25 | \$25 | |
| Spa - house fixture no added value | \$0 | | |
| Lawn tractor | \$800 | \$800 | |
| Wood fire boiler | \$1,000 | \$1,000 | |
| Firewood | \$1,000 | \$1,000 | |
| Windmill | \$800 | \$800 | |
| Freezer | \$100 | \$100 | |
| LG Washer/dryer set | \$500 | \$500 | |
| Carpet cleaner | \$150 | \$150 | |
| Milk Truck 1941 | \$200 | \$200 | |
| 2 mopeds | \$500 | \$500 | |
| Dumpster attachment | \$100 | \$100 | |
| Dyson vacuum | \$100 | \$100 | |
| SUBTOTAL PERSONAL PROPERTY | \$143,420 | \$109,845 | \$33,575 |

COMMUNITY DEBTS

| | | | |
|--------------------------------|-----------------|-----------------|-----------------|
| Chevy Silverado pickup | \$9,101 | \$9,101 | |
| Honda CRV | \$11,714 | | \$11,714 |
| Arctic Fox Trailer | \$10,079 | \$10,079 | |
| Solarity VISA - Husband's name | \$3,775 | \$3,775 | |
| AARP Credit Card - Wife's name | \$6,217 | | \$6,217 |
| Home Equity Loan Solarity | \$1,551 | \$1,551 | |
| Home Mortgage | \$10,672 | \$10,672 | |
| TOTAL COMMUNITY DEBT | \$53,109 | \$35,178 | \$17,931 |
| | | | |
| DIFFERENCE | \$90,311 | \$74,667 | \$15,644 |

ITEMS WIFE WOULD LIKE TO RETRIEVE FROM THE RESIDENCE

Personal clothing and personal items
Items from her mother and father's estates
Items from her Aunt Maria, Dorothy and June
Tear drop trailer, including title
Passport
Birth certificate
Cards, papers, etc. from family members
Title to her vehicle (Honda CRV)
All of her son, Tyler's items
Linens
Kitchen Aid mixer
Kitchen items
Sewing machine
Church chairs
Red rosebush
Blue sofa set (sofa, 2 chairs, ottoman)
Bedroom set - dresser in Tyler's room
Armoire in Living Room
Complete bedroom set in Master Bedroom/Bath
Blue farm truck, including title

PI 1.39

ATTACHMENT C