

65739-1

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No. 65739-1-I

IN THE COURT OF APPEALS OF THE STATE OF
WASHINGTON, DIVISION ONE

In Re the Marriage of:

FAITH L. SMITH,

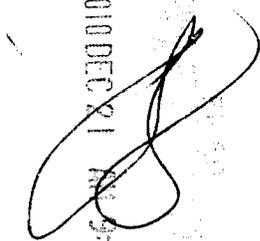
Appellant/Cross Respondent

And

Ford B. Smith

Respondent/Cross Appellant.

2010 DEC 21 AM 9:59



BRIEF OF APPELLANT/CROSS-RESPONDENT
FAITH L. SMITH

David G. Porter, #17925
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INTRODUCTION

There are no children, nor children dependent upon the parties in this action. The issues include property and debt distribution, maintenance and attorney fees.

The Northridge, California home was owned by Faith prior to the parties' marriage. (III, p. 51) Ford requested that the Northridge home be sold. (II, p. 60) Ford further testified that Faith could live with a relative or in an apartment. (II, p. 128) The court ordered the Northridge home to be sold. (CP 77) Faith was to be out of her home by July 1, 2010. (CP 77) The court ordered sanctions first of \$100.00 per day then \$200.00 per day for each day she remained in the home (CP) Faith stated that she did not have enough money to move. Faith was forced to move.

Ford owns an 86% interest in the Limited Partnership (II, p. 94) which owns the land that the Double Tree Hotel sits on in SeaTac, Washington. (II, p. 93) Ford would not give an estimate of the value of the land that provides him with his income (II, p. 102), but Ford admitted that the value of the land is in the millions. (II, p. 102) Ford also owns a home with his sister in SeaTac, Washington. (II, p. 103) Ford could not determine the value of this real property without reviewing the King County assessors documents. (II, p. 106) The trial court would not allow

introduction of the King County Assessors documents as to the land value of the property where the Double Tree sits or the value of the SeaTac home. When the final orders were entered, the trial court stated:

And with respect to the values of the husband's interest in the family trust and his interest in the SeaTac property, the court was well aware that there was a large in balance in wealth between the husband and the wife when it made its division of property and believes that it was, in fact, just and equitable. (6/24/10, p. 19)

The husband had been paying the wife \$3,000.00, plus a \$1,000.00 on special holidays (II, p. 75), including payment of trips (III, p. 59-62) and the household expenses (III, p. 55, 57). Faith asked for maintenance of \$6,000.00 per month (III. P.74) Ford had an adjusted gross income of over \$100,000.00 per year. (CP 99) The court awarded Faith maintenance of \$3,000.00 for two years. (CP 79)

Ford had paid his attorney almost \$100,000.00 in costs and fees prior to trial. (II, P. 92) The court ordered that each party should bear their own costs and fees. (CP 80)

I. ASSIGNMENTS OF ERROR

The trial court entered its Findings of Fact and Conclusions of Law and Decree which divided the parties' assets and liabilities, awarded maintenance and denied the award of attorney fees. Faith assigns error to the Findings of Fact, Conclusions of Law, Decree of Dissolution of Marriage, all entered on June 24, 2010, and Order on Show Cause Re: Contempt/Judgment entered on August 17, 2010. Specifically, the trial court erred when it concluded:

1. The trial court awarded Ford the total value of his interest in the land where the Double Tree Hotel sits in SeaTac, Washington and the total value of Ford's interest in the SeaTac home without first valuing the assets. (Findings of Fact 2.9 and 2.11; Conclusion of Law 3.4)
2. The trial court had the authority to make a division of property and debts with inadequate documentary evidence of the values of the real property. (Findings of Fact 2.8, 2.9, 2.10 and 2.11; Conclusions of Law 3.4)
3. Based upon the overall economic circumstances of the parties at the time of trial, and how the Decree will leave her, Faith's property award and debt award was adequate. (Findings of Fact 2.8, 2.9, 2.10 and 2.11; Conclusion of Law 3.4)

4. Based upon the overall economic circumstances of the parties at the time of trial and how the Decree will leave her, the trial court awarded adequate maintenance to Faith. (Findings of Fact 2.8, 2.9, 2.10, 2.11 and 2.12; and Conclusions of Law 3.4)

5. Based upon Ford's ability to pay Faith's attorney fees and Faith's need for Ford to pay Faith's attorney fees and the overall award of assets and liabilities, each party should pay their own costs and attorney fees. (Findings of Fact 2.8, 2.9, 2.10, 2.11, 2.12 and 2.15; Conclusions of Law 3.4 and 3.7)

Issues pertaining to these assignments of error include:

A. Under RCW 26.09.080, the trial court is granted the authority to make a just and equitable division of the parties' assets and liabilities. No valuation was made of the two parcels of land in which Ford had an interest. Did the trial court error, considering the overall economic circumstances the Decree will leave each party, in not valuing the two parcels of property awarded to Ford, with no compensation for Faith?

B. Under RCW 26.09.090, the trial court is granted the authority to award either spouse maintenance. The trial court found that Faith had a number of health issues including a history of breast cancer, shortness of breath and a pacemaker implant (CP 99) Faith was 65 at the time of trial.

(CP 99) Faith is receiving \$765.00 per month from Social Security, with \$96.00 deducted for Medicare. (CP 99) Faith is retired and not expected to return to gainful employment. (CP 99) The trial court also found that Ford has the ability to meet his needs and financial obligations while meeting those of Faith. (CP 99) Ford had an annual income of over \$100,000. (CP 99)

Did the trial court error, considering the standard of living the parties enjoyed during their marriage and the overall circumstances the Decree will leave each party, in awarding maintenance of only \$3,000.00 per month to Faith for two years?

C. Under RCW 26.09.140, the trial court has the authority to award a party costs and attorney fees. Based upon Faith's need for Ford to pay her attorney fees and Ford's ability to pay them, did the trial court error in failing to award Faith her costs and attorney fees at the trial court level?

II. STATEMENTS OF THE FACTS

Faith was born in the Philippines. (III, p. 43) She became a U.S. citizen. (III, p. 44) Faith had a series of relatively low paying jobs. (III, p. 44-48) She last worked in July of 1996 because her employer relocated,

and she chose not to follow the business to its new location. (III, p. 48, 49)
Faith and her first husband divorced in 1988 (III, p. 49) Faith received the
Northridge house as a part of their divorce settlement (III, p. 51)

Faith married Ford on September 8, 1996. (CP 96) The parties
separated on May 11, 2007. (CP 96) The parties 1996 and subsequent tax
returns listed both Faith and Ford as retired. (II, p.113-114) Ford gave
Faith \$3,000.00 per month, starting about three months after they married.
(III, p. 64) He also gave Faith \$1,000.00 for each Valentine's Day,
Mother's Day, Faith's birthday, their anniversary and Christmas (III, p. 75)
In addition, Ford paid for the travel expenses. (III, p. 59-62) Ford also paid
for all of the household expenses in addition to the monthly allowance
given to Faith (III, p. 55, 57). Ford did not dictate to Faith as to how she
should spend the money given to her. (VOL III, p. 12) Faith brought the
Northridge house into the marriage. (III, p. 51) The trial court determined
the Northridge house to be community and ordered the house sold. (CP 77,
78) After all of the off-sets, Faith will receive next to nothing for the
house she brought into the marriage. (CP 84) In addition, Faith leaves
with almost \$70,000 in debt. (CP 99) Ford is essentially debt free except
for The Smith Family Ltd Partnership Promissory Note of \$16,160.31. (CP
93) The court made this distribution based upon a marriage of almost

eleven years. (CP 99)

Faith has several medical issues which include a history of breast cancer, shortness of breath and a pacemaker implant. (CP 99) Faith is not expected to return to gainful employment. (CP 69)

ARGUMENT

III. STANDARD OF REVIEW

In the distribution of property and liabilities in a dissolution of marriage action, the statutory mandate of RCW 26.09.080 requires that the distribution be just and equitable. According to Division One, in Wold v. Wold, 7 Wn. App. 872, 878, 503 P. 2nd 118 (1972),

We believe that the valuation of property awarded in a divorce case is a material and ultimate fact. These valuations are not before us on the record..... The review of the award of the properties cannot be undertaken without knowledge of their value. In order that a court may make a just and equitable division of the property of the parties, it must have evidence concerning the value of the various properties. It is obvious that the trial court abuses its discretion when it orders a division of property without having knowledge of the value of a substantial part of it.

An award of maintenance is within the broad discretion of the trial court. In re Terry, 79 Wn. App. 866, 869, 905 P. 2nd 935 (1995). “The standard of living of the parties during marriage and the parties’ post-dissolution economic condition are paramount concerns when considering maintenance and property awards in dissolution actions. Marriage of Sheffer, 60 Wn. App. 51, 57, 802 P. 2nd 817 (1990).

RCW 26.09.140 gives the trial court the discretion to award attorney fees in domestic relations proceedings after balancing the needs of the requesting spouse against the ability of the other spouse to pay. Marriage of Pollard, 99 Wn. App. 48, 56, 991 P. 2nd 1201 (2000).

IV. The Decree of Dissolution of Marriage is Not Just and Equitable Because Ford’s Interest in Real Property was not valued.

Ford owns an 86% interest in the partnership (II, p. 94) that owns the land where the Double Tree Hotel stands (II, p. 93) in SeaTac, Washington. In Ford’s domestic pre-trial information, he listed his interest in the Robert and Mayda Smith trust as unknown. (II, p. 94) Ford admitted that the value of the land would be in the millions. (II, p. 102) Ford refused to state the value of the property. The ground lease for this piece of property expires in either 2044 or 2048. (III, p. 21) The court

rejected exhibit 99 which showed the land value at \$41,479,600.

Ford owns a fifty percent interest in a home in SeaTac, Washington. (II, p. 103) Ford owned the interest in the property since August of 2008 (II, p. 106) Ford stated that his opinion as to the value of the SeaTac house would be based upon the assessors bill. (II, p. 106) When shown the King County certified assessed value of the SeaTac home, with the 2010 value of \$1,851,800, Ford rejected the value as notoriously unreliable. (IV, p. 119) The decree lists the value of the SeaTac home as unknown (CP 7) The trial court rejected Faith's motion to reopen the trial. (6/24/10, p.)

“In an action for divorce all property, both community and separate, is before the trial court for distribution.” Friedlander v. Friedlander, 80 Wn. 2nd 293, 305 p. 2nd 208 (1972). Ford made the property known to the court, but refused to value it. Furthermore, the trial court refused to allow Faith to provide evidence as to the value of the two pieces of real property. Ford testified that the property upon which the Doubletree Hotel stands is worth millions. (II, p. 102)

This court has previously remanded a case to the trial court, Wold, supra, because valuation of property in a divorce case is a material and ultimate fact. The review cannot be undertaken without knowledge of

their value. @ 878

This court should remand this case back for trial to determine the value of these substantial pieces of real property, and include this financial information in the trial court's determination of the overall economic circumstances of the parties and how the Decree will leave each party economically.

V. The Decree of Dissolution of Marriage is not Just and Equitable

The trial court's paramount concern, when distribution property, is the economic condition in which the decree leaves the parties. RCW 26.09.080 (4); In re Marriage of Terry, 79 Wn. App. 866, 871, 905 p. 2nd 935 (1995)

The decree left Ford extremely well off. He kept all of his separate property, once piece of real property which he had valued in the millions of dollars. (II, p. 102) Faith brought the Northridge real property into the marriage as her separate property. (III., p. 51) The trial court ruled that her home was converted to community property (CP76) The trial court ordered her to move from her home in Northridge by July 1, 2010. (CP76) Faith had almost \$70,000 in credit card debt and personal loan indebtedness when the decree was entered. (CP66) Faith did not have the

funds to move. She did not have the funds to pay the \$100.00 per day civil sanction. (CP) Yet, the commissions awarded Ford another \$4,000.00 in attorney fees (CP); ordered Faith to pay \$100.00 per day sanctions from July 2, 2010, and \$200.00 per day after 8/25/10. (CP)

After the Northridge house is sold, and all of the deductions are made, Faith will receive \$24,225 from the house she brought into the marriage. According to Division One, “ The key to an equitable distribution of property is not mathematical preciseness, but fairness.” Marriage of Tower, 55 Wn. App. 697, 700, 780 p. 2nd 863 (1989). It is Faith’s position that the property distribution and the subsequent contempt findings were not fair. The property distribution and contempt action, upon which the contempt is based, should be vacated and the case remanded for a determination that is fair based upon the overall economic circumstances of the parties and how the decree leaves each spouse.

VI. Based Upon The Parties’ Overall Respective Economic Positions in which the Decree Leaves the Parties, Faith’s Maintenance Award is Inadequate

The award of maintenance is governed by RCW 26.09.090. According to Division One, “The standard of living of the parties during

marriage and the parties' post-dissolution economic condition are paramount concerns when considering maintenance and property awards in dissolution actions. "Marriage of Sheffer, 60 Wn. App. 51, 57, 802 p. 2nd 817 (1990) The parties enjoyed a standard of living which was reflected in the income in their joint tax returns of over \$100,000 per year. (I, p. 23-35, CP 99) Ford paid all of the expenses of the household and gave Faith \$3,000 per month, plus additional funds of \$1,000 for special occasions, and Ford paid the travel expenses. According to the trial court, "It is appears that Faith Smith enjoyed a comfortable, but not extravagant standard of living during her marriage to Ford Smith." (CP 99)

The award of \$3,000 for two years (CP 79) is not in conformity with the case law, if the paramount concern to the trial court is financial condition the decree will leave Faith. Property divisions and maintenance awards can be interrelated. "The trial court may consider the property division when determining maintenance, and may consider maintenance in making an equitable division of the property. Marriage of Estes, 84 Wn. App. 586, 593, 84 Wn. App. 586, 929, P. 2nd 500 (1997)

In our case however, Faith was left with no liquid assets and considerable debt. The \$3,000 monthly maintenance for three years will not pull her out of the almost \$70,000 in credit card and personal debt. (CP

99) Also, Faith has several severe medical issues which include breast cancer and a pacemaker implant. (CP 99) Conversely, Ford had no financial difficulty paying for all of Faith's needs before the separation. (CP 99) "He has demonstrated his ability to meet his own needs while voluntarily paying a substantial amount to meet Faith Smith's needs during the parties' separation." (CP 99) It is Faith's position that based upon the parties' standard of living during the marriage and the economic condition in which the decree leaves Faith, the maintenance award of \$3,000 for two years is inadequate.

The case should be remanded to the trial court for a redetermination of the monthly maintenance award to Faith based upon Sheffer, above.

VII. Attorney Fees

1. The trial court erred by not awarding Faith her costs and attorney fees.

Prior to the start of the four day trial, Ford had already paid his attorney for almost \$100,000. (II, p. 92) Faith asked the trial court for an award of \$34,111.32. (6/24/10, p. 37) Based upon Ford's adjusted gross income of over \$100,000 per year and property that he can potentially

draw upon, which he stated is worth millions, Ford had the ability to pay Faith's attorney fees. Faith has the need for the payment of her attorney fees based upon her outstanding debt of almost \$70,000 and income of only \$669.00 per month from Social Security. (CP 99)

2. Faith Requests Attorney Fees and Costs on Appeal.

RCW 26.09.140 allows the award of attorney fees on appeal. Faith will be providing her Financial Declaration for consideration. It will show her need for an award of costs and attorney fees in the appeal.

VIII. Cross Appeal

Both parties requested attorney fees at the trial court level. Ford asked the trial court for more attorney fees than he had been awarded at the December 12, 2008 hearing. Ford had been awarded \$1,000 in fees, but Ford did not file a revision action or appeal for more attorney fees from the December 12, 2008 hearing.

Ford asked for more attorney fees than he had been awarded at the May 6, 2009 hearing. At the May 6, 2009 hearing, Ford was awarded \$3,000 in attorney fees, but Ford did not file a revision action or appeal for more attorney fees from the May 6, 2009 hearing.

Ford is time barred from requesting additional fees from these two

hearings.

Ford also claimed that he was entitled to attorney fees because Faith had allegedly not mediated in good faith. However, Ford had no evidence to back-up his claim. (6/24/10, p. 30)

The trial court denied Ford's request for additional attorney fees at the two previous hearings. And, the court denied Ford any attorney fees for Faith's alleged misbehavior at the mediation. (6/24/10, p. 40)

Ford's appeal of the trial court's decision is frivolous. RAP 18.1. "An appeal is frivolous (and a recovery of fees warranted) if no debatable issues are presented upon which reasonable minds might differ, and it is so devoid of merit that no reasonable possibility of reversal exists."

Harrington F. Pailthrop, 67 Wn. App. 901, 913, 841 p. 2nd 1258 (1992)

Faith should be awarded her attorney fees both under Harrington, supra, and RCW 26.09.140. Just as in the trial court, Ford has no reasonable basis to prevail on appeal when he is time barred to ask for additional fees from the hearing and he has provided no evidence of Faith's alleged misconduct at mediation. Faith Should be awarded her attorney fees and costs in the cross appeal.

CONCLUSION

The trial court did not make a just and equitable division of assets because the trial court failed to value Ford's interest in real estate, which Ford valued in the millions. The trial court did not make a just and equitable division of the assets because Ford received millions of dollars of assets and Faith received relatively no assets. As a result, the distribution was not fair in terms of the overall economic circumstances of the parties at the time the Decree was entered. Because maintenance should be considered in light of the property distribution and vice versa, the award of maintenance to Faith is inadequate because it does not reflect the standard of living during the parties' marriage nor does the award cover the financial needs of Faith after the Decree was entered. Faith should be awarded her costs and attorney fees at the trial court level and in this appeal.

Ford's cross-claim for attorney fees at the trial court level is without legal basis. The cross appeal should be dismissed. Faith should be awarded her costs and fees in the cross appeal.

Dated this th 20 day of December, 2010.

By: David G. Porter
David G. Porter, #17925
Attorney for
Appellant/Cross Respondent
Faith Smith

SCANNED

FILED IN OPEN COURT
6-24 2010
WHATCOM COUNTY CLERK

By [Signature]
Deputy

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SUPERIOR COURT OF WASHINGTON
FOR WHATCOM COUNTY

In re the Marriage of:

FORD B. SMITH

No. 07-3-00280-4

Petitioner,

Findings of Fact and
Conclusions of Law

and

(Marriage)

FAITH L. SMITH (a.k.a. Tan),

(FNFCL)

Respondent.

I. Basis for Findings

The findings are based on a four (4) day trial before Pro Tem Judge Leon Henley. The following people attended:

- Petitioner and Petitioner's Lawyer
- Respondent and Respondent's Lawyer

II. Findings of Fact

Based upon the pleadings in this case, the testimony of the witnesses and other evidence admitted at trial, and the trial court's ruling as to the First and Second Set of Request for Admissions, the facts the court found that Faith Smith was deemed to have admitted as true and counsels' arguments, the court **Finds**:

2.1 Residency of Petitioner

The Petitioner, Ford Smith, is a resident of the State of Washington. Faith Smith appeared and responded to the Petition.

ORIGINAL

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4 **2.2 Notice to the Respondent**

Faith Smith appeared and responded to the petition on October 11, 2007 having been personally served on May 7, 2007.

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8 **2.3 Basis of Personal Jurisdiction Over the Respondent**

The facts below establish personal jurisdiction over the respondent.

The parties lived in Washington during their marriage and the petitioner continues to reside in this state.

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12 **2.4 Date and Place of Marriage**

The parties were married on September 8, 1996 at Las Vegas, Nevada.

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17 **2.5 Status of the Parties**

Ford Smith contends that the parties separated in August 2006, when Faith Smith moved to Northridge, California. In contrast, Faith Smith contends that the parties should not be found to have separated until May 11, 2007, the date on which the petition for dissolution of marriage was filed and argues that because Ford Smith continued to pay her living expenses and provided her with the same monthly cash and credit card allowances for her personal use after her move to California up to the date he filed the for marital dissolution they should riot be deemed to have separated until that date. Faith Smith also testified that Ford Smith made two trips to visit her after she traveled to California in August 2006. Ford Smith, in his testimony, acknowledged having made one such trip for the purpose of delivering a motor vehicle and other items to Faith Smith for her use in California but denied having made the second trip. The evidence at trial also showed that at various times throughout their marriage, the parties lived separate from each other.

In view of all the evidence presented on this issue, the Court finds that the date of the separation was May 11, 2007.

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21 **2.6 Status of Marriage**

Although Faith Smith in her response to the petition contends that the parties' marriage is not irretrievably broken, the trial testimony of Ford Smith was convincing to the contrary. The Court, therefore, finds that the parties' marriage is irretrievably broken and that at least 90 days have elapsed since the date the petition was filed and since the date the summons was served on Faith Smith. Therefore, the parties' marriage should be dissolved.

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24 **2.7 Separation Contract or Prenuptial Agreement**

There is no written separation contract or prenuptial agreement.

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2 **2.8 Community Property**

3 On order to effectuate a fair and equitable division of the assets and liabilities of the
4 parties, the community property should be divided equally.

5 Family Home. The parties have real community property; to wit, the Northridge
6 California family home located at 18423 Tuba Street; Northridge, California and legally
7 described as set forth in Attachment FH. The Family Home should be awarded to the
8 husband Ford Smith, subject to a lien as set forth in Attachment D. Respondent Faith
9 Smith shall forthwith execute an Interspousal Transfer Deed and Tax Affidavit to
10 effectuate that transfer which is attached herein. The home should be listed for sale at a
11 listing price of \$450,000. The wife should deliver the Northridge house and garage keys
12 and any remotes to Ford Smith by no later than 1:00 P.M. ^{July 1, 2010} today. Faith Smith, a.k.a.
13 Faith Tan, and all those living there, including her relatives and any tenants shall vacate
14 the family home by no later than July 1, 2010. ~~The wife should be responsible for any
15 damage that occurred since the husband has lived in the family home and shall
16 effectuate any repairs deemed necessary by an inspector. The wife should make the
17 house available for inspection upon 24 hours' notice.~~

18 The Court declines to adopt Ford Smith's proposals (1) that the rental value credits for
19 Faith Smith's exclusive use of the parties' Northridge California home, valued at \$6700
20 per month from January 2009 to the present, a total of \$107,200, should be awarded to
21 the community and Ford Smith received 1/2 that amount or \$53,600 and (2) that Ford
22 smith be awarded a setoff of \$48,004 against Faith Smith's lien for her 1/2 community
23 interest in the net proceeds from the sale of the parties' Northridge, California home for
24 payments made by Ford Smith for that house and cars after Faith Smith's temporary
25 spousal maintenance was terminated.

26 The parties have community personal property which should be awarded to the parties
27 as is set forth in Attachment CP.

28 Bellingham Apartment. Ford Smith has made all the rent payments and utility payments
29 on the Bellingham apartment located at 1400 Moore St.; #B9; Bellingham, WA. . He is
30 awarded exclusive use and possession of the apartment, including an award of all
31 furniture and furnishings. The wife shall turn over all keys to the premises to Ford Smith
32 immediately and shall vacate the premises by the end of the day.

33 **2.9 Separate Property**

34 2.9.1 The husband has real and personal separate property as set forth in Attachment
35 H-SP which is incorporated as if set forth herein. This property should be awarded to
36 Petitioner Ford Smith. The respondent has sought to reopen testimony on, among other
37 things, the value of Petitioner's 1/2 interest in the Sea Tac Home. The Sea Tac home was
38 formerly owned by Petitioner's father, Robert Smith. For estate tax planning purposes, it
39 was transferred into a Qualified Personal Residence Trust in 1996. The father has been
40 a resident in this home during the trust. After the trust terminated, the property was not
41 transferred to the children until 2008. The property was transferred to Robert Smith's

1 children equally, to wit, to Christy Strong and Ford Smith. ~~The children entered into a~~
2 ~~lease with their father granting him the right to reside there indefinitely. The petitioner's~~
3 ~~share of the rent that the father pays is \$900 per month. Since the property cannot be~~
4 ~~sold in the foreseeable future, its value does not affect my determination of the division~~
5 ~~of the marital assets. The valuation of the petitioner's interest is not a simple matter.~~
6 ~~First, there would need to be an analysis of the effect of the depressed travel industry~~
7 ~~and then take that in consideration in placing a value on the property. Then, the~~
8 ~~appraiser would have to determine the discount on the value because it will not be sold~~
9 ~~in the foreseeable future since it is encumbered by the lifetime lease to the husband's~~
10 ~~father. Thirdly, the appraiser would have to determine the discount of his interest~~
11 ~~because the husband is a 50% owner of that property. It is because of these factors that~~
12 ~~the husband does not know the value of the property.~~

8 Petitioner's deposition was on August 4, 2009. Her attorney did not ask Ford Smith for a
9 valuation of the SeaTac home. Respondent's attorney did not request an appraisal from
10 the husband nor did she employ an appraiser at any time prior to trial. The respondent
11 has not provided any grounds for her neglecting to value this asset or asking Petitioner
12 to do so raising this lack of value only post-trial. Since this is the husband's separate
13 asset and its value, even if determined by an expert, would not affect this court's award
14 of assets and liabilities, the award of maintenance, or the award of attorney's fees, the
15 court deems it unnecessary to place a value on this asset.

13 The wife has real and personal separate property as set forth in Attachment W-SP which
14 is incorporated as if set forth herein. Faith Smith has separate property including her
15 Pensco/Scudder IRA account valued at \$167,000 and a house and car in the Philippines
16 valued at \$167,000 (the amount she received as her separate property in the form of
17 withdrawals from the equity line of credit on the Northridge, California home). This
18 property should be awarded to Respondent Faith Smith

16 2.10 Community Liabilities

17 The parties have community liabilities as set forth in Attachment CP.

18 2.11 Separate Liabilities

19 The husband's separate liabilities are as follows:

- 20 a. All post separation debts and liabilities
- 21 b. Any and all debts arising from the assets awarded to the husband
22 including the debt he owes to the Robert & Metal Smith Limited
23 Partnership.

23 The Wife's separate liabilities are as follows:

- 24 a. All post separation debts and liabilities
- 25 b. The Chase Line of Credit
- c. Wife's attorney's fees

- d. Sanctions imposed against her in the amount of \$4000 plus interest at 12% per annum from the date of trial.
- e. Any and all debts and liabilities arising out of any assets awarded to the wife.
- f. All debts set forth in Attachment W-SP

2.12 Maintenance

Besides the financial support that the husband had paid to the wife since the date of separation, Ford Smith provided approximately \$48,000 in payment for the family home in payments for the family home, for medical insurance and for her car insurance after the Temporary Maintenance Order was terminated. Faith Smith has requested permanent, post dissolution spousal maintenance of \$6000 per month, which amounts to approximately half of the couples combined gross income. At the time the petition for dissolution was filed, the parties had been married for almost 11 years. Prior to marrying Ford Smith, Faith Smith had retired from an inspector's position with a printing company in California, where she had earned \$16 per hour. She has not worked outside the home since that time. She is currently 65 years old, receiving monthly social security retirement payments of \$765 per month, after \$96 is deducted monthly for her Medicare premium payment. She testified at trial to a number of health issues including a history of breast cancer, shortness of breath and a pacemaker implant. Faith Smith is retired and not to be expected to return to gainful employment. During their marriage, Ford and Faith Smith lived on the income he received from a family trust, which was and is Ford Smith's separate property. Ford Smith not only paid their living expenses, such as mortgage, utilities, insurance, gasoline, etc., but he also monthly gave Faith Smith an allowance of \$1,000, \$1,000 in credit card charges and another \$1,000 they referred to as "petty cash". Ford Smith also paid for Faith Smith's travel to and from the Philippines about twice a year during the marriage as well as for trips every other month to and from Northridge California while the couple resided in Bellingham, Washington.

It appears that Faith Smith enjoyed a comfortable but not extravagant standard of living during her marriage to Ford Smith. Faith Smith has separate property including her Pensco/Scudder IRA account valued at \$167,000 and a house and car in the Philippines valued at \$167,000 (the amount of she received as her separate property in the form of withdrawals from the equity line of credit on the Northridge, California home). During the period of her separation from Ford Smith, Faith Smith initially was awarded temporary spousal maintenance but lost that award as a sanction for her failure to cooperate in discovery. According to Faith Smith's financial declaration (Exhibit 85), she has incurred almost \$70,000 in credit card expenses and personal loan indebtedness to cover her living expenses.

Ford Smith has the ability to meet his needs and financial obligations while meeting those of Faith Smith. He has an annual income of over \$100,000 from his separate property interest in the Smith Family Limited Partnership and \$900 per month rent from his Dad. He has demonstrated his ability to meet his own needs while voluntarily paying a substantial amount to meet Faith Smith's needs during the parties' separation. He has paid about \$48,000 since temporary maintenance was terminated. However, awarding Faith Smith the requested \$6000 in permanent, monthly, post dissolution

1 spousal maintenance would be an unwarranted lien on Ford Smith's separate property.

2 The Court finds that a limited amount of spousal maintenance for a definite period in
3 light of that already provided by the husband is appropriate in this case so that Faith Smith
4 can transition to her admitted stated desire of living in Cebu, Philippines where she has a
5 house and the cost of living is substantially lower. Therefore, the Court finds that
6 Faith Smith should be awarded and Ford Smith should pay spousal maintenance to her
7 in the amount of \$3000 a month for two years starting the first day of the month after the
8 decree of dissolution is entered; ~~provided that the wife has complied with the decree with
9 respect to transferring ownership of the Northridge home to the husband and she and the
10 others living there have vacated the premises.~~

2.13 Continuing Restraining Order

Does not apply.

2.14 Protection Order

Does not apply.

2.15 Fees and Costs

13 Mrs. Smith violated the Temporary Order dated October 16, 2008 by failing to provide a
14 full accounting of the \$167,000 she withdrew from Washington Mutual Savings Line of
15 Credit (n.k.a. Chase Savings) and to provide complete answers to the Interrogatories
16 and produce the documents requested Request for Production of Documents. Mrs.
17 Smith delayed almost a year in providing any information or documents to support an
18 accounting of the line of credit and her responses have incomplete or misleading (e.g.
19 failing to disclose the real estate holdings in the Pensco IRA, attempting to portray that
20 her Scudder IRA has decreased in value to a mere \$747). On May 6, 2009 the court
21 heard another request for sanctions against Ms. Smith. The court awarded \$3,000 in
22 sanctions.

23 On October 20, 2009, Petitioner's First Set of Requests for Admissions to Respondent
24 was served on Mrs. Smith's third counsel, Christina King. In accordance with CR 36(a),
25 Mrs. Smith has admitted to those requests, as she had not served any written
26 responses within thirty days thereof. Ms. Smith failed to deny those admissions.
27 Nevertheless, her fourth counsel, David Porter, sought to contest these admissions
28 necessitating a hearing on this issue and a trial on these issues with the Respondent
29 still contending that she had a community interest in the Robert and Smith Limited
30 Partnership. This caused additional attorney's fees being incurred by the petitioner to
31 enforce CR 36(a). Reasonable attorney's fees should be awarded against Respondent
32 Faith Smith for having to move for admissions of these statements and to preclude any
33 testimony with respect to these admission should be awarded against Respondent
34 Faith Smith in the amount of \$_____.

As to the second set of Request for Admissions, the respondent denied Request for
Admissions numbers 25, 26 & 32. There was no evidence or law that was a basis for

1
2 contesting those admissions. As a consequence of her failure to admit these requests,
3 the trial was unduly prolonged. Reasonable attorney fees should be awarded against
4 Respondent in the amount of \$_____.

5 On the day before the fifth trial setting, Respondent changed her answers to the First
6 Set of Interrogatories and changed her responses to the Production of Documents
7 producing documents that she had in her possession for years under the Request for
8 Production of Documents and producing them. These Interrogatories and Production of
9 documents were the very subjects of the two prior Temporary Orders. Her actions are
10 sanctionable. Attorney's fees should be awarded against the Respondent for this in the
11 amount of \$_____.

12 Under Local Rules each party is to act in good faith to try to settle the case. The parties
13 must engage in a settlement conference and in mediation. The respondent acted in
14 bad-faith at the mediation storming out in the middle of the mediation. In addition, she
15 failed to provide a proposed distribution of assets and liabilities until the second day of
16 trial. In that proposal, she demanded \$3,000,000 in cash. There was no admissible
17 evidence of Petitioner having more than \$20,000 in a bank account, let alone
18 \$4,000,000 demanded in her testimony at trial. Respondent was intransigent; her
19 tactics should be sanctioned. The respondent should pay the petitioner attorney's
20 fees/sanctions in the amount of \$_____.

21 *Each party should pay his or her own attorney fees
22 and cost*

23 **2.16 Pregnancy**

24 The wife is not pregnant.

25 **2.17 Dependent Children**

The parties have no dependent children of this marriage.

2.18 Jurisdiction Over the Children

Does not apply because there are no dependent children.

2.19 Parenting Plan

Does not apply.

2.20 Child Support

Does not apply.

2.21 Other

The first set of Requests for Admissions are incorporated as findings of fact. The

1 second set of Requests for Admissions Nos. 23, 24 and 33 are incorporated as findings.
2
3

4 III. Conclusions of Law

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

6 3.1 Jurisdiction

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

8 3.2 Granting a Decree

9 The parties should be granted a decree of dissolution.

10 3.3 Pregnancy

11 Does not apply.

12 3.4 Disposition

13 The court should approve provision for maintenance as set forth above, make provision
14 for the disposition of property and liabilities of the parties as set forth above, make no
15 provision for a restraining order, and make provision for the change of name of any
16 party. The distribution of property and liabilities as set forth in the decree is fair and
17 equitable.

18 3.5 Continuing Restraining Order

19 Does not apply.

20 3.6 Protection Order

21 Does not apply.

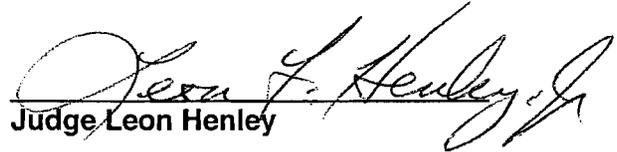
22 3.7 Attorney Fees and Costs

23 The wife should pay attorney fees, other professional fees and costs to the husband as
24 sanctions for her failure to provide discovery, her failure to negotiate in good faith and
25 her refusal to admit the Request for Admissions. It is well established that fees based
on intransigence of one party "have been granted when the party engaged in '**foot-**
dragging' and '**obstruction**' ... or simply when one party ... **increased legal costs**
by his or her actions... ." *In re Marriage of Greenlee*, 65 Wash.App. 703, 708, 829
P.2d 1120 (1992) (emphasis added). An award of attorneys' fees against Mrs. Smith

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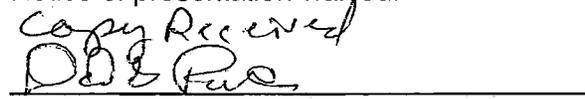
for violating the Temporary Order and for failing to provide full answers to the Interrogatories and Request for Production of Documents, for necessitating a trial over Request for Admissions that she did not deny. And for necessitating a trial for matters that she denied, but she has no factual or legal basis upon which she could deny these Request for Admissions.

Dated: 6/24/10


Judge Leon Henley

Presented by:


Robert T. Czeisler, WSBA #2092
Attorney for Petitioner

Approved for entry:
~~Notice of presentation waived:~~

David G. Porter, WSBA #17925
Attorney for Respondent

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8 SUPERIOR COURT OF WASHINGTON
COUNTY OF WHATCOM

9 In re the Marriage of:

10 FORD B. SMITH

11 Petitioner,

12 and

13 FAITH L. SMITH (AKA TAN)

14 Respondent.

No. 07-3-00280-4

DECREE OF DISSOLUTION (DCD)

15 I. Judgment/Order Summaries

16 1.1 Restraining Order Summary:

17 Does not apply.

18 1.2 Real Property Judgment Summary:

19 Real Property Judgment Summary is set forth below:

- 20 1. See Attachment FH for full legal description of Northridge, California home.
21 2. See Attachment ST for full legal description of SeaTac, Washington home.

22 1.3 Money Judgment Summary:

23 Does not apply.

24 ///

25 ///

Decree (DCD) (DCLSP) (DCINMG) - Page 1 of 6
WPF DR 04.0400 (6/2006) - RCW 26.09.030; .040; .070 (3)

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FamilySoft FormPAK 2006

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DAVIDSON, CZEISLER &
KILPATRIC, P.S.

520 Kirkland Way, Ste. 400
P. O. Box 817
Kirkland, Washington 98083-0817
(425) 822-2228
Fax: (425) 827-8725

1
2 **II. Basis**

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

4 **III. Decree**

5 *It Is Decreed* that:

6 **3.1 Status of the Marriage**

7 The marriage of the parties is dissolved.

8 **3.2 Community Property**

9 The parties have real and personal property as set forth in Attachment CP.

10 **3.3 Property to be Awarded the Husband**

11 3.3.1. The parties have real community property; to wit, the Northridge California family
12 home located at 18423 Tuba Street; Northridge, California and legally described as set
13 forth in Attachment FH. The Family Home shall be awarded to the husband Ford Smith,
14 subject to a lien as set forth in Attachment CP. Respondent Faith Smith shall forthwith
15 execute an Interspousal Transfer Deed and Tax Affidavit to effectuate that transfer which
16 is attached herein. The home shall be listed for sale at a listing price of \$450,000. Faith
17 Smith, a.k.a. Faith Tan, and all of her relatives and/or tenants shall vacate the family
18 home no later than July 1, 2010. The wife shall be responsible for any damage that
19 occurred since the husband has lived in the family home and shall effectuate any repairs
20 deemed necessary by an inspector. The wife shall make the home available for an
21 inspection upon 24 hours' notice.

22 Wife shall execute all documents necessary for Husband to put the property up or sale at
23 a listing price of \$450,000.00. In particular, the wife shall execute the Interspousal
24 Transfer Deed form transferring title to Ford Smith by no later than 3 p.m. on the date of
25 the entry of the Decree. Wife shall vacate the home no later than the first day of the
month after entry of this decree. Once sold, the distribution of the proceeds shall be as
follows:

- 21 A. The Proceeds* shall first be distributed to pay for any costs incurred in
22 making the house marketable, costs incurred in satisfying the conditions
23 imposed by the purchaser's lender or the buyer as a condition for closing the
24 sale of the property. These costs shall be paid to the provider of that service
25 or goods, if unpaid at time of closing, or to the party or third person who has
advanced said costs.
- B. The Net Proceeds** which are estimated to be \$410,940, shall be divided
as follows:

1. Husband to receive one-half of the net proceeds believed to be approximately \$205,470 plus a judgment of \$4,000 plus an equalizer lien of \$10,245 for a total of \$219,715;
2. Wife to receive remaining proceeds of approximately \$24,225 if sales price is \$450,000;

***"Proceeds" means the proceeds from the sale of the family home less: commissions, escrow fees and other closing costs.

***"Net Proceeds" means the "Proceeds" as set forth above less any disbursements as set forth in Section 3.2.1(A).

For example, if the sales price is \$450,000 and closing costs are \$39,060, the Proceeds are \$410,940. The husband would receive \$219,715. The Washington Mutual Line of Credit (n.k.a. Chase Line of Credit) estimated at \$167,000 would be paid from the wife's share of the net proceeds and the remaining balance of \$24,255 would be paid to the wife.

3.3.2. Personal Property:

Besides his interest in the family home, The husband is awarded as his separate property the real and personal property as set forth in Attachment H-SP which is incorporated as if set forth herein.

3.4 **Property to be Awarded to the Wife**

Besides her interest in the family home, The wife is awarded as her separate property the real and personal property as set forth in Attachment W-SP which is incorporated as if set forth herein.

3.5 **Community Liabilities**

The parties have community liabilities as set forth in Attachment CP.

3.6 **Liabilities to be Paid by the Husband**

The husband shall pay the following separate liabilities:

- a. All post separation debts and liabilities he incurred;
- b. Any and all debts arising from the assets awarded to the husband including the debt he owes to the Robert & Meta Smith Limited Partnership.
- c. All debts set forth in Attachment H-SP.

1 **3.7 Liabilities to be Paid by the Wife**

2 The wife shall pay the following community or separate liabilities:

- 3 a. All post separation debts and liabilities, including medical insurance;
- 4 b. Any and all debts and liabilities arising out of any assets awarded to the wife; and
- 5 c. All debts set forth in Attachment W-SP

6 **3.8 Hold Harmless Provision**

7 Hold Harmless. Each party does hereby convey and quit claim all of his or her interest
8 therein, if any, in property awarded to the other party, subject to all taxes, outstanding
9 mortgages, obligations, encumbrances, reservations, liens and restrictions of record, unless
10 otherwise provided herein. Except as set forth otherwise in the Decree, the party awarded
11 the property is also awarded any and all debts, liens, and obligations arising from said
12 property and is required to assume, pay and indemnify and hold the other party harmless
13 from said debts, liens and obligations.

14 Whenever the term "hold harmless" is used in the decree, the term means that the party
15 who fails to pay obligations awarded to him or her in the decree (the "defaulting party") is
16 required to pay the following amounts to the party burdened with paying part or all of the
17 defaulting party's obligations (the "burdened party"): (1) any and all costs incurred by the
18 burdened party in defending against collection actions for the defaulting party's debts, (2)
19 any sums the burdened party paid for the debts of the defaulting party plus interest of 12%
20 per annum on said payments, and (3) the costs of collection against the defaulting party,
21 including attorney fees and other costs incurred, if the defaulting party fails to pay the
22 burdened party the amounts set forth in Subsections 2 & 3 herein.

23 **3.9 Spousal Maintenance**

24 The husband shall pay \$3,000 maintenance per month commencing the first day of the
25 month after the Decree is entered herein for a period of 24 months.

Payments shall be made directly to the other spouse.

3.10 Continuing Restraining Order

Does not apply.

3.11 Protection Order

Does not apply.

3.12 Jurisdiction Over the Children

78

1 Does not apply because there are no dependent children.

2 **3.13 Parenting Plan**

3 Does not apply.

4 **3.14 Child Support**

5 Does not apply.

6 **3.15 Attorney Fees, Other Professional Fees and Costs**

7 Attorney fees, other professional fees and costs shall be paid as follows:

8 _____
9 _____

10 The temporary orders awarding sanctions in favor of the husband and against the wife
11 shall remain in full force and effect.

12 **3.16 Name Changes**

13 Does not apply.

14 **3.17 Other**

15 Performance of Necessary Acts. Each party shall execute any and all deeds, bills of sale,
16 endorsements, forms, conveyances or other documents, and perform any act which may
17 be required or necessary to carry out and effectuate any and all of the purposes and
18 provisions herein set forth. Upon the failure of either party to execute and deliver any such
19 deed, bill of sale, endorsement, form, conveyance or other document to the other party, the
20 Decree shall constitute and operate as such properly executed document. The County
21 Auditor and any and all other public and private officials are authorized and directed to
22 accept the Decree or a properly certified copy thereof in lieu of the document regularly
23 required for the conveyance or transfer.

24 For example, the wife shall execute an Interspousal Transfer Deed on the day of the entry
25 of the Decree and shall sign the Department of Motor Vehicles form releasing her interest in
the Mercedes Benz and the husband shall execute all necessary documents to transfer his
interest in the Lexus to wife. See Attachment Mercedes Benz and Attachment Lexus.

22 Enforcement Expenses. If either Petitioner or Respondent defaults in the performance of
23 any of the terms, provisions or obligations herein set forth, and it becomes necessary to
24 institute legal proceedings to effectuate the performance of any provisions of the Decree,
25 then the party found to be in default shall pay all expenses, including reasonable attorney
fees, incurred in connection with such enforcement proceedings.

Petitioner

79

1 The husband is awarded sole and exclusive use of the Bellingham apartment located at
2 1400 Moore St. # B 9, Bellingham, Washington. The wife shall forthwith vacate the
3 premises and deliver the keys to the apartment to the husband. *

4
5 Dated: 6/24/10

Leon F. Henley
6 Pro Tem Judge Leon Henley

7 Presented by:

~~Respondent:~~
8 ~~A signature below is actual notice of this~~
9 ~~order.~~
copy Received

10 Robert T. Czeisler
11 Robert T. Czeisler, WSBA 2092
12 Attorney for Petitioner

10 David G. Porter
11 David G. Porter, WSBA #17926
12 Attorney for Respondent

13
14 * Notice of the wife's vacating the
15 Northridge property shall be sent to
16 the husband's attorney by Federal
17 Express return receipt requested
18 or by certified mail return receipt requested.
19 Said notice shall be sent no
20 later than 24-hours before vacating
21 the premises.
22
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**ATTACHMENT CP
AWARD OF COMMUNITY ASSETS AND LIABILITIES**

The assets-liabilites below are the community property of the parties and are awarded to each party as set forth below.	ASSET	AWARD TO	AWARD TO
	(LIABILITY)	HUSBAND	WIFE
		50%	50%
Washington Mutual Acct. xxxx1018 (closed)	\$100	\$100	\$0
Tax Refund	\$6,149		\$6,149
1999 Lexus RX 300-Wife Community	\$10,190		\$10,190
Wedgwood Jasperware	\$1,000		\$1,000.00
Imitation Faberge Eggs	\$2,000		\$2,000
Sony 60" TV	\$1,500		\$1,500
Panasonic 25" TV	\$250	\$250.00	
Subtotal of Net Personal Property		\$350	\$20,839
Liabilities			
Husband paid all of Wife's credit card debt at time of separation.			
Husband had no credit card debt.			
NORTHRIDGE HOME			
Value: per Eric Domeyer	\$450,000		
Costs of Sale	(\$39,060)		
Net Community Value of Northridge Home w/o LC	\$410,940		
Gross Distribution to each of the parties		\$205,470	\$205,470
Washington Mutual (n.k.a Chase) Line of Credit ¹	(\$167,000)		
Estimated Net Proceeds from sale of Real Estate:	\$243,940	\$205,470	\$38,470
Loan to Wife for Cebu Land, Building, Car, etc	\$167,000		\$167,000
Sum of all Community Assets	\$432,129	\$205,820	\$226,309
Adjustment to Lien to equalize distribution ²		\$10,245	(\$10,245)
Husband awarded Northridge subject to W's adjusted community lien			\$28,225
Community Asset Distribution after equalizing lien		\$215,715	\$216,065
Husband's Judgment against wife for sanctions of \$4,000 deducted from li		\$4,000	(\$4,000)
Judgment against wife for sanctions trial court awarded			
Distribution of Net Proceeds of Family Home		\$219,715	\$24,225
¹ Chase Line of Credit is separate obligation of the wife and shall be deducted from her share of the proceeds.			
² Temporary Order awarded sanctions against the wife due at trial. Those amounts shall be deducted from the wife's proceeds.			
³ The community property shall be divided equally between the parties. The husband is awarded the			
Northridge property subject to the lien as set forth herein.	The proceeds will need to be adjusted to reflect actual		
sales price, the net proceeds, and the other asset values to adjust the lien accordingly.			

ATTACHMENT FH

The family home located at 18423 Northridge, California, legally described as follows:

Lot: 58 Block: 879 Page: 62 Tract: 31119

In the County of Los Angeles, State of California.

ATTACHMENT ST

The residence located at 3056 – 188th Street, SeaTac, Washington legally described as follows:

That portion of the northeast quarter of the southeast quarter of Section 33, Township 23 North, Range 4 East W.M., in King County, Washington described as follows:

Beginning at a point of intersection of the east line of the northeast quarter of the southeast quarter of said Section 33, with the north line of South 188th Street, as established by Deeds recorded under King County Recording Nos. 2522597 and 5350935;
thence along the east line of said northeast quarter, north 3 degrees 04 minutes 29 second east 230.00 feet;
thence parallel with said north line, north 88 degrees 10 minutes 06 second west 177.36 feet;
Thence south 12 degrees 54 minutes 07 seconds west 234.31 feet to said north line;
thence along the north line of said South 188th Street, north 88 degrees, 10 minutes 66 seconds east to the true point of beginning.

Tax Parcel No. 332304-9188

SUBJECT TO easements, restrictions and reservations of record.

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO:

Robert T. Czeisler
Davidson, Czeisler &
Kilpatric, P.S.
520 Kirkland Way, #400
P. O. Box 817
Kirkland, WA 98083-0817

Title Order No. _____

Escrow No. _____

SPACE ABOVE THIS LINE FOR RECORDER'S USE

APN 2731-018-042

Interspousal Transfer Deed

Grant Deed (Excluded from Reappraisal Under Proposition 13, i.e., Calif. Const. Art 13A§1 et. seq.)

The undersigned Grantor(s) declare(s) under penalty of perjury that the following is true and correct:

Documentary transfer tax is \$ 0.00

- Computed on full value of property conveyed, or Computed on full value less value of liens and encumbrances remaining at time of sale, or is exempt from imposition of the Documentary Transfer Tax pursuant to Revenue and Tax Code §11927(a), on transferring community, quasi-community, or quasi-marital property, assets between spouses, pursuant to a judgment, an order, or a written agreement between spouses in contemplation of any such judgment or order.
- Other exemptions: (state reason and give Code § or Ordinance number) _____
- Unincorporated area: City of _____ and This is an Interspousal Transfer under §63 of the Revenue and Taxation Code and Grantor(s) has (have) checked the applicable exclusion from Reappraisal under Proposition 13:
- A transfer to a trustee for the beneficial use of a spouse, or the surviving spouse of a deceased transferor, or by a trustee of such a trust to the spouse of the trustor,
- A transfer which takes effect upon the death of a spouse,
- A transfer to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage of legal separation, or
- A creation, transfer, or termination, solely between spouses, of any co-owner's interest.
- The distribution of a legal entity's property to a spouse or former spouse in exchange for the interest of such spouse in the legal entity in connection with a property settlement agreement or a decree of dissolution of a marriage or legal separation.
- Other: _____

GRANTOR(S): Faith Smith
hereby GRANT(S) to Ford Smith

the following described real property in the County of Los Angeles, State of California

Lot: 58 Book: 879 Page: 62 Tract: 31119

Dated _____

STATE OF CALIFORNIA

COUNTY OF _____

On _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____

personally known to me (or proven to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument

WITNESS my hand and official seal

Signature _____

(This area for official notarial seal)

MAIL TAX

STATEMENTS TO: Ford Smith 3056 S. 188th SeaTac, WA 98188

NAME

ADDRESS

CITY, STATE, ZIP

RE-877

84



COUNTY OF LOS ANGELES • OFFICE OF THE ASSESSOR
500 WEST TEMPLE STREET, ROOM 225 • LOS ANGELES, CA 90012-2770
Telephone: 213.974.3211 • Email: helpdesk@assessor.lacounty.gov • Website: assessor.lacounty.gov
Si desea ayuda en Español, llame al número 213.974.3211

RICK AUERBACH
ASSESSOR

PRELIMINARY CHANGE OF OWNERSHIP REPORT

[To be completed by transferee (buyer) prior to transfer of subject property in accordance with section 480.3 of the Revenue and Taxation Code.] A Preliminary Change of Ownership Report must be filed with each conveyance in the County Recorder's office for the county where the property is located; this particular form may be used in all 58 counties of California.

THIS REPORT IS NOT A PUBLIC DOCUMENT

SELLER/TRANSFEROR: Faith Tan
BUYER/TRANSFeree: Ford Smith
ASSESSOR'S PARCEL NUMBER(S) 271-018-042
PROPERTY ADDRESS OR LOCATION: 18423 Tuba Street, Northridge, CA
MAIL TAX INFORMATION TO: Name Ford B. Smith
Address 3056 S. 188th, SeaTac, WA 98188

FOR RECORDER'S USE ONLY
DOCUMENT NUMBER
RECORDING DATE

NOTICE: A lien for property taxes applies to your property on January 1 of each year for the taxes owing in the following fiscal year, July 1 through June 30. One-half of these taxes is due November 1, and one-half is due February 1. The first installment becomes delinquent on December 10, and the second installment becomes delinquent on April 10. One tax bill is mailed before November 1 to the owner of record. You may be responsible for the current or upcoming property taxes even if you do not receive the tax bill.

The property which you acquired may be subject to a supplemental assessment in an amount to be determined by the Los Angeles County Assessor. For further information on your supplemental roll obligation, please call the Los Angeles County Assessor at (213) 974-3211.

PART I: TRANSFER INFORMATION (please answer all questions)

- YES NO
A. Is this transfer solely between husband and wife (addition of a spouse, death of a spouse, divorce settlement, etc.)?
B. Is this transaction only a correction of the name(s) of the person(s) holding title to the property (for example, a name change upon marriage)? Please explain
C. Is this document recorded to create, terminate, or reconvey a lender's interest in the property?
D. Is this transaction recorded only as a requirement for financing purposes or to create, terminate, or reconvey a security interest (e.g., cosigner)? Please explain
E. Is this document recorded to substitute a trustee of a trust, mortgage, or other similar document?
F. Did this transfer result in the creation of a joint tenancy in which the seller (transferor) remains as one of the joint tenants?
G. Does this transfer return property to the person who created the joint tenancy (original transferor)?
H. Is this a transfer of property:
1. to a revocable trust that may be revoked by the transferor and is for the benefit of the transferor or transferor's spouse?
2. to a trust that may be revoked by the Creator/Grantor who is also a joint tenant, and which names the other joint tenant(s) as beneficiaries when the Creator/Grantor dies?
3. to an irrevocable trust for the benefit of the Creator/Grantor and/or Grantor's spouse?
4. to an irrevocable trust from which the property reverts to the Creator/Grantor within 12 years?
I. If this property is subject to a lease, is the remaining lease term 35 years or more including written options?
J. Is this a transfer between parent(s) and child(ren)? or from grandparent(s) to grandchild(ren)?
K. Is this transaction to replace a principal residence by a person 55 years of age or older? Within the same county? Yes No
L. Is this transaction to replace a principal residence by a person who is severely disabled as defined by Revenue and Taxation Code section 69.5? Within the same county? Yes No
M. Is this transfer solely between domestic partners currently registered with the California Secretary of State?

*If you checked yes to J, K or L, you may qualify for a property tax reassessment exclusion, which may result in lower taxes on your property. If you do not file a claim, your property will be reassessed.

Please provide any other information that will help the Assessor to understand the nature of the transfer.

If the conveying document constitutes an exclusion from a change in ownership as defined in section 62 of the Revenue and Taxation Code for any reason other than those listed above, set forth the specific exclusions claimed:

Please answer all questions in each section. If a question does not apply, indicate with "N/A." Sign and date at bottom of second page.

PART II: OTHER TRANSFER INFORMATION

- A. Date of transfer if other than recording date
B. Type of transfer (please check appropriate box):
Purchase Foreclosure Gift Trade or Exchange Merger, Stock, or Partnership Acquisition
Contract of Sale - Date of Contract
Inheritance - Date of Death Other (please explain):
Creation of Lease Assignment of a Lease Termination of a Lease Sale/Leaseback
Date lease began
Original term in years (including written options)
Remaining term in years (including written options)
Monthly Payment Remaining Term
C. Was only a partial interest in the property transferred? Yes No
If yes, indicate the percentage transferred 50 %

Please write Assessor's Parcel Number(s): 271-018-042

Please answer, to the best of your knowledge, all applicable questions, then sign and date. If a question does not apply, indicate with "N/A."

PART III: PURCHASE PRICE AND TERMS OF SALE

A. CASH DOWN PAYMENT OR value of trade or exchange (excluding closing costs) Amount \$ _____

B. FIRST DEED OF TRUST @ _____ % interest for _____ years. Pymts./Mo. = \$ _____ (Prin. & Int. only) Amount \$ _____
 FHA (_____ Discount Points) Fixed rate New loan
 Conventional Variable rate Assumed existing loan balance
 VA (_____ Discount Points) All inclusive D.T. (\$ _____ Wrapped) Bank or savings & loan
 Cal-Vet Loan carried by seller Finance company
 Balloon payment Yes No Due Date _____ Amount \$ _____

C. SECOND DEED OF TRUST @ _____ % interest for _____ years. Pymts./Mo. = \$ _____ (Prin. & Int. only) Amount \$ _____
 Bank or savings & loan Fixed rate New loan
 Loan carried by seller Variable rate Assumed existing loan balance
 Balloon payment Yes No Due Date _____ Amount \$ _____

D. OTHER FINANCING: Is other financing involved not covered in (b) or (c) above? Yes No Amount \$ _____
 Type _____ @ _____ % interest for _____ years. Pymts./Mo. = \$ _____ (Prin. & Int. only)
 Bank or savings & loan Fixed rate New loan
 Loan carried by seller Variable rate Assumed existing loan balance
 Balloon payment Yes No Due Date _____ Amount \$ _____

E. WAS AN IMPROVEMENT BOND ASSUMED BY THE BUYER? Yes No Outstanding Balance: Amount \$ _____

F. TOTAL PURCHASE PRICE (or acquisition price, if traded or exchanged, include real estate commission if paid) TOTAL ITEMS A THROUGH E \$ 0

G. PROPERTY PURCHASED Through a broker Direct from seller From a family member Other (please explain): _____
 If purchased through a broker, provide broker's name and phone number: _____
 Please explain any special terms, seller concessions, or financing and any other information that would help the Assessor understand the purchase price and terms of sale: _____

PART IV: PROPERTY INFORMATION

A. TYPE OF PROPERTY TRANSFERRED:
 Single-family residence Agricultural Timeshare
 Multiple-family residence (no. of units: _____) Co-op/Own-your-own Manufactured home
 Commercial/Industrial Condominium Unimproved lot
 Other (Description: i.e., timber, mineral, water rights, etc. _____)

B. IS THIS PROPERTY INTENDED AS YOUR PRINCIPAL RESIDENCE? Yes No
 If yes, enter date of occupancy _____ / _____ , 20 _____ or intended occupancy _____ / _____ , 20 _____
(month) (day) (year) (month) (day) (year)

C. IS PERSONAL/BUSINESS PROPERTY INCLUDED IN PURCHASE PRICE (i.e., furniture, farm equipment, machinery, etc.)
 (other than a manufactured home subject to local property tax)? Yes No
 If yes, enter the value of the personal/business property included in the purchase price \$ _____ (Must attach itemized list.)

D. IS A MANUFACTURED HOME INCLUDED IN PURCHASE PRICE? Yes No
 If yes, how much of the purchase price is allocated to the manufactured home? \$ _____
 Is the manufactured home subject to local property tax? Yes No What is the decal number? _____

E. DOES THE PROPERTY PRODUCE INCOME? Yes No If yes, is the income from:
 Lease/Rent Contract Mineral rights Other (please explain): _____

F. WHAT WAS THE CONDITION OF THE PROPERTY AT THE TIME OF SALE?
 Good Average Fair Poor
 Please explain the physical condition of the property and provide any other information (such as restrictions, etc.) that would assist the Assessor in determining the value of the property: _____

CERTIFICATION

OWNERSHIP TYPE (✓) <input checked="" type="checkbox"/> Proprietorship <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Other _____	I certify that the foregoing is true, correct and complete to the best of my knowledge and belief. This declaration is binding on each and every co-owner and/or partner.
NAME OF NEW OWNER/CORPORATE OFFICER Ford B. Smith	TITLE
SIGNATURE OF NEW OWNER/CORPORATE OFFICER 	DATE
NAME OF ENTITY (typed or printed)	FEDERAL EMPLOYER ID NUMBER
ADDRESS (typed or printed) 3056 S. 188th, SeaTac, WA 98188	PHONE NUMBER (8 a.m. - 5 p.m.) (206) 242-8838
E-MAIL ADDRESS (optional)	

(NOTE: The Assessor may contact you for additional information.)
 If a document evidencing a change of ownership is presented to the recorder for recordation without the concurrent filing of a preliminary change of ownership report, the recorder may charge an additional recording fee of twenty dollars (\$20).

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ATTACHMENT H-SEP
Husband's Separate Property awarded to the Husband

The following Assets and Liabilities are the separate asset and liability of the husband, Ford Smith.

ASSETS(LIABILITIES)

SEPARATE TO
HUSBAND

These assets are awarded to the husband free and clear of any claim or responsibility of the wife.

I. Personal Property

Washington Federal Acct. xxxx1882	\$6,500.00
All tangible property in the husband's possession at the Bellingham Apartment and at the SeaTac Home	unknown
1999 Mercedes SLK 230-H's Separate	\$9,260.00
Silver Coins	\$6,000.00
\$4,000 Judgments awarded against wife--ded'n from lien	\$4,000.00
Subtotal of Net Personal Property	\$25,760

II. Real Property

Ford Smith's interest in the Robert and Meta Smith Family Ltd. Partnership	\$837,651.00
SEA TAC HOME located at: 3056 So 188th St.; SeaTac, WA 1/2 Int with Sister and legally described as set forth in Attachment ST	Unknown

These liabilities are awarded to the husband and he shall hold the wife harmless from these obligations.

III. Liabilities

Smith Family Ltd. Partnership Promissory Note	(\$16,160.31)
Any Post separation debts that he incurred	
Attorney's fees incurred, except those W must pay pursuant to court order/Judgment	

ATTACHMENT W-SP

The following Assets and Liabilities are the separate asset and liability of the wife, Faith Smith, a.k.a. Faith Tan. These assets are awarded to the wife free and clear of any claim or responsibility of the husband:

ASSETS(LIABILITIES)	SEPARATE TO WIFE
I. Personal Property	
Pensco/Scudder IRA/Acct. xxxx0528-Wife's Name	\$167,000
Gold Coins---gift from H to wife	\$20,000.00
Silver Coins	
Crystal--gift to wife	\$1,500.00
Mother's Wedding Ring w/o 2kt diamond---gift to Faith	\$400.00
Mother's LeColtre Wristwatch-gift to Faith	\$750.00
Furniture and Furnishings at the Northridge Family Home	unknown

These liabilities are awarded to the wife. The wife shall hold the husband harmless from these obligations.

II. Liabilities

Wife's Bank of America Credit Card	(\$28,800.00)
Wife's Capital One	(\$8,353.32)
Wife's American Express	(\$5,856.00)
Wife's Chase Bank Debt	(\$4,971.00)
Wife's Citi Bank Credit Card	(\$250.00)
Pauline Grajera	(\$21,500.00)
Court Ordered Sanctions	(\$4,000.00)
Wife's Attorney's fees	Unknown
Post Separation Medical bills and post trial medical insurance costs	
Judgments awarded against wife--to be deducted from wife's lien against the Northridge Property. If insufficient, then from the maintenance payments.	(\$4,000.00)
Subtotal of Net Personal Property	\$111,920

These assets are awarded to the wife free and clear of any claim or responsibility of the husband:

III. Property Located in Philippines

Property Located in Philippines including Pacific Grand Villa Phase 2, Toyota Corolla other acquisitions valued at cost	\$167,000
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¹The \$167,000 Line of Credit is treated as the wife's separate debt. The Cebu Property is valued at cost.

² Furniture and Furnishings: H awarded Bellingham F&F, W awarded Northridge F&F.

³ Each party to be awarded all property acquired and debts incurred after May 11, 2007.

Release of Interest / Power of Attorney

Vehicle license plate / Vessel registration number		Vehicle Identification or Hull Identification number (VIN or HIN)	
Year	Make	Series / body type	Title number

Lienholder's release of interest

Requires Notarization / Certification, Unless a business entity and release is submitted with Certificate of Ownership.

Must be accompanied by Certificate of Ownership or completed, Notarized / Certified Affidavit of Loss of Title, form TD-420-040. I (We) release all interest in the above described vehicle/vessel.

_____	X	_____
Type or print lienholder name / business / company	Signature of person releasing interest	Title for business / company
_____	X	_____
Type or print lienholder name / business / company	Signature of person releasing interest	Title for business / company

Registered owner's release of interest

Requires Notarization / Certification

I (We) release all interest in the above described vehicle/vessel.

_____	X	_____
Type or print name of registered owner	Signature of registered owner	
_____	X	_____
Type or print name of registered owner	Signature of registered owner	

Notarization / Certification

State of Washington, County of _____

Signed or attested before me on _____ by _____

(Seal or stamp)

_____	Signature
_____	Printed or stamped name
_____ and _____	Dealer or county/office number or notary expiration date
Title	

Power of attorney

Requires Notarization / Certification

To: The Department of Licensing
Title and Registration Services
Olympia, Washington
And To whom it may concern:

I appoint _____ to act as my attorney-in-fact to sign all papers and documents that may be necessary in order to secure, or release, Washington title and/or registration for the vehicle/vessel described above. I agree to guarantee and save the State of Washington, and the Director of Licensing, from all responsibility for any legal action which might arise from the issuance of a Washington certificate of title and/or registration for this vehicle/vessel.

_____	X	_____
Type or print name of person granting Power of Attorney	Signature of person granting Power of Attorney	Driver license or ID card number
_____	X	_____
Type or print name of person granting Power of Attorney	Signature of person granting Power of Attorney	Driver license or ID card number

Notarization / Certification

State of Washington, County of _____

Signed or attested before me on _____ by _____

(Seal or stamp)

_____	Signature
_____	Printed or stamped name
_____ and _____	Dealer or county/office number or notary expiration date
Title	

ATTACHMENT LEXUS
 STATE OF WASHINGTON
 DEPARTMENT OF LICENSING
 PO Box 9038 • Olympia, Washington 98507-9038

AFFIDAVIT IN LIEU OF TITLE
 Reason for use: Transfer of Ownership

License Number 927WYR	VIN JT6GF10U9X0040312	Model Year 1999	Make LEXUS
Series/Body RX300	Model/Body Type /	Title Number 0028643511	Mileage 14996 A

REGISTERED OWNER: SMITH, FORD B SMITH, FAITH L 3056 S 188TH ST SEATAC WA 98188	LEGAL OWNER:
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Printed as of 04/15/2010 Time 15:31

By my signature I release interest in the vehicle described above. The title is not in my possession because it was lost, stolen, destroyed or _____

Anyone who knowingly makes a false statement of a material fact shall be guilty of a felony and upon conviction shall be punished by a fine. (RCW 46.12.210)

x Ford B. Smith
 Signature Title

Subscribed and sworn to before me this 15th day of April, 2010

McCauley
 Notary Public or Washington License Agent and County/Office/VFS Operator Number

Residing in: King

Instructions to Financial Institutions:
 To speed up the transfer process, give the title or Affidavit in Lieu of Title to the buyer with a release of interest from the seller (your customer). A vehicle odometer disclosure statement is required if the vehicle is less than 10 years old (unless exempt). The buyer can take the documents to any vehicle licensing office and transfer the title. The buyer must transfer title within (15) days of the date of sale. Failure to do so will result in penalty fees (RCW 46.12.101(5)). The seller must file a report of sale within 5 days of the date of sale; file it for free online at www.dol.wa.gov or at any vehicle licensing office for a fee.

REQUESTOR'S NAME SMITH, FORD B
 ADDRESS 1400 MOORE ST APT B9
 CITY BELLINGHAM
 STATE WA ZIP 98229

CHECK \$ CASH \$ 10.00

TO ENSURE YOUR LIABILITY IS RELEASED, PLEASE FOLLOW INSTRUCTIONS BELOW.
THE FORM MUST BE COMPLETED IN FULL. PRINT IN CAPITAL LETTERS - USE BLACK OR BLUE INK.

**NOTICE OF TRANSFER AND
RELEASE OF LIABILITY**
MAIL THIS FORM TO DMV

A. NEW OWNER'S LAST NAME (OR) COMPANY NAME FIRST

B. NEW OWNER'S ADDRESS APT NUMBER C. ODOMETER READING (NO TENTHS)

D. CITY STATE ZIP CODE E. DATE OF SALE OR LEASE RETURN MO. DAY YR.

F. SELLER'S OR LESSEE'S LAST NAME (OR) COMPANY NAME FIRST G. SELLING PRICE (NO CENTS) WHOLE DOLLARS

H. SELLER'S OR LESSEE'S ADDRESS APT NUMBER I. SELLER'S OR LESSEE'S SIGNATURE X

J. CITY STATE ZIP CODE

K. VEHICLE LICENSE OR CF NUMBER MAKE OR BUILDER - YEAR MODEL VEHICLE ID OR VESSEL HULL NUMBER

WARNING! You must provide accurate, legible information: vehicle/vessel description, your name/address, buyer's name/address, and date of sale or lease return, or the information SHALL NOT be updated or retained!

REG 138 (REV. 1/2009) WWW



NOTICE OF TRANSFER AND RELEASE OF LIABILITY

 <p>Please Protect Yourself Submit a Notice of Transfer and Release of Liability Give Us FIVE In FIVE</p>	1. VEHICLE OR VESSEL DESCRIPTION	4. DATE OF SALE OR LEASE RETURN
	2. NEW OWNER'S NAME AND ADDRESS	5. YOUR NAME AND ADDRESS
	3. ODOMETER READING	<i>Within 5 Days</i>

You are required by law to notify the Department of Motor Vehicles (DMV) within five (5) days from the date you sell or otherwise dispose of a vehicle or vessel. This form is provided for use in reporting the sale or transfer to the Department, and does not constitute application for transfer of ownership (title).

When this form is properly completed and the information is recorded by DMV (see WARNING below), liability for parking and/or traffic violations and civil litigation resulting from operation after the date of sale becomes the responsibility of the subsequent purchaser(s).

WARNING! You must provide accurate, legible information: vehicle/vessel description, your name/address, buyer's name/address, and date of sale or lease return, or the information SHALL NOT be updated or retained!

TO REMOVE YOUR NAME FROM DMV'S RECORDS, THE NEW OWNER MUST APPLY FOR TRANSFER USING THE ENDORSED CERTIFICATE OF OWNERSHIP (TITLE) RECEIVED FROM YOU.

INSTRUCTIONS FOR COMPLETING NOTICE OF TRANSFER AND RELEASE OF LIABILITY

- (A) Print name of new owner.
- (B) Print new owner's address.
- (C) Enter odometer reading at the time of sale (motor vehicles only).
- (D) Print new owner's city, state, and ZIP code.
- (E) Enter date you sold or transferred the described vehicle.
- (F) Print your name.
- (G) Enter selling price (in whole dollars - no cents). If vehicle is a gift, enter "0."
- (H) Print your address.
- (I) Sign your name where designated.
- (J) Print your city, state, and ZIP code.
- (K) Enter vehicle license plate, make, year model, and identification number.

Please Keep A Copy For Your Records! (See Reverse Side)

DETACH AND KEEP THIS PART FOR YOUR RECORDS, COMPLETE AND MAIL THE TOP CARD TO DMV.

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IN THE COURT OF APPEALS OF THE STATE OF
WASHINGTON, DIVISION 1

In Re the Marriage of:) No. 65739-9-1
)
FAITH L. SMITH,) DECLARATION OF MAILING
)
Appellant/Cross Respondent)
)
FORD B. SMITH,)
)
Respondent/Cross Appellant.)

I, David G. Porter, hereby declare under penalty of perjury under the laws of the State of Washington that the following statements are true and correct to the best of my information and belief. I am the attorney for the appellant/cross respondent. On the 20th day of December, 2010, I mailed, first class postage prepaid, a copy of the four volumes of the transcribed trial, the one volume of the hearing from the entry of orders, a copy of Appellant's Brief, Notice of Absence, and Appellant's Supplemental Designation of Clerk's Papers to:

Robert Czeisler
Davidson Czeisler and Kilpatric
520 Kirkland Way Ste. 400
P.O. Box 817
Kirkland, WA 98083-0817

2010 DEC 21 AM 9:59
FILED
CLERK OF COURT
DIVISION 1
COURT OF APPEALS
STATE OF WASHINGTON

Dated this 20th day of December, 2010

A handwritten signature in black ink, appearing to read "David G. Porter", written over a horizontal line.

David G. Porter, #17925
Attorney for Appellant

David G. Porter
103 E. Holly St., Suite 409
Bellingham, WA 98225
(360) 714-9821