

**NO. 69314-0**

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

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In re:

Angela Michelle Wright, Appellant

v.

Ryan Michael Olney, Respondent,

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Appeal from the Superior Court of Snohomish County  
The Honorable David A. Kurtz

No. 12-2-00794-1

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**RESPONDENT'S BRIEF**

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## I. INTRODUCTION

This case involves one of a series of Petitions for Protective Order filed by Appellant Angela Wright against Respondent Ryan Olney. The Hon. David Kurtz on August 16, 2012, granted an order protecting Angela Wright from contact with Ryan Olney, but did not restrict Ryan Olney's contact with Bently, the parties' one year old child. This decision was a reasonable exercise of the court's discretion, given that there were no allegations of physical or sexual abuse of the child, the father denied any physical abuse of the mother, and most of the mother's allegations were disputed. The court was called on to make a decision faced with heavily disputed and uncorroborated allegations. Further Ms. Wright hurt her credibility by making allegations that were provably false. Appellant has not made a clear showing that the court abused its discretion by entering a protective order as to the mother but not as to the child.

Further, the appeal is moot. After entry of the Order by Judge Kurtz that is subject of this Appeal, the family court in the parentage action on 9-11-12 terminated a temporary restraining order against the father. (Appendix 1). On November 29, 2012, following the report of the Guardian ad Litem who was appointed in the parentage action, the court granted unsupervised visitation to Ryan Olney without restrictions. (Appendix 2 and 3). Those family court orders will remain in effect

regardless of any decision the Court of Appeals may make regarding the denial of a Protective Order as to the child. A change in the protective order would not suspend or overrule the existing Parenting Plan. This appeal should be dismissed as moot.

The family court orders in the appendices are not part of the record in the trial court, but they are relevant on the issue of mootness. Therefore, a motion has been filed herewith requesting that the court consider this additional evidence pursuant to RAP 9.11.

## II. ASSIGNMENTS OF ERROR

### A. RESPONSE TO ASSIGNMENT OF ERROR

1. Judge Kurtz found an insufficient basis to enter a Protective Order as to Mr. Olney's child, Bently Waechter. In matters affecting the welfare of the children, the trial court has broad discretion. Its decisions are reviewed only for abuse of discretion. Appellant asserts that there was sufficient evidence to show domestic violence against the child. The trial court determines the sufficiency of the evidence and the standard of review is whether the court abused its discretion. That standard was not met.
2. The court hearing a protective order is authorized, but not required, to enter restrictive residential provisions. The court

properly determined that such restrictions were not necessary to protect Bently, and that specific visitation provisions were best determined in the pending parentage action filed by the father.

B. RESPONDENT'S STATEMENT OF ISSUES PRESENTED

1. Is it an abuse of discretion to make a determination, where allegations are disputed, that there is an insufficient basis to require an order protecting a child?
2. Is a court required to enter restrictive residential provisions as to the father's contact with the child whenever there has been a finding of domestic violence of any kind against the mother, where physical violence against the mother is unproven, and where there has been no abuse of the child?
3. Is this appeal regarding the Protective Order moot, where a parenting plan has now been entered in the Family Law Parentage Action, setting the father's time with the child?

III. STATEMENT OF THE CASE

Appellant has stated as if they were facts every allegation made by Angela Wright during four separate Petitions for Protective Orders against Ryan Olney. Mr. Olney disputed the allegations in each of these Petitions.

The first protective order was granted Dec. 15, 2010, six months before Bently was born. Ms. Wright's allegations include multiple text and e-mail messages, derogatory words, raising his fist, and pushing Ms. Wright. These allegations were disputed by Mr. Olney. The court commissioner found that Mr. Olney had committed domestic violence, but did not make findings as to any specific allegations or state specifically how the domestic violence was committed. CP 145. The record shows that the domestic violence order was terminated April 25, 2011, without conditions, by consent of the parties. CP 119.

On June 24, 2011, Ms. Wright filed the second Petition for Protective Order, making some of the same allegations as before, plus some new ones relating to Mr. Olney coming into the hospital armed. CP 99-114. Mr. Olney admitted that in the excitement of racing to the hospital when his child had been born, he accidentally walked into the hospital with a concealed weapon on his possession (for which he had a valid Concealed Weapons Permit), and denied the remainder of the allegations. CP 155-156. After a hearing the court denied Ms. Wright's petition with prejudice. CP 35. Ms. Wright claims that the medical records support her version of the events at the hospital. The records actually reflect that when a staff member noticed Mr. Olney's weapon and asked him to remove it from the hospital, he did so without argument.

CP 102. The hospital record entry further states: “He has shown not hostility or anger to staff” (sic). CP 102. The court concluded in the face of Ms. Wright’s allegations that no domestic violence had occurred. It is inappropriate for Ms. Wright to list those allegations on appeal as if they were facts. If anything, a finding of no domestic violence and an order of dismissal with prejudice should have precluded Ms. Wright from re-alleging the same “facts” in subsequent protective order petitions, but instead she did re-allege them, including in this case on appeal.

Ms. Wright’s third Petition for Protective Order, filed Nov. 17, 2011, was eventually denied as well, without prejudice, after a hearing. CP 56. Again, Ms. Wright’s proffering of her allegations as facts is inappropriate on appeal. They are only disputed allegations, and allegations rejected after previous hearings. Her statement of facts includes numerous hearsay and incorrect statements. Ms. Wright’s argument at page 8 of the brief makes a claim that Mr. Olney came to her house uninvited on Nov. 13, 2011. Mr. Olney disputed that claim at the hearing on the third petition. He stated that on Nov. 13, 2011, Ms. Wright called him and asked him to come and help with babysitting while she did work. When he arrived with two coffees, he was surprised to be met by police. CP 154-155. No protective order was in place at that time. Ms. Wright also neglects to mention that after she broke up with Mr. Olney,

she kept a cell phone belonging to Mr. Olney and fraudulently and repeatedly renewed the contract on it after Mr. Olney terminated the contract. (CP 155) This was the context of the comments about “making her pay,” which were embellished and distorted in Ms. Wright’s hearsay accounts. Again, the fact that Ms. Wright’s third petition was denied does not support any finding that her allegations were accurate, no matter how many times she repeats them.

On June 19, 2012, Mr. Olney pled guilty to a criminal charge of violating a protective order by sending an e-mail to Ms. Wright while there was a protective order in place. The violation occurred on April 8, 2011, before Bently was born (CP 151-152), but charges were not filed for many months. The protective order violated was the one issued on Dec. 15, 2010, which Mr. Olney violated in April 2011 by sending an e-mail asking to get back together, shortly before the parties did get back together and agreed to dismiss the order. CP 152. Based on the conviction in June 2012, Ms. Wright filed her fourth petition for protective order on the same day that Mr. Olney pled guilty. Based on the criminal conviction, Judge Kurtz was justified in taking that allegation as proven, and Judge Kurtz noted this conviction in issuing a protective order against Ms. Olney as to Ms. Wright. However, it is important to note that the action for which he was convicted did not involve physical violence, and took place three

months before Bently was born. Ms. Wright's allegation at page 11 of her Brief that on the charge he pled to, Mr. Olney did so "only after he discovered Ms. Wright's cooperation" is baffling since her cooperation was never in issue -- she was the complaining witness. Ms. Wright's attempt to use this conviction as a basis for restricting visitation between Mr. Olney and his son, Bently, was an unwarranted stretch, and was appropriately rejected by Judge Kurtz.

The fourth protective order, which is the subject of this appeal, was initially denied by the commissioner because of the lack of new events and because there was already a no contact order with Ms. Wright in place as a result of the criminal conviction. CP 30. On Ms. Wright's motion for revision, Judge Kurtz entered a protective order as to Ms. Wright and Sophia (not Mr. Olney's child) but found insufficient basis to enter a protective order as to Bently. The only "new" allegation of domestic violence occurring since the denial of her previous petition for protective order on Feb. 29, 2012, was the June 19, 2012 conviction for sending Ms. Wright an e-mail, but this was a violation that actually occurred in April 2011.

Two additional allegations by Mr. Olney that were not mentioned in Ms. Wright's statement of the case are these:

1. Ms. Wright damaged her credibility by her response to the parentage action filed by Mr. Olney on 2-29-12. She stated that Ryan Olney could not be the father of Bently because she and Mr. Olney were not sexually intimate in the appropriate time frame. This denial of Mr. Olney's paternity was completely inconsistent with her earlier sworn statements that Mr. Olney was the father. CP 33 and CP 155-156

2. Ms. Wright had used similar tactics to shut down visitation between her daughter Sophia and Sophia's father, Ryan Lochrie. She filed for a protective order against Mr. Lochrie alleging abuse, which was denied. Lately she has gotten back together with Mr. Lochrie. CP 32-33

3. At page 17 of her brief, Ms. Wright talks about Mr. Olney being arrested for a gun violation but neglects to mention that he was exonerated and the case was dismissed when it was determined that he had only defended himself against a thief fleeing a video store robbery.

4. Ms. Wright claims to have medical records about Mr. Olney's action but the records did not support her distorted version of the events, as noted above.

Credibility matters when it is one person's word against another's, and several triers of fact have found Ms. Wright's allegations lacking in credibility following hearings in which the courts had the opportunity to hear directly from the witnesses. The "facts" in Ms. Wright's statement of

the case are dubious and unsupported allegations by a person with an obsessive and troubled history of trying to push away the fathers of her two children. CP 32-33.

Shortly after the entry of Judge Kurtz's decision, a hearing was held in the Parentage action to address Mr. Olney's request for visitation and Ms. Wright's fifth request for a restraining order, this time within the parentage action itself. At a hearing on 9-11-12, Commissioner Gaer terminated the temporary ex parte restraining order and declined to issue a restraining order at all against the father having contact with Bently. This order is set out in Appendix 1 to this brief. A Guardian ad Litem was appointed for Bently. On November 29, 2012, following the submission of the GAL's report, Commissioner Brudvik entered an order adopting the GAL's recommendations, and entering a parenting plan that granted Mr. Olney unrestricted visitation. The order is attached as Appendix 2, and the Parenting Plan is attached as Appendix 3. These orders are relevant to the argument that the case on appeal is moot, having been superseded by the decisions in the family court.

#### IV. ARGUMENT

**A. The court acted within its discretion in finding that there was an insufficient basis to issue a protective order as to Ryan Olney having contact with his son Bently.**

As our Supreme Court has stated in *Marriage of Caven*: “in matters affecting the welfare of children, such as parenting plans, the trial court has broad discretion, and its decisions are reviewed only for abuse of discretion.” *In re the Marriage of Caven*, 136 Wn.2d 800, 806, 966 P.2d 1247 (1998). The same standard of review applies in regard to a protective order decision. See *Hecker v. Cortinas*, 110 Wn.App. 865, 869, 43 P.3d 50 (Div. II) (2002).

In *Caven, supra.*, at 809-10, the court addressed the question of abuse in regard to parenting plan restrictions under RCW 26.09.191(1)(c). Restriction “requires a finding by the court that there is ‘a history of acts of domestic violence.’ Mere accusations, without proof, are not sufficient to invoke the restrictions under the statute.” Ms. Wright basis for seeking a no contact order as to the child relies on similar “mere accusations.” Ms. Wright argues that if she has made sufficient allegations of abuse, even though the allegations were rejected by multiple courts, she has met her burden on appeal. She misunderstands the abuse of discretion standard of review.

The actual Findings (as opposed to unproven allegations) were limited. The court's finding in Dec. 15, 2010, (before Bently was born) that Mr. Olney committed unspecified domestic violence against Ms. Wright, was cited by Judge Kurtz, in combination with the recent conviction for texting Ms. Wright in April, 2011, as sufficient grounds for issuing a protective order in favor of Ms. Wright. But it does not automatically follow that those actions, both occurring before Bently was born, required the Judge to issue a protective order as to Bently, and the judge reasonably declined to do so. This decision was based on the evidence and was not an abuse of discretion.

**B. The court is not required to issue restrictions against visitation with the child whenever it issues a protective order as to the mother.** Certainly there are cases, as in the *Stewart* case cited by Appellant, where a series of abusive acts toward the mother, witnessed by the children, would justify extending the protective order to the children. *Stewart* does not hold that a protective order is required in every case where domestic violence has been found against the mother. *In Re Marriage of Stewart* 133 Wn. App. 545. 137 P. 3d 25 (Div. 1 2006)

RCW 26.50.060(1) grants authority to the court to enter restrictions, but does not make it mandatory.

“(1) Upon notice and after hearing, the court **may** provide relief as follows:

- (a) Restrain the respondent from committing acts of domestic violence;
- (b) Exclude the respondent from the dwelling that the parties share, from the residence, workplace, or school of the petitioner, or from the day care or school of a child;
- (c) Prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance from a specified location;
- (d) On the same basis as is provided in chapter 26.09 RCW, the court shall make residential provision with regard to minor children of the parties. However, parenting plans as specified in chapter 26.09 RCW shall not be required under this chapter;
- (e) Order the respondent to participate in a domestic violence perpetrator treatment program approved under RCW 26.50.150;
- (f) Order other relief as it deems necessary for the protection of the petitioner and other family or household members sought to be protected, including orders or directives to a peace officer, as allowed under this chapter;...” (emphasis added)

Only if the court determines that protection of the child is needed, then the language of paragraph (1)(d) kicks in. This case did not meet that threshold. The predicative language of subsection (1) is “the court may provide relief as follows.” Under (f), the court is authorized to “order other relief as it deems necessary for the protection of the petitioner and other family or household members sought to be protected.”

If a court determines, as Judge Kurtz did, that there is not a sufficient factual basis to enter a protective order as to Bently, the judge is not required to put a visitation plan in place, especially when there is a pending motion for visitation in the family law parentage case. The

purpose of the protective order statute is to protect families, not as an alternative way to arrive at a parenting plan. In some cases, it is appropriate to set a residential plan of some type in connection with a protective order. In this case, Judge Kurtz rightly determined that it was not necessary, because there was insufficient evidence that Bently needed protection from his father.

None of the cases cited by Appellant support the notion that a residential schedule is always required when a protective order is entered as to the mother. The allegations that were the basis for the Dec. 15, 2010 protective order, even if taken to be true, all occurred well before Bently was born. Unlike in the *Stewart* case, none of those allegations, nor the e-mail violation, were witnessed by Bently, or provided any reason to believe Bently was afraid of his father.

The *Barone* case cited by Appellant held that protective orders do not modify parenting plans and therefore do not excuse paying child support. *In re the Marriage of Barone*, 100 Wn.App. 241, 996 P.2d 654 (2000). It does not support the argument that all protective orders must restrict visitation rights.

*Danny v. Laidlaw Transit Serv., Inc* has no bearing -- it addresses whether a victim of domestic violence can be fired for taking leave from

work to deal with the domestic violence. *Danny v. Laidlaw Transit Serv., Inc.*, 165 Wn.2d 200, 193 P.3d 128 (2008).

Ms. Wright accuses Mr. Olney of an abusive use of conflict. It is she who has engaged in abusive use of conflict, filing four protective orders and one restraining order in less than two years, denying that Mr. Olney was even a possible father of Bently, and deliberately inviting him to come over so she could have him arrested. As the Guardian ad Litem concluded in her recommendations, which were adopted by the court in the Parentage case (Page 3 of Appendix 2.):

“The GAL is very concerned that mother appears to have an overwhelming need to be the only parent with any authority over the child. There may also be some need for her to be a victim. Therefore the GAL is recommending that mother undergo a mental health evaluation and comply with any treatment recommendation.”

Ms. Wright argues at page 31 of her brief that there was “sufficient evidence before the trial court to enter a finding that Mr. Olney had a history of domestic violence and emotional abuse.” The test on appeal is not whether there was sufficient evidence for the court to decide the other way. The standard of review is whether, on conflicting evidence, it was abuse of discretion for the court to decide the way it did. That standard has not been met, and the appeal should be denied.

**C. This appeal is moot because any decision by the Court of Appeals will not overrule the parenting plan now in place.**

As noted in *Stewart, supra*, at 554-555:

“We agree that a protection order cannot actually suspend a parenting plan. Nor can it impose a long-term restriction on parental contact with a minor child, or otherwise affect the terms of the parenting plan. In purporting to suspend the entire parenting plan, the order here was overbroad.”

“Wilson cites the holding of *In re Marriage of Barone* for his proposition that a protection order may not operate as a *de facto* modification of a parenting plan. His citation is correct, but not pertinent. The order in *Barone* purported to effect a *permanent* change in child support allocation. Here, what occurred was a **temporary interruption of contact pending further proceedings in family court**, as authorized by the protection order statutes to protect children from the immediate threat of domestic violence.” (emphasis added)

And later in *Stewart* at 556, “Here, the evidence amply supported the prohibition, and the order was entered in contemplation of further proceedings in family court, which Nicole initiated the same day.”

In our case, Judge Kurtz entered no restrictive order as to visitation (because, in his review of the evidence, none was needed) and properly anticipated a decision on a parenting plan in the parentage action, which is what occurred. The same thing occurred in *Stewart*, as noted by the court at 554.

In the morning on March 10, 2005, Judge North refused to revise the protection order. The same afternoon, Nichole filed a motion in family court seeking to modify the parenting plan.

Wilson could have done the same. If protection order restrictions have more than a very temporary duration, it is because the parties have delayed in seeking resort to family court. Delay is not a result of the protection order.

The statute on restriction on parenting plans clearly contemplates that a protective order may be overruled by a later parenting plan decision by the family court. RCW 26.09.191(2)(n) states:

If the court expressly finds based on the evidence that contact between the parent and the child will not cause physical, sexual, or emotional abuse or harm to the child and that the probability that the parent's or other person's harmful or abusive conduct will recur is so remote that it would not be in the child's best interests to apply the limitations of (a), (b), and (m)(i) and (iii) of this subsection, or if the court expressly finds that the parent's conduct did not have an impact on the child, then the court need not apply the limitations of (a), (b), and (m)(i) and (iii) of this subsection. **The weight given to the existence of a protection order issued under chapter 26.50 RCW as to domestic violence is within the discretion of the court.** This subsection shall not apply when (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m)(ii) of this subsection apply. (emphasis added)

Once the family court has issued its parenting plan, that controls each parent's residential time with the child. Ms. Wright is correct in saying that Protective Order hearings meet the requirements of due process, but they are designed to be quick and efficient. A hearing in family court, especially with the benefit of a Guardian ad Litem's report, also meets the requirements of due process, and does so in a way that has the luxury of time and can more thoroughly develop the facts. As indicated in *Stewart*, any provisions of a protective order apply only until

the family court makes a superseding decision. Therefore, it makes no difference at this point whether Judge Kurtz should have issued a protective order as to Bently. We have moved past that issue with the entry of a Parenting Plan in the parentage action. The relief requested by Appellant will have no effect on the visitation that will actually occur.

It is a general rule that where only moot questions on abstract propositions are involved or where the substantial questions involved in the trial court no longer exist, the appeal should be dismissed. *Sorenson v. City of Bellingham*, 80 Wn.2d 547, 558, 496 P.2d 512 (1972). *Matter of Eaton*, 110 Wn.2d 892, 895, 757 P.2d 961 (1988). An exception exists where there is a matter of substantial and continuing public interest involved, but that is not the case here. This case is about three people: a child who will benefit from having two involved parents, a father trying to have a relationship with his son, and a mother throwing up as many roadblocks as she can to keep him out of his son's life. To the extent there is a public interest it would be in having the parenting plan proceed as recommended by the guardian ad litem, after diligent study of the facts.

#### V. ATTORNEY FEES

No fees should be awarded to Ms. Wright, who has filed an appeal that is moot, of a decision that was well within the judge's discretion.

This appeal was not a well- considered use of the limited resources of the Northwest Justice Project.

#### VI. CONCLUSION AND RELIEF REQUESTED

Respondent Ryan Olney requests that the decision of Judge Kurtz be sustained, that Appellant's appeal be dismissed, and that Mr. Olney be awarded allowable fees and costs of defending against this appeal.

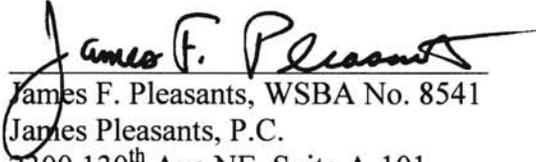
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#### VI. CONCLUSION AND RELIEF REQUESTED

Respondent Ryan Olney requests that the decision of Judge Kurtz be sustained, that Appellant's appeal be dismissed, and that Mr. Olney be awarded allowable fees and costs of defending against this appeal.

December 26, 2012

Respectfully submitted,

  
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# Appendix 1

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SONYA KRASKI  
COUNTY CLERK  
SNOHOMISH CO. WASH

**Superior Court of Washington  
County of Snohomish**

In re the Parentage of:

Bently Michael Paul Waechter,  
Child,

RYAN OLNEY,  
Petitioner,

and

ANGELA M. WRIGHT, Mother,  
Respondent,

STATE OF WASHINGTON, Involved Party.

No. 12-5-00042-4

**Temporary Order  
(TMO/TMRO)**

Clerk's Action Required  
 Law Enforcement

**I. Judgment/Order Summaries**

**1.1 Restraining Order Summary**

Restraining Order Summary is set forth below:

Name of person(s) restrained: RYAN MICHAEL OLNEY.  
Name of person(s) protected: ANGELA M. WRIGHT AND BENTLY MICHAEL PAUL WAECHTER.  
**See paragraph 3.1.**

**Violation of a Restraining Order in paragraph 3.1 with actual notice of its terms is a criminal offense under Chapter 26.50 RCW and will subject the violator to arrest. RCW 26.09.060.**

**1.2 Money Judgment Summary**

Does not apply.

M, II  
Creek PD No LETA

ORIGINAL

## II. Basis

A motion for a temporary order was presented to this court and the court finds reasonable cause to issue the order.

## III. Order

**It is Ordered:**

### 3.1 Restraining Order

#### **Previous Order**

The prior restraining order dated August 23, 2012:

- Remains in full force and effect.
- Is terminated.
- ~~Is terminated and replaced by the following:~~

This order shall be filed forthwith in the clerk's office and entered of record. The clerk of the court shall forward a copy of this order on or before the next judicial day to (name of appropriate law enforcement agency) MILL CREEK POLICE DEPARTMENT which shall forthwith enter this order into any computer-based criminal intelligence system available in this state used by law enforcement agencies to list outstanding warrants. (A law enforcement information sheet must be completed by the party or the party's attorney and provided with this order before this order will be entered into the law enforcement computer system.)

**Violation of a Restraining Order in paragraph 3.1 with actual notice of its terms is a criminal offense under Chapter 26.50 RCW and will subject the violator to arrest. RCW 26.09.060.**

- ~~The  petitioner  respondent is restrained and enjoined from disturbing the peace of the other party or of any child.~~
- ~~The  petitioner  respondent is restrained and enjoined from going onto the grounds of or entering the home, work place or school of the other party, or the day care or school of the following named children: Bently Michael Paul Waechter.~~
- The  petitioner  respondent is restrained and enjoined from knowingly coming within or knowingly remaining within (distance) 100 Yards of the home, work place or school of the other party, or the day care or school of these children: Bently Michael Paul Waechter.

~~(Name) Ryan Michael Olney is restrained and enjoined from molesting, assaulting, harassing or stalking (name) Angela M. Wright and minor child, Bently Michael Paul Waechter. (The following firearm restrictions apply if this box is checked and The parties are intimate partners as defined under federal law: Effective immediately and continuing as long as this restraining order is in effect, the restrained person may not possess a firearm or ammunition. 18. U.S.C. § 922(g)(8). A violation of this federal firearms law carries a maximum possible penalty of 10 years in prison and a \$250,000 fine. An exception exists~~

for law enforcement officers and military personnel when carrying department/government-issue firearms. 18 U.S.C. § 925(a)(1).)

**Clerk's Action/Law Enforcement Action**

This order shall be filed forthwith in the clerk's office and entered of record. The clerk of the court shall forward a copy of this order on or before the next judicial day to (name of appropriate law enforcement agency) \_\_\_\_\_ which shall forthwith enter this order into any computer-based criminal intelligence system available in this state used by law enforcement agencies to list outstanding warrants. (A law enforcement information sheet must be completed by the party or the party's attorney and provided with this order before this order will be entered into the law enforcement computer system.)

**Service**

The restrained party or attorney appeared in court or signed this order; service of this order is not required.

JPP

~~XXX~~

The restrained party or attorney did not appear in court; service of this order is required. The requesting party must arrange for service of this order on the restrained party. File the original Return of Service with the clerk and provide a copy to the law enforcement agency listed above.

**Expiration Date**

This restraining order will expire in 12 months and shall be removed from any computer-based criminal intelligence system available in this state used by law enforcement agencies to list outstanding warrants, unless a new order is issued, or unless the court sets forth another expiration date here: (month/day/year) \_\_\_\_\_

**Full Faith and Credit**

Pursuant to 18 U.S.C. § 2265, a court in any of the 50 states, the District of Columbia, Puerto Rico, any United States territory, and any tribal land within the United States shall accord full faith and credit to the order.

**3.2 Temporary Relief**

[X] The [X] petitioner shall pay the other party \$426.41 per month child support.

Starting Date: September 2012  
Day(s) of the month payment is due: 1st

Payments shall be made to:

[X] The Washington State Child Support Registry (if child support is ordered).

[X] Child support shall be paid in accordance with the temporary order of child support, signed by the court.

JPP

~~XXX~~ The parties shall comply with the Temporary Parenting Plan signed by the court.

The  petitioner and the  respondent are restrained and enjoined from removing the child from the state of Washington.

Other:

**3.3 Bond or Security**

Does not apply.

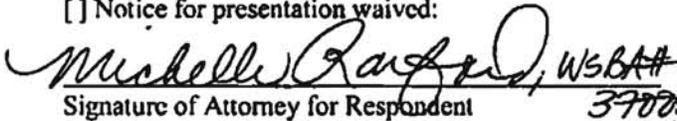
3.4 Other <sup>within 30 days</sup> a Ryan Olney will provide to the court his certificate of completion of his alcohol classes ordered for his DUI. If not filed ~~he shall obtain a~~ new evaluation.

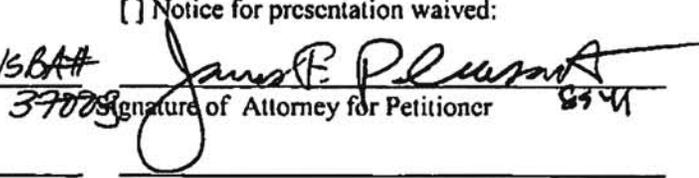
Dated: 9/11/2012

  
Judge/Commissioner

Petitioner:  
A signature below is actual notice of this order.  
 Presented by:  
 Approved for Entry:  
 Notice for presentation waived:

Respondent or respondent's attorney:  
A signature below is actual notice of this order.  
 Presented by:  
 Approved for Entry:  
 Notice for presentation waived:

  
Signature of Attorney for Respondent

  
Signature of Attorney for Petitioner

Angela M. Wright, Mother  
Respondent

# Appendix 2

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2012 NOV 29 PM 12:44

SONYA KRASKI  
COUNTY CLERK  
SNOHOMISH CO. WASH



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

In Re Parentage of  
Bentley Michael Paul Waechter  
Ryan Olney ~~PLAINTIFF~~ / PETITIONER /  
FATHER  
and  
Angela Wright  
DEFENDANT / RESPONDENT /  
Mother

NO. 12-5-00042-4

ORDER

IT IS HEREBY ORDERED: The court has considered both motions and GAL report.

1. The court directs the parties to promptly set this matter for trial; both parents shall promptly take the <sup>required</sup> parent seminar.
2. The court adopts the GAL recommendation attached as exhibit A, except as to recommendation #5, which is reserved as it would require a further motion/hearing
3. The father's proposed <sup>temporary</sup> parenting plan is approved, subject to the agreed changes on page 2
4. The mother's motions are denied

DONE IN OPEN COURT this date: 11/29/12

Presented By:

James F. Pecesato

Jacalyn D Budnik  
JUDGE / COURT COMMISSIONER

Copy Received:

Angela Wright ORIGINAL  
GAL \$36384

Case Name Parentage of Bently Waechter Case No. 12-G-00042-4

By agreement of the parties, the child will stay with Ryan Olney from Christmas Eve at 3:00 pm. until NOON Christmas Day, and will reside with the mother for the remainder of Christmas day. As to New Years Eve and New Years day, ~~the time with each parent will follow the~~ the child shall reside with father from 6:00 p.m. New Years Eve until 3:00 p.m. New Years day

The mother will provide to the father a copy of ~~the~~ Bently's medical card & SST

The Wednesday visits will be from 5:00 p.m. to 7:00 p.m.

wednesday dropoff <sup>by mother</sup> will be at the Fred Meyer Parking Lot (Everett). John will pick up the child there and transport to John's house for Ryan's pick up. John will drop off at same place. IF John is unable, Moffatt's may pick up and drop off at same location.

weekend drop off and pick up will be through Moffatts at Moffatts' house. ~~near Moffatt's house~~ Ryan will pick and drop off there, leaving a half hour margin to avoid contact between Ryan and Angela.

DONE IN OPEN COURT this date: 11/29/12

Presented By:

James F. Pleasant

Jeanne D. Bandini  
JUDGE / COURT COMMISSIONER

Copy Received:

Angela Moffatt

**ORIGINAL**

James F. Pleasant  
SAC WSDA 3638

1 In mother's latest amended motion, she requests that the court not allow the father to  
2 seek medical treatment for the child, unless on an emergency basis. The GAL is  
3 concerned that the mother does not want the father to seek medical treatment for the  
4 child. The GAL is also concerned that, despite specifically requesting that the mother  
5 provide the father with Bently's medical insurance card, she refuses to do so.

6 It is the GAL's conclusion that this behavior by the mother constitutes abusive use of  
7 conflict.

### 8 RECOMMENDATIONS:

- 9 1. The GAL is very concerned that mother appears to have an overwhelming need  
10 to be the only parent with any authority over the child. There may also be some  
11 need for her to be a victim. Therefore, the GAL is recommending that mother  
12 undergo a mental health evaluation and comply with any treatment  
13 recommendations.
- 14 2. Although the GAL is not recommending that the father undergo a drug and  
15 alcohol evaluation, the GAL is recommending that the father make an  
16 appointment with his physician and obtain an updated report regarding his use of  
17 medical marijuana and/or any other medication that may contain  
18 benzodiazepines.
- 19 3. For purposes of temporary orders, the GAL is recommending that the Court  
20 adopt the father's proposed parenting plan. All restrictions shall be reserved.  
21 When final orders are entered, the GAL is recommending that there be no  
22 restrictions upon the father's time with the child unless there is new evidence of  
23 excessive alcohol or illegal drug use, and recommends that the father have  
24 primary residential custody if the mother's abusive use of conflict does not stop.
- 25 4. Mother shall immediately provide father with the child's insurance card. Father  
shall have every right to seek medical attention for the child, and shall inform the  
mother that he is doing so. It would be preferable for both parents to be present  
at the child's medical appointments. However, unless the no contact/protection  
orders are modified, this will not be possible. Therefore, until the orders are  
modified, the GAL is recommending that father be responsible for taking the child  
to the doctor. The child's current pediatrician should remain his doctor. These  
appointments will be in addition to his visitation time. Mother shall be informed of  
any appointment the father makes, and shall make the child available. ~~Mother  
may have a third party attend the appointments with the father.~~ If either parent  
takes the child to the emergency room, they are to contact the other parent  
immediately - before leaving for the emergency room - in order to give the other  
parent an opportunity to have a third party also present at the emergency room.  
(It is understood that any contact between the mother and father may be through  
a third party, and the GAL recommends that person be John Olney.)

*\* a third party attend  
the doctor appts with whichever  
parent takes child to doctor.  
Third party shall be John Olney or Melody  
Moffat or other agreed-upon person.*

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5. If mother refuses to make the child available for appointments, does not inform the father that she is taking the child to the emergency room, or for any reason refuses to allow visitation with the father, the GAL recommends that primary residential custody immediately revert to the father with professionally supervised visitation for the mother. - *Reserved*

JFF  
JFB  
JW

DATED: November 27, 2012.

By: *Alison A. Ferguson*  
Alison A. Ferguson, WSBA No. 36384  
Guardian ad Litem / Attorney

# Appendix 3

**CERTIFIED  
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SONYA KRASKI  
COUNTY CLERK  
SNOHOMISH CO. WASH



CL15707292

Superior Court of Washington  
County of SNOHOMISH

No. 12-5-00042-4

In re the Parentage of:

Bently Michael Waechter

Child(ren),

Ryan Olney

Petitioner,

And

Respondent:

Angela Wright

Mother

Parenting Plan

~~Proposed (PPP)~~

Temporary (PPT) by ~~father~~

*9/13*

This parenting plan is proposed by Ryan Olney.

*It Is Ordered, Adjudged and Decreed:*

**I. General Information**

This parenting plan applies to the following parents: Ryan Olney and Angela Wright, and to the following child:

<u>Name</u>	<u>Age</u>
Bently Michael Waechter	1

Parenting Plan (PPP, PPT, PP) - Page 1 of 7  
WPF PS 01.0400 Mandatory (12/2009) - RCW 26.26.130,  
26.09.016,.181;.187;.194

**ORIGINAL**

James Pleasants, P.C.  
2300 130th Ave. NE Ste. A101  
Bellevue, WA 98005  
(425) 615-7070  
Fax (425) 497-0799

1 **II. Basis for Restrictions**

2 *Under certain circumstances, as outlined below, the court may limit or prohibit a parent's contact with*  
3 *the child and the right to make decisions for the child.*

4 **2.1 Parental Conduct (RCW 26.09.191(1), (2))**

5 Does not apply.

6 **2.2 Other Factors (RCW 26.09.191(3))**

7 Does not apply.

8 **III. Residential Schedule**

9 *The residential schedule must set forth where the child shall reside each day of the year, including*  
10 *provisions for holidays, birthdays of family members, vacations, and other special occasions, and what*  
11 *contact the child shall have with each parent. Parents are encouraged to create a residential schedule*  
12 *that meets the developmental needs of the child and individual needs of their family. Paragraphs 3.1*  
13 *through 3.9 are one way to write your residential schedule. If you do not use these paragraphs, write in*  
14 *your own schedule in Paragraph 3.13.*

15 **3.1 Schedule for Children Under School Age**

16 Prior to enrollment in school, the child shall reside with Angela Wright, except for the following  
17 days and times when the child will reside with or be with the other parent:

18 from Wednesday ~~6:00~~<sup>5:00</sup> p.m. to Wednesday ~~8:00~~<sup>7:00</sup> p.m. every week; and  
19 from Friday ~~6:00~~<sup>5:00</sup> p.m. to Sunday ~~8:00~~<sup>7:00</sup> p.m. every other week  
20  
21  
22  
23  
24  
25

} JPP AW 9/13

**3.2 School Schedule: reserved**

Upon enrollment in school, the child shall reside with \_\_\_\_\_, except for the  
following days and times when the child will reside with or be with the other parent:

**3.3 Schedule for Winter Vacation: reserved**

The child shall reside with \_\_\_\_\_ during winter vacation, except for the following  
days and times when the child will reside with or be with the other parent:

1 **3.4 Schedule for Other School Breaks: reserved**

2 The child shall reside with \_\_\_\_\_ during other school breaks, except for the  
3 following days and times when the child will reside with or be with the other parent:  
4

5 **3.5 Summer Schedule: reserved**

6 Upon completion of the school year, the child shall reside with \_\_\_\_\_, except for the  
7 following days and times when the child will reside with or be with the other parent:  
8

8 **3.6 Vacation With Parents**

9 The schedule for vacation with parents is as follows:

10 Starting when the child is two years old, the father will be able to have uninterrupted vacation  
11 time with the child for two periods of one week each.

11 **3.7 Schedule for Holidays**

12 The residential schedule for the child for the holidays listed below is as follows:

	With Ryan Olney	With Angela Wright	
	(Specify Year <u>Odd/Even/Every</u> )	(Specify Year <u>Odd/Even/Every</u> )	
13			
14			
15			
16	New Year's Day	odd	even
17	Martin Luther King Day	even	odd
18	Presidents' Day	odd	even
19	Memorial Day	even	odd
20	July 4th	odd	even
21	Labor Day	even	odd
22	Veterans' Day	odd	even
23	Thanksgiving Day	even	odd
24	Christmas Eve	odd	even
25	Christmas Day	even	odd

*see separate order p 2*

*JFP  
AW  
ANS*

21 For purposes of this parenting plan, a holiday shall begin and end as follows (set forth times):

22 6:00 p.m. the day before the holiday until 8:00 p.m. the day of the holiday  
23

24 **3.8 Schedule for Special Occasions**

1 The residential schedule for the child for the following special occasions (for example, birthdays)  
2 is as follows:

	With Ryan Olney	With Angela Wright
	(Specify Year <u>Odd/Even/Every</u> )	(Specify Year <u>Odd/Even/Every</u> )
5 Mother's Day		every
6 Father's Day	every	
6 Father's birthday	every	
7 Mother's birthday		every

### 8 3.9 Priorities Under the Residential Schedule

9 If the residential schedule, paragraphs 3.3 - 3.8, have priority over paragraphs 3.1 and 3.2, in the  
10 following order:

11 Rank the order of priority, with 1 being given the highest priority:

- 12 winter vacation (3.3)
- 12 school breaks (3.4)
- 12 summer schedule (3.5)
- 13 1 vacation with parents (3.6)
- 13 2 holidays (3.7)
- 14 3 special occasions (3.8)

### 15 3.10 Restrictions

16 Does not apply because there are no limiting factors in paragraphs 2.1 or 2.2.

### 17 3.11 Transportation Arrangements

18 Transportation costs are included in the Child Support Worksheets and/or the Order for Child  
19 Support and should not be included here.

20 Transportation arrangements for the child between parents shall be as follows:

21 The child will be picked up and dropped off at a neutral location, due to the fact that there is a  
22 protective order and a no contact order preventing Mr. Olney from having contact with Angela  
23 Wright. The neutral location shall be agreed between the parties, but may be a police station, or  
24 the home of mutually agreeable person who is willing to serve in that capacity. If not otherwise  
25 agreed, the neutral location will be the home of John Olney, and both parties will call Mr. Olney  
to make sure the other party has left before going to John Olney's house to pick up or drop off the  
child.

### 3.12 Designation of Custodian

1 The child named in this parenting plan are scheduled to reside the majority of the time with  
2 Angela Wright. This parent is designated the custodian of the child solely for purposes of all  
3 other state and federal statutes which require a designation or determination of custody. This  
4 designation shall not affect either parent's rights and responsibilities under this parenting plan.

5 **3.13 Other**

6 **3.14 Summary of RCW 26.09.430 - .480, Regarding Relocation of a Child**

7 This is a summary only. For the full text, please see RCW 26.09.430 through 26.09.480.

8 If the person with whom the child resides a majority of the time plans to move, that person shall  
9 give notice to every person entitled to court ordered time with the child.

10 If the move is outside the child's school district, the relocating person must give notice by  
11 personal service or by mail requiring a return receipt. This notice must be at least 60 days before  
12 the intended move. If the relocating person could not have known about the move in time to give  
13 60 days' notice, that person must give notice within five days after learning of the move. The  
14 notice must contain the information required in RCW 26.09.440. See also form DRPSCU  
15 07.0500, (Notice of Intended Relocation of A Child).

16 If the move is within the same school district, the relocating person must provide actual notice by  
17 any reasonable means. A person entitled to time with the child may not object to the move but  
18 may ask for modification under RCW 26.09.260.

19 Notice may be delayed for 21 days if the relocating person is entering a domestic violence shelter  
20 or is moving to avoid a clear, immediate and unreasonable risk to health and safety.

21 If information is protected under a court order or the address confidentiality program, it may be  
22 withheld from the notice.

23 A relocating person may ask the court to waive any notice requirements that may put the health  
24 and safety of a person or a child at risk.

25 Failure to give the required notice may be grounds for sanctions, including contempt.

**If no objection is filed within 30 days after service of the notice of intended relocation, the  
relocation will be permitted and the proposed revised residential schedule may be  
confirmed.**

A person entitled to time with a child under a court order can file an objection to the child's  
relocation whether or not he or she received proper notice.

An objection may be filed by using the mandatory pattern form WPF DRPSCU 07.0700,  
(Objection to Relocation/Petition for Modification of Custody Decree/Parenting Plan/Residential  
Schedule). The objection must be served on all persons entitled to time with the child.

Parenting Plan (PPP, PPT, PP) - Page 5 of 7  
WPF PS 01.0400 Mandatory (12/2009) - RCW 26.26.130,  
26.09.016,.181;.187;.194

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Bellevue, WA 98005  
(425) 615-7070  
Fax (425) 497-0799

1 The relocating person shall not move the child during the time for objection unless: (a) the  
2 delayed notice provisions apply; or (b) a court order allows the move.

3 If the objecting person schedules a hearing for a date within 15 days of timely service of the  
4 objection, the relocating person shall not move the child before the hearing unless there is a  
5 clear, immediate and unreasonable risk to the health or safety of a person or a child.

#### 6 **IV. Decision Making**

##### 7 **4.1 Day to Day Decisions**

8 Each parent shall make decisions regarding the day-to-day care and control of each child while  
9 the child is residing with that parent. Regardless of the allocation of decision making in this  
10 parenting plan, either parent may make emergency decisions affecting the health or safety of the  
11 child.

##### 12 **4.2 Major Decisions**

13 Major decisions regarding each child shall be made as follows:

	has sole decision making for:	has sole decision making for:	Both parents have joint decision making for:
14 Education decisions			X
15 Non-emergency health care			X

##### 16 **4.3 Restrictions in Decision Making**

17 Does not apply because there are no limiting factors in paragraphs 2.1 and 2.2 above.  
18

#### 19 **V. Dispute Resolution**

20 *The purpose of this dispute resolution process is to resolve disagreements about carrying out this*  
21 *parenting plan. This dispute resolution process may, and under some local court rules or the provisions*  
22 *of this plan must, be used before filing a petition to modify the plan or a motion for contempt for failing*  
*to follow the plan.*

23 No dispute resolution process, except court action is ordered.

#### 24 **VI. Other Provisions**

25 Parenting Plan (PPP, PPT, PP) - Page 6 of 7  
WPF PS 01.0400 Mandatory (12/2009) - RCW 26.26.130,  
26.09.016,.181;.187;.194

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1  
2 **VII. Declaration for Proposed Parenting Plan**

3 I declare under penalty of perjury under the laws of the State of Washington that this plan has  
4 been proposed in good faith and that the statements in Part II of this Plan are true and correct.

5 \_\_\_\_\_  
6 Angela Wright  
Signature of Party

\_\_\_\_\_ Date and Place of Signature

7 approved by telephone

8 \_\_\_\_\_  
9 Ryan Olney  
Signature of Party

\_\_\_\_\_ Date and Place of Signature

10 **VIII. Order by the Court**

11 It is ordered, adjudged and decreed that the parenting plan set forth above is adopted and approved as an  
12 order of this court.

13 **WARNING:** Violation of residential provisions of this order with actual knowledge of its terms is  
14 punishable by contempt of court and may be a criminal offense under RCW 9A.040.060(2) or RCW  
9A.40.070(2). Violation of this order may subject a violator to arrest.

15 When mutual decision making is designated but cannot be achieved, the parties shall make a good faith  
effort to resolve the issue through the dispute resolution process.

16 If a parent fails to comply with a provision of this plan, the other parent's obligations under the plan are  
17 not affected.

NOV 29 2012

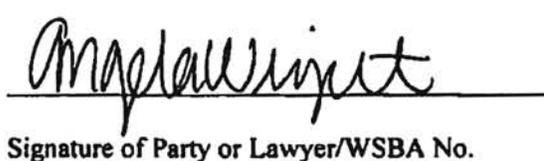
18 Dated: \_\_\_\_\_

  
Judge/Commissioner

19 Presented by:

Approved for entry:

20 \_\_\_\_\_  
21 James F. Pleasants 8541  
22 James Pleasants  
23 Signature of Party or Lawyer/WSBA No.

\_\_\_\_\_   
Signature of Party or Lawyer/WSBA No.

24 \_\_\_\_\_  
25 Alison A. Ferguson, GAL 36384  
Parenting Plan (PPP, PPT, PP) - Page 7 of 7  
WPF PS 01.0400 Mandatory (12/2009) - RCW 26.26.130,  
26.09.016, 181, 187, 194

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