

No. 71915-7-1

**The Court of Appeals of the State of Washington
Division I**

In Re the Marriage of:

SANDRA LEE NORRIS,

Respondent,

v.

BRETT ALAN NORRIS

Appellant.

BRIEF OF RESPONDENT

James T. Hendry, WSBA No. 37411
4100 194th Street SW
Lynnwood, WA 98036
425 387 9719

FILED
CLERK OF COURT
JAN 14 2015
11:15 AM
DIVISION I
COURT OF APPEALS
STATE OF WASHINGTON
LYNNWOOD



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I. INTRODUCTION

This matter comes before the court on Mr. Norris' appeal of the trial court's decisions as to both the amount and duration of an award of separate maintenance to Ms. Norris in the dissolution of the parties' 24 year marriage. Mr. Norris' appeal for recalculation of the monthly value and the duration award of separate maintenance to Ms. Norris should be denied.

II. RESPONSE TO APPELLANT'S ASSIGNMENTS OF ERROR

1. RCW 26.09.090 governs an award of maintenance The maintenance order shall be in such amounts and for such periods of time as the court deems just.
1. Appellant fails to prove the insufficiency of the testimony evidence. Both parties testified before the court as to the lifestyle and health of the petitioner during the marriage. The testimony before the court was rationally based on both parties' perception and was helpful to clearly understanding the witness's testimony as to the fact(s) at issue.
2. Appellant fails to provide evidence of the net value of appellant's income; or, that the residual of appellant's income is somehow "unfair".

III. STATEMENT OF THE CASE

1. FACTS

The parties were married in 1984, each at about the age of 21 years,(now about 51yrs old). The parties are parents to 5 children, one of whom, Rebecca, is a minor child, another, Ryan, is seeking post secondary education support. The other three children are independent adults.

At the onset of the marriage, Ms. Norris did some office work while Mr. Norris completed his education as an electrician, the vocation he practices to this day. Upon the pending arrival of their first child, Meagan, (26 years prior to trial), Ms. Norris quit working. Ms. Norris has not held employment since. Mr. Norris has always provided for the family financially. By agreement of the parties Ms. Norris was a stay at home parent. The children were raised by their parents without daycare. Except for a few years by the eldest child, the children have been home schooled and not attended public school. Ms. Norris was and is the children's educator through a state approved home school program. Ms. Norris has attempted and failed on several occasions to employ herself.

Both parties testified at trial that since 1991 Ms. Norris suffers from Epstein Barr, Fibromyalgia, constant and debilitating headaches, environmental allergies, endocrine dysfunction and sleep problems. Ms. Norris testified that shortly before the parties separated Ms. Norris suffered a complicated head injury that continues to bother her today.

2. PROCEDURE

The parties separated in late 2008 when Mr. Norris moved out of the family home. In order to assure financial support Ms. Norris filed for legal separation on February 24, 2009. In a hearing for temporary orders, Mr. Norris was ordered to pay undifferentiated support of \$4,000.00, monthly. Mr. Norris did not request reconsideration, appeal, or modification of this order. The petition for legal separation was amended to petition for dissolution on Mr. Norris' motion.

A 3 1/2 days trial was held in Snohomish County Superior Court the week of January 7, 2014 through January 10, 2014. Oral Findings of Fact and Conclusions of Law were delivered by the Court on February 6, 2014. Formal Findings of Fact Conclusions of Law, Decree of Dissolution and other associated orders were

entered April 11, 2014. In part Mr. Norris was ordered to pay \$2,500.00 monthly maintenance to Ms. Norris for a period of approximately 15 years and then \$1,000.00 monthly thereafter. Respondent filed Notice of Appeal on May 7th, 2014.

IV. SUMMARY OF ARGUMENT

Ms. Norris maintains that both parties testified to a long marriage (in excess of 24 years), and that she never was gainfully employed since she was pregnant with her first daughter (age 26 at the time of trial). Both Ms. Norris and Mr. Norris testified to an understanding that Ms. Norris suffered from fibromyalgia and or Epstein-Barr since 1991, (23 years prior to trial). Indeed the Appellant proved at trial that though Ms. Norris had attempted several in home businesses, she was successful at none. The court found within its discretion under RCW 26.09.090 that there was sufficient evidence presented by both sides that Ms. Norris was unemployable during the marriage, presently and that her condition was not changing. The court found that Ms. Norris had a need for maintenance and that Mr. Norris had an ability to pay. The Appellant has failed to show that the judgment of the court is unfair or beyond the discretion of the court.

V. ARGUMENT

Appellant fails to prove the insufficiency of the testimony evidence. Both parties testified before the court as to the lifestyle and health of the petitioner during the marriage. The testimony before the court was rationally based on both parties' perception. Testimony from the opposing parties was helpful to clearly understanding the witness's testimony as to the facts at issue

1. Standard of Review

An award of spousal maintenance under RCW 26.09.090 is a discretionary decision that will not be disturbed on appeal absent a showing that the trial court abused its discretion. *In re Marriage of Washburn*.¹ The trial court must consider all relevant factors under RCW 26.09.090(1).[3] *In re Marriage of Williams*.² "An award of maintenance that is not based upon a fair consideration of the statutory factors constitutes an abuse of discretion." *In re Marriage of Crosetto*.³

¹ *In re Marriage of Washburn*, 101 Wn.2d 168, 179, 677 P.2d 152 (1984).

² *In re Marriage of Williams*, 84 Wn. App. 263, 267-68, 927 P.2d 679 (1996).

³ *In re Marriage of Crosetto*, 82 Wn. App. 545, 558, 918 P.2d 954 (1996).

2. DISCRETION OF THE COURT

RCW 26.09.090 governs an award of maintenance, and iterates those factors that must be considered in determining an appropriate award:

(1) In a proceeding for dissolution of marriage, . . . the court may grant a maintenance award for either spouse. The maintenance order shall be in such amounts and for such periods of time as the court deems just, without regard to marital misconduct, after considering all relevant factors including but not limited to: (a) The financial resources of the party seeking maintenance, including separate or community property apportioned to him, and his ability to meet his needs independently, including the extent to which a provision for support of a child living with the party includes a sum for that party; (b) The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find employment appropriate to his skill, interests, style of life, and other attendant circumstances; (c) The standard of living established during the marriage; (d) The duration of the marriage; (e) The age, physical and emotional condition, and financial obligations of the spouse seeking maintenance; and (g) The ability of the spouse from whom maintenance is sought to meet his needs and financial obligations while meeting those of the spouse seeking maintenance.

The trial court is required to consider, among other statutory factors, the division of property between the parties. RCW 26.09.090; *In re Marriage of Crosetto*⁴; *In re Marriage of Rink*.⁵

⁴ *In re Marriage of Crosetto*, 82 Wn. App. 545, 558, 918 P.2d 954 (1996)

⁵ *In re Marriage of Rink*, 18 Wn. App. 549, 552-53, 571 P.2d 210 (1977).

A trial court has broad discretionary power in making a division of the property and debts of divorcing spouses. *In re Marriage of Nicholson*.⁶ A trial court has considerable discretion as to the amount and duration of an award of maintenance. *In re Marriage of Luckey*.⁷ Accordingly, a decision of the trial court will be reversed only for a manifest abuse of discretion. *In re Marriage of Monkowski*.⁸ A trial court abuses its discretion only when its decision is manifestly unreasonably, or based on untenable grounds. *In re Marriage of Terry*.⁹ *State ex rel. Carroll v. Junker*.¹⁰ The essential consideration is whether the final distribution is fair, just, and equitable under the circumstances. RCW 26.09.080; *In re Marriage of Luckey*.¹¹ *In re Marriage of Olivares*.¹² A trial court is not obligated to make an equal division of property. *Rogstad v. Rogstad*.¹³ [The Court] will not reverse findings of fact supported by substantial evidence in the record, i.e., evidence sufficient to

⁶ *In re Marriage of Nicholson*, 17 Wn. App. 110, 118, 561 P.2d 1116 (1977).

⁷ *In re Marriage of Luckey*, 73 Wn. App. 201, 209, 868 P.2d 189 (1994).

⁸ *In re Marriage of Monkowski*, 17 Wn. App. 816, 817, 565 P.2d 1210 (1977).

⁹ *In re Marriage of Terry*, 79 Wn. App. 866, 869, 905 P.2d 935 (1995).

¹⁰ *State ex rel. Carroll v. Junker*, 79 Wn.2d 12, 26, 482 P.2d 775 (1971).

¹¹ *In re Marriage of Luckey*, 73 Wn. App., 209, P.2d 189 (1994).

¹² *In re Marriage of Olivares*, 69 Wn.App. 324, 328-29, 848 P.2d 1281 (1993)

(quoting *In re Marriage of Hadley*, 88 Wn.2d 649, 656, 565 P.2d 790 (1977))

¹³ *Rogstad v. Rogstad*, 74 Wn.2d 736, 737-38, 446 P.2d 340 (1968).

persuade a fair-minded person of the truth of the declared premise.

In re Marriage of Hall.¹⁴

3. Evidence Before the Court

a) APPELLANT KNEW, AT TRIAL, MS. NORRIS WAS SEEKING LIFETIME SEPARATE MAINTENANCE

Opening Statement of Petitioner;

Ms. Norris pleads the Court for – that the Court dissolve her marriage, that the Court divide the assets and liabilities equitably among the parties, that the Court find a reasonable child support plan for the minor child, Rebecca, and that Rebecca’s post-secondary education and her brother Ryan’s post-secondary education be provided for as per the abilities of the parties, that there be a parenting plan assigned for Rebecca that works for the child and her father, and, again, reasonable separate maintenance for Ms. Norris until – for life or until she remarries, assignment of the retirement accounts – a portion of the retirement accounts that is equitable, and a portion of the pension benefits at the time that they are accessed that is equitable, and as I just recently stated, compensation¹⁵ for her attorney’s fees and costs related to these proceedings. Thank you, Your Honor.¹⁶

b) MS. NORRIS TESTIFIED TO HER UNEMPLOYMENT STATUS AND HEALTH CONCERNS

Direct Examination of Petitioner;

A. Eldest child Meagan.

Q. She is how old now?

A. Twenty-six.

Q. And you were working through your pregnancy? Yes or no?

¹⁴ *In re Marriage of Hall*, 103 Wn.2d 236, 246, 692 P.2d 175 (1984).

¹⁵ RP. Jan 7, 2014: Pg 23: L 11 -25

¹⁶ RP. Jan 7, 2014: Pg 24: L 1 -2

- A. Through up until the seventh or eighth month and then I was on complete bedrest.
- Q. Complications in the pregnancy?
- A. Yes.¹⁷
- Q. So after Meagan was born, did you return to the single-interest insurance company?¹⁸
- A. No.
- Q. Did you return to any employment?
- A. No.
- Q. Why not?
- A. Because it was both of our desires that when we had children that I would be a stay-at-home mom.¹⁹
- Q. Is it your belief that you suffer from fibromyalgia?
- A. I would go beyond belief. I absolutely know it, yes. I've lived with it for 23 years.²⁰
- Q. What are some of the symptoms that are significant?
- A. With the fibromyalgia, it's extreme muscle pain. I have severe fibromyalgia. So it affects every muscle in my body. It flares up with changes in barometric pressure, stress, lack of sleep, things like that.
- Q. What is endocrine dysfunction?
- A. I couldn't completely explain that.
- Q. What's your understanding?
- A. It's a dysfunction of the endocrine system.²¹
- Q. And your symptoms are?
- A. I have severe headaches that are debilitating and constant from the head injury. From the Epstein-Barr and the fibromyalgia, I have severe chemical allergies. That was described yesterday. I have a tremor in my right arm. I have sleep disorders where I usually only can

¹⁷ RP. Jan 7, 2014: Pg 28: L 11 -18

¹⁸ RP. Jan 7, 2014: Pg 28: L 24 -25

¹⁹ RP. Jan 7, 2014: Pg 29: L 1 – 6

²⁰ RP. Jan 8, 2014: Pg 8: L 23 -25

²¹ RP. Jan 8, 2014: Pg 9: L 1 -9:

get about four hours of sleep at a time and wake up more exhausted when I get up than when I went to bed. I have from the head injury – it's improving – but I have suffered from some brain fog issues and recall²² issues where I kind of call it that my brain kind of short-circuits at times. And I can lose words briefly. I – sorry. Give me just a minute. I lost my train of thought. The endocrine dysfunction may speak to – I had hypothyroidism, but that now is an auto – has turned into an autoimmune disease where my immune system is actually fighting my thyroid. I am hypersensitive to light, to noise, motion. So being in a very busy public place is very stressful because my body just gets overstimulated. I have some dysfunction with some female issues. That may be related to the endocrine dysfunction, too. I'm not sure. But there's some hormone issues with my progesterone and estrogen. Some of that is age-related. But some of it is related to just the other body functions not functioning correctly.²³

Q. Well, when did you first become aware of a diagnosis particular to you of fibromyalgia?

A. In 1991.

Q. When did you first learn of the – you may have learned it in many ways – but first your environmental triggers?

A. In 1991.²⁴

²² RP. Jan 8, 2014: Pg 9: L 16 -25:

²³ RP. Jan 8, 2014: Pg 10: L 1 -16:

²⁴ RP. Jan 8, 2014: Pg 11: L 9 -15:

**c) MR. NORRIS TESTIFIED TO MS. NORRIS'
UNEMPLOYMENT AND HEALTH CONCERNS**

Cross Examination of Appellant;

A. [Ms. Norris] worked for a little bit when we first got married.

Q. And she testified to that?

A. Correct.

Q. Has she been employed in a job since the time of - since the birth of your first daughter Meagan?

A. Not to my knowledge.²⁵

Q. So do you accept or deny Ms. Norris's health claims?

A. She says she has health claims. I'm not a doctor. I can't --

Q. Have you been aware that she's been seeing a health care physician?

A. Oh, yeah. I've paid for it all my married life. Yes, I'm aware.²⁶

Q. So you have been aware of her head injury issues?

A. Head injury I wasn't as aware of. Just the Chiropractic mainly. I knew she was supposedly diagnosed with Epstein-Barr for whatever that means.

Q. Are you aware of the diagnosis of fibromyalgia?

A. It's basically similar stuff. It's chronic fatigue syndrome where you're tired, you hurt. It affects people differently.

Q. And with -- living with a tired and hurt person, would it be fair to characterize generally that that can be frustrating?

A. I imagine, yes.

Q. Were you frustrated with the situation?

²⁵ RP. Jan 9, 2014: Pg 133: L 2 -7:

²⁶ RP. Jan 9, 2014: Pg 134: L 2 -8:

A. Oh, yes.²⁷

4. APPELLANT MISCALCULATES THE IMPACT OF MAINTENANCE.

Appellant fails to provide evidence of the net value of appellant's income or that the residual of appellant's income is somehow "unfair".

Appellant makes vague references to appellant's income, what it was in the past what it was at the time of trial. Appellant's income prior to trial is not relevant on appeal as only current reported income was used in the rulings of the court. Appellant complains that he was ordered to pay child support for his minor daughter and post secondary support for his youngest son. Post secondary support for his youngest daughter was reserved.

Appellant failed to include in the record the Washington State Support Schedule Worksheets used at trial and in presentation of the orders. A true and correct copy of the document, (hereinafter "WSCSW"), signed by both parties, the court and filed April 11, 2014 is attached hereto as Appendix A. On the second page of the WSCSW please note the indication that it is proposed by Mr. Norris'

²⁷ RP. Jan 9, 2014: Pg 134: L 12 -25:

attorney. The WSCSW includes Mr. and Ms. Norris' proven income at trial and deductions thereto including the ordered maintenance. Line 4 is the total combined monthly income for both parties and line 6 shows Mr. Norris has a .599 proportional share of the combined income. The court's ruling is equitable. Appellant's claim that he is left with too little of his income is unfounded.

5. THE COURT EXPLAINED TENABLE GROUNDS FOR LIFETIME SEPARATE MAINTENANCE

Oral Ruling of the Court:

The husband suggested that he should get one half of the value of the tractor, and I have considered that, say, in setting maintenance. Similarly, the wife was unhappy about how the pickups were handled. And, again, I've considered that in determining maintenance.²⁸

After factoring in maintenance, I expect that the parties' percentages regarding basic child support obligation will be fairly comparable.²⁹

But the evidence indicates that Ms. Norris does suffer from significant health problems which greatly limit her ability for significant employment.³⁰

Now, let me turn to the big issue of maintenance. This topic has a very large monetary impact. Although, the parties did often seem focused on other issues at trial. Regarding maintenance, the Court has certainly considered the various factors under our case law and under the specific

²⁸ CP. 129 Feb 6th, 2014: Pg 13: L 8 -12:

²⁹ CP. 129 Feb 6th, 2014: Pg 17: L 3 -5:

³⁰ CP. 129 Feb 6th, 2014: Pg 19: L 10 -13:

statute RCW 26.09.090. Obviously the financial resources of the parties is a huge consideration. And as already noted, how the property and debts is otherwise apportioned is another factor.

Certainly the duration of the marriage is important under subsection (1)(d). These parties have been married almost three decades and were together for nearly a quarter century before separating. The wife took on a classic role as a stay-at-home mom. She was primarily responsible for raising and schooling five children. And she has significant health issues. This is a classic situation for substantial maintenance for a very long time.

After weighing all the various factors, the Court's decision is an exercise of discretion about which there is no mathematically precise answer. Ultimately the Court must simply draw some bright lines for now and adopt some relatively clear numbers.³¹

Mr. Hendry has proposed that maintenance go back up substantially to a figure of \$2,830 monthly for now with a significant further increase after child support is terminated. However, child support is meant for the child, not for the parent. The child support obligation stands on its own.

Although the maintenance amount will significantly affect the calculations of child support and the proportionate percentages regarding child support expenses, the determination of maintenance is a separate issue with a largely separate purpose. After balancing everything, the bottom line is this: The Court will award maintenance in the monthly amount of \$2,500.

Absent some modification pursuant to law, maintenance will continue in that same amount of \$2,500 monthly for about the next 15 years until the husband turns 65, which is about when presumably the pensions and Social Security come into play. Again, absent some other modification, when the husband turns 65 and then for the rest of their lives, his maintenance obligation will be cut to \$1,000 per month.

³¹ CP. 129 Feb 6th, 2014: Pg 22: L 3 -25:

Obviously much may happen in the next decade and a half. But for now, at least starting when the final paperwork is signed, that will be the order of the Court.³²

Understandably, given the significant amount of maintenance and its importance sustaining the petitioner's existence, a request for life insurance coverage has been made. The Court will indeed require that the respondent carry a \$250,000 policy with the petitioner as beneficiary.³³

Both parties' testimony agreed to the expectations and lifestyle of Ms. Norris during the marriage. It was agreed in testimony that Ms. Norris' health suffered significantly throughout the marriage and Ms. Norris could not and had not held employment or succeeded at enterprise during the marriage or since separation.

VI. ATTORNEY FEES ON APPEAL

A relevant statute is RCW 26.09.140, which reads in pertinent part: "The court from time to time after considering the financial resources of both parties may order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding under this chapter and for reasonable attorneys' fees or other professional fees in connection therewith, including sums for legal services rendered and costs incurred prior to the

³² CP. 129 Feb 6th, 2014: Pg 23: L 1 -25:

³³ CP. 129 Feb 6th, 2014: Pg 24: L 1 -6:

commencement of the proceeding or enforcement or modification proceedings after entry of judgment. *Upon any appeal, the appellate court may*, in its discretion, order a party to pay for the cost to the other party of maintaining the appeal and attorneys' fees in addition to statutory costs.” (Emphasis added.)

The controlling authority is RAP 18.1(a), which reads in part: “If applicable law grants to a party the right to recover reasonable attorney fees or expenses on review before either the Court of Appeals or Supreme Court, the party must request the fees or expenses as provided in this rule.”

Ms. Norris does here request fees and expenses incurred in defending against Mr. Norris’ Motion for Appeal of the trial Court’s ruling. An Affidavit of Financial Need is filed with this brief and attached as Appendix B

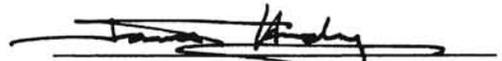
VII. CONCLUSION

RCW 26.09.090 governs an award of maintenance. The maintenance order shall be in such amounts and for such periods of time as the court deems just. The Court has broad discretion as to the award of maintenance. Here the award of maintenance in the present and on into the future is just as proven by the testimony

of opposing parties and the evidence placed before the court. Appellant fails to prove the insufficiency of the testimony evidence. Both parties testified before the court as to the lifestyle and health of the petitioner during the marriage. The testimony before the court was rationally based on both parties' perception and was helpful to clearly understanding the witness's testimony as to the fact(s) at issue. Appellant fails to provide evidence of the net value of appellant's income; or, that the residual of appellant's income is somehow "unfair". Appellant strategically omitted the Washington State Child Support Worksheet, (WSCSWS), prepared by the parties and presented to the court as a fair representation of the parties incomes and proportional shares of combined income.

The trial Court's judgment is just and equitable. The appellant's motion for appeal should be denied. The trial Court's ruling should stand as stated and affirmed.

Respectfully submitted this 6th day of January, 2015


James T. Hendry, WSBA No. 37411
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No. 71915-7-1

**The Court of Appeals of the State of Washington
Division I**

In Re the Marriage of:

SANDRA LEE NORRIS,

Respondent,

v.

BRETT ALAN NORRIS

Appellant.

APPENDIX A

James T. Hendry, WSBA No. 37411
4100 194th Street SW
Lynnwood, WA 98036
425 387 9719

FILED

APR 11 2014

SONYA KRASKI
COUNTY CLERK
SNOHOMISH CO. WASH.

Washington State Child Support Schedule Worksheets Registered Domestic Partnership

[X] Proposed by [] Sandra Norris [] State of WA [] Other _____ (CSWP)
Or, [] Signed by the Judicial/Reviewing Officer. (CSW)

Petitioner Sandra Norris Respondent Brett Norris
County Snohomish Case No. 09 3 00648 4

Child Support Order Summary Report

***This section must be completed for all Worksheets signed by the
judicial/reviewing officer.***

- A. The order [] **does** [] **does not** replace a prior court or administrative order. 688.55
- B. The **Standard Calculation** listed on line 17 of the Worksheet for the paying parent is: ~~828.40~~
- C. The **Transfer Amount** ordered by the Court from the Order of Child Support is: ~~828.40~~ to be paid by **Brett Norris**
688.55
- D. The Court deviated (changed) from the **Standard Calculation** for the following reasons:
[X] Does not apply
[] Nonrecurring income [] Sources of income and tax planning
[] Split custody [] Residential schedule (including shared custody)
[] Child(ren) from other relationships for whom the parent owes support
[] High debt not voluntarily incurred and high expenses for the child(ren)
[] Other (please describe): _____

- E. Income for petitioner is [] imputed [X] actual income.
Income for respondent is [] imputed [X] actual income.

Income was imputed for the following reasons: _____

- F. If applicable: [] All health care, day care and special child rearing expenses are included in the worksheets in Part III.

COPY

James T. Hendry

ATTORNEY AT LAW
2806 131st Street SE
Everett Washington 98208
(425) 387 9719

Washington State Child Support Schedule Worksheets

[X] Proposed by [X] John Arrabito, Attorney for Brett Norris [] State of WA [] Other
 (CSWP)
 Or, [] Signed by the Judicial/Reviewing Officer. (CSW)

Mother Sandra Lee Norris
 County SNOHOMISH

Father Brett Alan Norris
 Case No. 09-3-00648-4

Child(ren) and Age(s): Rebecca Leanne Norris, 15		
Part I: Income (see Instructions, page 6)		
1. Gross Monthly Income	Father	Mother
a. Wages and Salaries	\$8,443.10	\$200.00
b. Interest and Dividend Income	-	-
c. Business Income	-	-
d. Maintenance Received	-	\$2,500.00
e. Other Income	-	-
f. Imputed Income	-	-
g. Total Gross Monthly Income (add lines 1a through 1f)	\$8,443.10	\$2,700.00
2. Monthly Deductions from Gross Income		
a. Income Taxes (Federal and State) Tax Year: Manual	\$798.12	\$59.17
b. FICA (Soc.Sec.+Medicare)/Self-Employment Taxes	\$645.12	\$15.30
c. State Industrial Insurance Deductions	\$30.49	-
d. Mandatory Union/Professional Dues	\$375.53	-
e. Mandatory Pension Plan Payments	\$167.00	-
f. Voluntary Retirement Contributions	-	-
g. Maintenance Paid	\$2,500.00	-
h. Normal Business Expenses	-	-
i. Total Deductions from Gross Income (add lines 2a through 2h)	\$4,516.26	\$74.47
3. Monthly Net Income (line 1g minus 2i)	\$3,926.84	\$2,625.53
4. Combined Monthly Net Income (line 3 amounts combined)	\$6,552.37	
5. Basic Child Support Obligation (Combined amounts →) Rebecca Leanne Norris \$1,149.50 - - -		\$1,149.50
6. Proportional Share of Income (each parent's net income from line 3 divided by line 4)	.599	.401



Part II: Basic Child Support Obligation (see Instructions, page 7)		
7. Each Parent's Basic Child Support Obligation without consideration of low income limitations (Each parent's Line 6 times Line 5.)	\$688.55	\$460.95
8. Calculating low income limitations: Fill in only those that apply.		
Self-Support Reserve: (125% of the Federal Poverty Guideline.)	\$1,216.00	
a. Is combined Net Income Less Than \$1,000? If yes, for each parent enter the presumptive \$50 per child.	-	-
b. Is Monthly Net Income Less Than Self-Support Reserve? If yes, for that parent enter the presumptive \$50 per child.	-	-
c. Is Monthly Net Income equal to or more than Self-Support Reserve? If yes, for each parent subtract the self-support reserve from line 3. If that amount is less than line 7, enter that amount or the presumptive \$50 per child, whichever is greater.	-	-
9. Each parent's basic child support obligation after calculating applicable limitations. For each parent, enter the lowest amount from line 7, 8a - 8c, but not less than the presumptive \$50 per child.	\$688.55	\$460.95
Part III: Health Care, Day Care, and Special Child Rearing Expenses (see Instructions, page 8)		
10. Health Care Expenses	Father	Mother
a. Monthly Health Insurance Paid for Child(ren)	-	-
b. Uninsured Monthly Health Care Expenses Paid for Child(ren)	-	-
c. Total Monthly Health Care Expenses (line 10a plus line 10b)	-	-
d. Combined Monthly Health Care Expenses (line 10c amounts combined)	-	-
11. Day Care and Special Expenses		
a. Day Care Expenses	-	-
b. Education Expenses	-	-
c. Long Distance Transportation Expenses	-	-
d. Other Special Expenses (describe)		
	-	-
	-	-
	-	-
e. Total Day Care and Special Expenses (Add lines 11a through 11d)	-	-
12. Combined Monthly Total Day Care and Special Expenses (line 11e amounts Combined)	-	-
13. Total Health Care, Day Care, and Special Expenses (line 10d plus line 12)	-	-
14. Each Parent's Obligation for Health Care, Day Care, and Special Expenses (multiply each number on line 6 by line 13)	-	-
Part IV: Gross Child Support Obligation		
15. Gross Child Support Obligation (line 9 plus line 14)	\$688.55	\$460.95
Part V: Child Support Credits (see Instructions, page 9)		
16. Child Support Credits		
a. Monthly Health Care Expenses Credit	-	-
b. Day Care and Special Expenses Credit	-	-

c. Other Ordinary Expenses Credit (describe)	-	-
	-	-
	-	-
d. Total Support Credits (add lines 16a through 16c)	-	-
Part VI: Standard Calculation/Presumptive Transfer Payment (see Instructions, page 9)		
17. Standard Calculation (line 15 minus line 16d or \$50 per child whichever is greater)	\$688.55	\$460.95
Part VII: Additional Informational Calculations		
18. 45% of each parent's net income from line 3 (.45 x amount from line 3 for each parent)	\$1,767.08	\$1,181.49
19. 25% of each parent's basic support obligation from line 9 (.25 x amount from line 9 for each parent)	\$172.14	\$115.24
Part VIII: Additional Factors for Consideration (see Instructions, page 9)		
20. Household Assets (List the estimated value of all major household assets.)	Father's Household	Mother's Household
a. Real Estate	-	-
b. Investments	-	-
c. Vehicles and Boats	-	-
d. Bank Accounts and Cash	-	-
e. Retirement Accounts	-	-
f. Other: (describe)	-	-
	-	-
	-	-
	-	-
21. Household Debt (List liens against household assets, extraordinary debt.)		
a.	-	-
b.	-	-
c.	-	-
d.	-	-
e.	-	-
f.	-	-
22. Other Household Income		
a. Income Of Current Spouse or Domestic Partner (if not the other parent of this action)		
Name	-	-
Name	-	-
b. Income Of Other Adults in Household		
Name	-	-
Name	-	-
c. Gross Income from overtime or from second jobs the party is asking the court to exclude per Instructions, page 8	-	-
d. Income Of Child(ren) (if considered extraordinary)		
Name	-	-
Name	-	-

Other Factors For Consideration (continued) (attach additional pages as necessary)

Signature and Dates

I declare, under penalty of perjury under the laws of the State of Washington, the information contained in these Worksheets is complete, true, and correct.

Andrea L. Norris
Mother's Signature
4.11.14 Everett
Date City

Scott A. Norris
Father's Signature
4/11/2014 Everett
Date City

David A. King
Judicial/Reviewing Officer

April 11, 2014
Date

No. 71915-7-1

**The Court of Appeals of the State of Washington
Division I**

In Re the Marriage of:

SANDRA LEE NORRIS,

Respondent,

v.

BRETT ALAN NORRIS

Appellant.

RESPONDENT'S AFFIDAVIT OF FINANCIAL NEED

RAP 18.1(c)

- Amended -

James T. Hendry, WSBA No. 37411
4100 194th Street SW
Lynnwood, WA 98036
425 387 9719

No. 71915-7-1

**The Court of Appeals of the State of Washington
Division I**

In Re the Marriage of:

SANDRA LEE NORRIS,

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v.

BRETT ALAN NORRIS

Appellant.

APPENDIX B

James T. Hendry, WSBA No. 37411
4100 194th Street SW
Lynnwood, WA 98036
425 387 9719

Name: Sandra Lee Norris Date of Birth: 11.09.63

I am the respondent in the case on appeal noted above. I am a capable adult and attest to the following from my own experience and observation. My monthly expenses exceed my net monthly income by more than \$2,000.00 each month. I have two adult children and one minor child that live with me. There are no other occupants in my residence. My adult children are not gainfully employed and do not contribute to household expenses. I do receive \$688.55 in child support from the Appellant in addition to my stated income. I have a few hundred dollars on deposit with banks and just a few dollars, cash on hand.

Appellant has caused me even greater financial strain in filing to the Appellate Court. Defending against the Appellant's appeal has been a complicated and industrious process. It has caused my attorney, Mr. James T. Hendry, to review the Rules of Appellate Procedure; review the transcript of a 3¹/₂ days trial and the lengthy transcript of the trial court's oral decision. My attorney has had to study the appellant brief and its noted authorities. My attorney has had to discover relevant testimony and evidence not raised by the appellant. My attorney has had to research more relevant case law and the court's interpretations of the relevant

RCWs. Mr. Hendry has billed me for no less than 17 hrs of his time. Mr. Hendry has been fair and not charged me differently for the time spent on appeal but his normal, reasonable, rate of \$250.00 per hour. For the legal representation on appeal I owe Mr. Hendry \$4,250.00 that I neither have nor can afford.

Below is an analysis of my financial situation:

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

Signed at Arlington, [City] WA [State] on 01.06.15 [Date].



Sandra L. Norris
Signature of Declarant

I. Summary of Basic Information

Declarant's Total Monthly Net Income (from § 3.3 below)	\$ <u>2,447.30</u>
Declarant's Total Monthly Household Expenses (from § 5.9 below)	\$ <u>4,494.00</u>
Declarant's Total Monthly Debt Expenses (from § 5.11 below)	\$ <u>4,494.00</u>
Declarant's Total Monthly Expenses (from § 5.12 below)	\$ <u>4,494.00</u>
Estimate of the other party's gross monthly income	\$ <u>8,443.10</u>

II. Personal Information

- 2.1 Occupation:
- 2.2 The highest year of education completed: 14
- 2.3 Are you presently employed? [x] Yes [] No

- a. If yes: (1) Where do you work. Employer's name and address must be listed on the Confidential Information Form.
Snohomish County Parks
Self-Employed
- (2) When did you start work there (month/year)? Nov 2012
- b. If no: (1) When did you last work (month/year)? 1991
- (2) What were your gross monthly earnings? \$ _____
- (3) Why are you presently unemployed? Health

III. Income Information

If child support is at issue, complete the Washington State Child Support Worksheet(s), skip Paragraphs 3.1 and 3.2. If maintenance, fees, costs or debts are at issue and child support is **Not** an issue this entire section should be completed. (Estimate of other party's income information is optional.)

3.1 Gross Monthly Income

If you are paid on a weekly basis, multiply your weekly gross pay by 4.3 to determine your monthly wages and salaries. If you are paid every two weeks, multiply your gross pay by 2.15. If you are paid twice monthly, multiply your gross pay by 2. If you are paid once a month, list that amount below.

	Name
	<u>Sandra L. Norris</u>
a. Wages and Salaries	\$ <u>214.36</u>
b. Interest and Dividend Income	\$ _____
c. Business Income	\$ <u>200.00</u>
d. Spousal Maintenance Received	
From <u>Brett Alan Norris</u>	\$ <u>2,500.00</u>
e. Other Income	\$ _____
f. Total Gross Monthly Income (add lines 3.1a through 3.1e)	\$ <u>2,914.36</u>
g. Actual Gross Income (Year-to-date)	\$ _____

3.2 Monthly Deductions From Gross Income

a. Income Taxes	\$ <u>437.00</u>
b. FICA/Self-employment Taxes	\$ <u>?</u>
c. State Industrial Insurance Deductions	\$ _____
d. Mandatory Union/Professional Dues	\$ _____

e.	Pension Plan Payments	\$ _____
f.	Spousal Maintenance Paid	\$ _____
g.	Normal Business Expenses	\$ <u>30.00</u>
h.	Total Deductions from Gross Income (add lines 3.2a through 3.2g)	\$ <u>467.00</u>
3.3	Monthly Net Income (Line 3.1f minus line 3.2h or line 3 from the Child Support Worksheet(s).)	\$ <u>2,447.36</u>
3.4	Miscellaneous Income	
a.	Child support received from other relationships	\$ _____
b.	Other miscellaneous income (list source and amounts)	
	Child Support for Rebecca Norris	
	From Brett Alan Norris	\$ <u>688.55</u>
	_____	\$ _____
	_____	\$ _____
c.	Total Miscellaneous Income (add lines 3.4a through 3.4b)	\$ _____
3.5	Income of Other Adults in Household: My adult children do not contribute to household expenses.	
3.6	If the income of either party is disputed, state monthly income you believe is correct and explain below:	

IV. Available Assets

4.1	Cash on hand	\$ <u>15.00</u>
4.2	On deposit in banks	\$ <u>325.00</u>
4.3	Stocks and bonds, cash value of life insurance	\$ <u>0.00</u>
4.4	Other liquid assets:	\$ <u>0.00</u>

V. Monthly Expense Information

Monthly expenses for myself and 3 dependents are: (Expenses should be calculated for the future, after separation, based on the anticipated residential schedule for the children.)

5.1 Housing

Rent, 1st mortgage or contract payments	\$ <u>1,238.00</u>
Installment payments for other mortgages or encumbrances	\$ <u>261.00</u>
Taxes & insurance (if not in monthly payment)	\$
Total Housing	\$ <u>1,499.00</u>

5.2 Utilities

Heat (gas & oil)	\$ <u>80.00</u>
Electricity	\$ <u>160.00</u>
Water, sewer, garbage	\$ <u>45.00</u>
Telephone	\$ <u>115.00</u>
Cable	\$
Other Internet	\$ <u>65.00</u>
Total Utilities	\$ <u>465.00</u>

5.3 Food and Supplies

Food for <u>4</u> persons	\$ <u>500.00</u>
Supplies (paper, tobacco, pets)	\$ <u>75.00</u>
Meals eaten out	\$
Other	\$ _____
Total Food Supplies	\$ <u>575.00</u>

5.4 Children

Day Care/Babysitting	\$
Clothing	\$ <u>60.00</u>
Tuition (if any)	\$ <u>135.00</u>
Other child-related expenses	MEDICAL \$ <u>130.00</u>
Total Expenses Children	\$ <u>325.00</u>

5.5 Transportation

Vehicle payments or leases	\$
Vehicle insurance & license	\$ <u>150.00</u>
Vehicle gas, oil, ordinary maintenance	\$ <u>475.00</u>

Parking	\$
Other transportation expenses AAA	\$ <u>5.00</u>
Total Transportation	\$ <u>630.00</u>

5.6 Health Care (Omit if fully covered)

Insurance	\$ <u>180.00</u>
Uninsured dental, orthodontic, medical, eye care expenses	\$ <u>185.00+</u>
Other uninsured health expenses	\$ <u>200.00</u>
Total Health Care	\$ <u>565.00+</u>

5.7 Personal Expenses (Not including children)

Clothing	\$ <u>30.00</u>
Hair care/personal care expenses	\$ <u>15.00</u>
Clubs and recreation	\$
Education	\$
Books, newspapers, magazines, photos	\$
Gifts	\$ <u>30.00</u>
Other	\$
Total Personal Expenses	\$ <u>75.00</u>

5.8 Miscellaneous Expenses

Life insurance (if <u>not</u> deducted from income)	\$
Other _____ Animals _____	\$ <u>360.00</u>
Other _____	\$
Total Miscellaneous Expenses	\$ <u>360.00</u>

5.9 Total Household Expenses 4,494.00

5.10 Installment Debts Included in Paragraphs 5.1 Through 5.8

N/A

5.11 Other Debts and Monthly Expenses not Included in Paragraphs 5.1 Through 5.8

Month of <u>Creditor</u> <u>Last Payment</u>	Description <u>of Debt</u>	<u>Balance</u>	
<u>Dr Ryan</u> <u>not made</u>	<u>Chiropractic</u>	<u>7000</u>	<u>Pmt</u>
<u>Dr Ranheim</u> <u>not made</u>	<u>Medical</u>	<u>233</u>	<u>Pmt</u>
<u>W.L.B. & Assoc</u> <u>not made</u>	<u>Divorce Trial Testimony</u>	<u>2000</u>	<u>Pmt</u>
<u>John Friberg</u> <u>not made</u>	<u>Hay</u>	<u>900</u>	<u>Pmt</u>
<u>Bill Pierce</u> <u>not made</u>	<u>Community Road Maint.</u>	<u>500</u>	<u>Pmt</u>
<u>Bill Weeda</u> <u>not made</u>	<u>Easement</u>	<u>1000</u>	<u>Pmt</u>
<u>Meier Clinic</u> <u>not made</u>	<u>Rebecca Medical</u>	<u>244</u>	<u>Pmt</u>
<u>Alert (40.01% share)</u> <u>not made</u>	<u>Ryan Tuition 2015</u>	<u>\$4,000 - \$5,000</u>	<u>Pmt</u>

Total Monthly Payments for Other Debts and Monthly Expenses

5.12 Total Expenses (Add Paragraphs 5.9 and 5.11) \$ 4,494.00

VI. Attorney Fees on Appeal

- 6.1 Amount paid for attorney fees and costs to date: \$ 4,250.00
- 6.2 The source of this money was:
Owed to Attorney

6.3 Fees and costs incurred to date: **\$ 4,250.00_**

6.4 Arrangements for attorney fees and costs are: Plead to the Court

6.5 Other:

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

Signed at Arlington, [City] WA [State] on 01.06.15
[Date].



Sandra L. Norris
Signature of Declarant

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FILED
CLERK OF COURT
JAN 7 2015
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The Court of Appeals of the State of Washington

Division I

<p>In Re the Marriage of:</p> <p>SANDRA LEE NORRIS, Respondent, v. BRETT ALAN NORRIS Appellant.</p>	<p>No. 71915-7-1</p> <hr/> <p>CERTIFICATE OF SERVICE</p>
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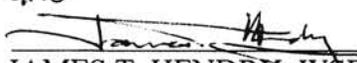
I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF Washington the following is true and correct:

I am the attorney of record for the Respondent.

On the date set forth below I served by U.S. Mail, first class postage prepaid: BRIEF OF RESPONDENT to the following address:

<p>John Arrabito, Esq. 19303 44th Ave W Lynnwood, Washington 98036</p> <p>(One Copy)</p>	<p>The Court of Appeals of the State of Washington Division 1 600 University Street Seattle, Washington 98101-4170</p> <p>(Original and One Copy)</p>
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Date: 01.07.15 *AT EVERETT WASHINGTON*


JAMES T. HENDRY WSBA # 37411
 Attorney for Respondent

CERTIFICATE OF SERVICE

JAMES T. HENDRY
 4100 194th STREET SW
 Suite 215
 Lynnwood, WA 98036
 425-387-9719