No. 103830-5

SUPREME COURT
OF THE STATE OF WASHINGTON

In re the Marriage of:

JOHN TORSTEN LOOP,

Petitioner,

and

LISA MICHELE LOOP,

Respondent.

ANSWER TO PETITION FOR REVIEW

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A. Introduction and Relief Requested.

Respondent Lisa Loop and petitioner John Loop agreed to submit "all disputes, claims or controversies" arising from their legal separation to binding arbitration. (CP 197) The arbitrator granted mother's request for a restraining order protecting the parties' daughter, who turned eighteen years old on May 12, 2025, from contact with petitioner." (CP 286) The trial court confirmed the arbitrated restraining order (CP 63-67) after petitioner failed to present any grounds to warrant vacation or modification of the arbitrated restraining order under RCW 7.04A.230 or RCW 7.04A.240.

On January 21, 2025, Division One affirmed the trial court's order in an unpublished opinion, holding that petitioner failed to "demonstrate that the arbitrator lacked the authority to propose an order prohibiting him from

contacting his child, A.L." (Op. 1)[1] Division One also rejected petitioner's argument that imposition of a restraining order violated his right to due process, based on his claim "he did not receive notice that a restraining order was a possibility" because "the procedural history of this case demonstrates that [petitioner] had actual notice of the possibility of a restraining order." (Op. 8-9) Finally, on July 8, 2025, Division One granted respondent's motion for reconsideration and awarded her attorney fees under RCW 7.04A.250(3).[2]

This Court should deny review of Division One's unpublished opinion because the daughter is now an adult and the restraining order at issue will expire on September 1, 2025, therefore any review is moot. Even if review were not moot, review of the unpublished opinion is not

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[1] The Court of Appeals opinion is attached as an appendix to this answer.

[2] The order granting reconsideration is also attached as an appendix to this answer.

warranted as it does not meet any of the factors warranting review under RAP 13.4. If this Court denies review, it should award respondent her attorney fees incurred in preparing this answer under RCW 7.04A.250(3) and RAP 18.1(j).

B. Restatement of the Case.

1. The parties separated in December 2020 after father assaulted mother "mere feet away" from daughter, then age 13. Temporary orders were entered in the dissolution action, limiting father's contact with daughter.

Respondent Lisa Loop and petitioner John ("Jack") Loop were married on August 13, 2005. (CP 399) Their daughter, who was born during the marriage, is now an adult, as she turned 18 on May 12, 2025. (CP 400) The parties separated on December 7, 2020 (CP 400) after

Jack[3] assaulted Lisa "in their home with their daughter mere feet away." (CP 291; *see also* CP 269-71, 406)

Jack was charged with fourth-degree assault. (CP 291) A criminal no-contact order was entered protecting Lisa from Jack. (CP 291) Jack was later charged with three counts of violating the no-contact order. (CP 280) Jack pled guilty to fourth-degree assault and the charges for violation of the no-contact order were dismissed as part of his plea agreement. (CP 280)

On January 11, 2021, Jack filed a petition for legal separation. (CP 1-4) A temporary order was entered in June 2021 limiting Jack's contact with the daughter, then age 14, "to a therapeutic setting based on the lack of emotional ties with the daughter and father at this time." (CP 402-03) A subsequent temporary order was entered in

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[3] Because the parties share the same last name, this answer, as does the Court of Appeals opinion, refers to the parties by their first names. No disrespect is intended.

August 2021 restraining Jack from initiating "contact with [the daughter] via email, text messages, sending notes through third parties, or placing songs on [the daughter]'s playlists," and ordered Jack to "not intentionally show up at places he knows [the daughter] will be nor shall he watch her from afar." (CP 403) Despite these orders, Jack "engaged in a relentless campaign to contact and control [the daughter], in violation of court orders." (CP 433)

2. After the parties agreed to arbitrate "all disputes, claims, or controversies" between them, the arbitrator in July 2023, issued a parenting plan and restraining order protecting daughter, then age 16, from contact with father.

After a failed mediation, the parties agreed to arbitrate "all disputes, claims or controversies" with retired Judge Helen Halpert at JAMS in February 2023. (CP 197) The trial court thus ordered the parties to "engage in arbitration at JAMS with Ret. Hon. Helen Halpert to resolve the outstanding issues in the parties' legal

separation under this cause number" and struck the parties' then-scheduled trial date of May 1, 2023. (CP 57)

In arbitration, Lisa proposed entry of a parenting plan and restraining order, restricting Jack's contact with the daughter, then age 16. (*See* CP 220, 223) Judge Halpert's arbitration award largely adopted Lisa's proposed parenting plan (CP 220), imposing RCW 26.09.191 restrictions on Jack based on his history of domestic violence and because he engaged in the abusive use of conflict, "which creates the danger of serious damage to the child's psychological development." (CP 285-86; *see also* CP 290-91) In addition to the parenting plan, which restrained Jack's contact with the daughter, Judge Halpert also adopted Lisa's proposed restraining order (CP 223), after concluding a restraining order further protecting the daughter from contact with Jack was also warranted. (CP 286) The restraining order was to remain in effect until September 1, 2025 (CP 63) after the daughter completed

high school to ensure "her final two years in high school be free of the terrible stress that her father has caused her." (CP 316)

Judge Halpert found the temporary orders that had been entered during the action had been "ineffective to curb Jack's behavior" towards the daughter. (CP 286) Judge Halpert found Jack's "persistent efforts to contact [the daughter] in the face of family court orders prohibiting him from doing so and in the face of [the daughter]'s clear statements that she does not want contact" warranted restraints on his contact with the daughter. (CP 285-86) Judge Halpert found the daughter "has been gravely impacted by the endless barrage of Jack's unwanted contact and has been made to feel powerless because this contact occurred even though there are court orders in place prohibiting it." (CP 287) Judge Halpert later clarified that "the order I authorized was a restraining order, entered pursuant to RCW 26.09.300, not a Domestic

Violence Protection Order, entered pursuant to RCW 7.105.050." (CP 358)

3. In February 2024, the trial court confirmed the arbitrated restraining order and parenting plan.

Lisa filed a motion to confirm the arbitration award related to the parenting plan and restraining order (CP 391-93), to which Jack filed no written response. During the hearing on Lisa's motion, Jack orally challenged entry of the arbitrated restraining order, claiming it was issued without "procedural due process" because it "was not something that was asked for by the opposing counsel" during the arbitration,[4] and he claimed it conflicted with the provisions of the Uniform Family Law Arbitration Act (UFLAA) (RP 8-9), which went into effect one month earlier. Judge Halpert, however, previously confirmed in a

[4] Jack's claim was belied by the record as Judge Halpert adopted the restraining order that had been prepared and proposed by Lisa and her counsel during arbitration. (*See* CP 223, 261-65)

letter to the parties that "this case is not controlled by the Uniform Family Law Arbitration Act" (CP 387) because the parties' arbitration agreement was entered before the UFLAA went into effect. *See* RCW 26.14.902.

In its oral ruling, the trial court granted Lisa's motion to confirm, noting that Jack's challenge to the arbitrated restraining order was raised for the first time at the hearing despite having been given the opportunity to provide a response in writing. (RP 9-10) Pursuant to its oral ruling, the trial court entered the arbitrated restraining order (CP 63-67) and the arbitrated parenting plan, which attached the related findings (CP 475-508), on February 23, 2024.

Jack appealed (CP 68), solely challenging the arbitrated restraining order that was confirmed by the trial court.

4. Division One affirmed the trial court's order confirming the arbitrated restraining order in an unpublished opinion.

On January 21, 2025, Division One affirmed the confirmed arbitrated restraining order in an unpublished opinion, holding that Jack failed to "demonstrate that the arbitrator lacked the authority to propose an order prohibiting him from contacting his child, A.L." (Op. 1) Division One also rejected Jack's argument that imposition of a restraining order violated his right to due process, based on his claim "he did not receive notice that a restraining order was a possibility" because "the procedural history of this case demonstrates that [petitioner] had actual notice of the possibility of a restraining order." (Op. 8-9)

In its initial opinion, Division One recognized that Lisa requested an award of appellate fees under both RCW 26.09.140 and RCW 7.04A.250(3). (Op. 11) Division One denied attorney fees under RCW 26.09.140 because Lisa

had not filed an affidavit of financial need under RAP 18.1(c) but did not address her request for fees under RCW 7.04A.250(3). (Op. 11) On July 8, 2025, Division One granted Lisa's motion for reconsideration and awarded her appellate fees under RCW 7.04A.250(3).

C. Grounds for Denial of Review.

1. This Court should deny review because it is moot.

This Court should deny review of Division One's unpublished opinion affirming the trial court's order confirming the arbitrated restraining order because review will be moot by the time this Court considers the petition on September 2, 2025. The daughter is now an adult and the arbitrated restraining order by its terms will expire on September 1, 2025. "A case is moot if a court can no longer provide effective relief." *Marriage of Laidlaw*, 2 Wn. App. 2d 381, 393, ¶31, 409 P.3d 1184 (quoted source omitted), *rev. denied*, 190 Wn.2d 1022 (2018).

While there is an exception for moot cases involving "matters of continuing and substantial public interest" that are "likely to recur in the future" *Orwick v. City of Seattle*, 103 Wn.2d 249, 253, 692 P.2d 793 (1984), that is not the case here. Whether the trial court has authority to confirm an arbitrated restraining order protecting a child from contact with their parent under RCW ch. 7.04A will not likely recur in the future as the Uniform Family Law Arbitration Act under RCW ch. 26.14 will apply to all future agreements to arbitrate family law disputes. RCW 26.14.902.

As this Court cannot provide Jack effective relief in his appeal from the arbitrated restraining order, this Court should deny review.

2. Review of Division One's unpublished opinion is not warranted because it does not conflict with any published appellate court decisions and raises no significant constitutional issues.

Even if review were not moot, this Court should deny review of Division One's unpublished opinion because it is wholly consistent with published appellate court decisions addressing parents' constitutional rights in dissolution proceedings, RAP 13.4(b)(1), (2), and raises no significant constitutional issues. RAP 13.4(b)(3).

a. The order confirming the arbitrated restraining order did not violate father's constitutional rights as a parent.

In seeking review, petitioner relies on *Troxel v. Granville*, 530 U.S. 57, 120 S. Ct. 2054, 147 L. Ed. 2d 49 (2000), which recognizes "the fundamental rights of parents to make decisions concerning the care, custody, and control of their children." 530 U.S. at 66 (*See* Pet. 9-10). However, despite a parent's fundamental right to the care, custody, and control of their child, this Court has

"long recognized [that this right] may be limited in dissolution proceedings because the competing fundamental rights of both parents and the best interests of the child must also be considered." *Katare v. Katare*, 175 Wn.2d 23, 42, ¶36, 283 P.3d 546 (2012), *cert. denied*, 568 U.S. 1090 (2013).

As this Court has held, "the right to parental autonomy is a 'fundamental liberty interest protected by the Fourteenth Amendment,' and the State may not intrude upon it absent a compelling interest and narrow tailoring. Strict scrutiny therefore applies to the state's infringement on parental autonomy in favor of a *nonparent's* interest. But it does not apply in a proceeding characterized by the 'equivalent parental positions of the parties.'" *Marriage of Chandola*, 180 Wn.2d 632, 646, ¶27, 327 P.3d 644 (2014) (quoted sources omitted, emphasis in original). "Rather, in Washington, courts attempt to discern the best interests of the child." *Parentage of L.B.*,

155 Wn.2d 679, 710, ¶44, 122 P.3d 161 (2005) ("No case has ever applied a strict scrutiny analysis in cases weighing the competing interests of *two parents*.") (emphasis in original), *cert. denied*, 547 U.S. 1143 (2006).

Our courts have reasoned that in a dispute between parents, which is the issue present here, the trial court is "required to intervene and necessarily choose between the parents' competing interests." *Parentage of R.F.R.*, 122 Wn. App. 324, 333, 93 P.3d 951 (2004). In such cases, a parent's "fundamental liberty interest is not at stake" because the order "does not sever either parent's rights or responsibilities over the children. The rights and responsibilities of the parents are not terminated but rather allocated." *King v. King*, 162 Wn.2d 378, 394, ¶¶35-36, 174 P.3d 659 (2007). Therefore, a court's parenting decision that "complies with the statutory requirements to promote the best interests of the children" would not

violate a parent's constitutional rights under Washington authority. *Katare*, 175 Wn.2d at 42, ¶36.

As Division One recognized, the arbitrated restraining order complies with RCW 26.09.050, which "empowers the court in a family law action to 'make provision for the issuance within this action of the restraint provisions of a domestic violence protection order or an antiharassment protection order.'" (Op. 8) The arbitrated restraining order also complies with RCW 26.09.191(3), which "authorizes a court to restrict or eliminate a parent's contact with the child upon the finding of certain factors articulated by statute, including a long-term emotional impairment which interferes with the parent's performance of parenting functions, the absence or substantial impairment of emotional ties between parent and child, abusive use of conflict, or other factors adverse to the best interests of the child." (Op. 8, citing *Underwood*

v. Underwood, 181 Wn. App. 608, 611, ¶8, 326 P.3d 793, *rev. denied*, 181 Wn.2d 1029 (2014))

b. Father's due process rights were not violated as he had notice that mother was requesting an order restraining father's contact with the daughter.

Review is also not warranted based on petitioner's claim that Division One's unpublished opinion conflicts with the Second Circuit of the U.S. Court of Appeals decision, *Duchesne v. Sugarman*, 566 F.2d 817 (2nd Cir. 1977). (Pet. 10-11) First, petitioner presents no authority that a conflict with a federal appellate court decision warrants review under RAP 13.4(b)(1) or (2). Second, Division One's decision does not in fact conflict with *Duchesne* which, according to petitioner, "establishes that while the state has an interest in protecting children, this must be exercised with strict adherence to due process and cannot infringe upon the fundamental rights of parents without substantial justification and procedural protections." (Pet. 10)

As Division One recognized, Jack's due process rights were not violated, as "the procedural history of this case demonstrates that Jack had actual notice of the possibility of a restraining order." (Op. 9) The record shows that the parties agreed to arbitrate "all disputes, claims or controversies" (CP 197) and during arbitration, Lisa proposed entry of a restraining order, giving him notice that one might be entered. (*See* CP 223, 261-65, 412)

As Division One recognized, among the "disputes, claims or controversies" that can be resolved in a legal separation proceeding is whether to "restrain the parent requesting residential time from all contact with the child," RCW 26.09.191(2)(m)(i), and whether to enter a restraining order. RCW 26.09.050(1); *see also* RCW 26.09.300. RCW 7.04A.210(3) authorizes an arbitrator to "order such remedies as the arbitrator considers just and

appropriate under the circumstances of the arbitration proceeding."[5]

Because Jack had notice that Lisa was seeking an order restraining his contact with the parties' daughter and entry of a restraining order is among the "disputes, claims or controversies" (CP 197) that could be resolved in their legal separation action, Division One properly affirmed entry of the confirmed arbitrated restraining order because the arbitrator had authority to issue a restraining order, and did so without violating Jack's due process rights.

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[5] As the parties' agreement to arbitrate was entered in February 2023, RCW ch. 7.04A, the Uniform Arbitration Act (UAA), applied to review of the arbitrator's decision here, not RCW ch. 26.14, the Uniform Family Law Arbitration Act (UFLAA). RCW 26.14.902 (UFLAA governs arbitration agreements of family law disputes "made on or after January 1, 2024").

3. Review of Division One's unpublished opinion is not warranted because it does not raise an issue of substantial public interest.

This Court should deny review of Division One's unpublished opinion because it does not raise an issue of substantial public interest. RAP 13.4(b)(4). The manner in which the arbitrated restraining order was entered by the court was not a "significant departure from judicial norms" (Pet. 11) because it was done in compliance with RCW 7.04A.220, which provides that any party who receives notice of an arbitration award "may file a motion with the court for an order confirming the award, at which time the court shall issue such an order unless the award is modified or corrected under RCW 7.04A.200 or 7.04A.240 or is vacated under RCW 7.04A.230."

Here, Lisa filed a motion to confirm the arbitration award after receiving a copy of the arbitrated restraining order signed by the arbitrator. (CP 59-62) And after considering Jack's oral response to the motion, the trial

court properly confirmed the arbitrated restraining order because "none of the evidence in the record supports" any finding or conclusion that the arbitrated restraining order "should be corrected under RCW 7.04A.200 or RCW 7.04A.240 or vacated under RCW 7.04A.230." (RP 5)

Petitioner's claim that "judicial practices in Washington, allowing restraining orders based on subjective 'fear' without objective evidence, reveal a systemic bias against fathers" (Pet. 11) is also not grounds for review of Division One's unpublished opinion affirming the trial court's order confirming an arbitrated restraining order. Whether the arbitrated restraining order was issued based on "subjective fear without objective evidence" goes to the merits of the arbitrator's decision, not any of the statutory grounds under RCW 7.04A.230 or RCW 7.04A.240 to vacate or modify an arbitration award.

Since judicial review of arbitration awards is "very narrow" under RCW ch. 7.04A it "does not include a review

of the merits of the case." *Barnett v. Hicks*, 119 Wn.2d 151, 157, 829 P.2d 1087 (1992). A claimed error, based on the evidence that was before the arbitrator, cannot be reviewed by the court in deciding whether to vacate an arbitration award. *See Mainline Rock & Ballast, Inc. v. Barnes, Inc.*, 8 Wn. App. 2d 594, 610, ¶32, 439 P.3d 662, *rev. denied*, 193 Wn.2d 1033 (2019). "Arbitrators, when acting under the broad authority granted them both by the agreement of the parties and by statute, become the judges of both the law and the facts." *Mainline Rock*, 8 Wn. App. 2d at 608, ¶28.

As judicial review of the arbitrated restraining order is limited to the standards under RCW ch. 7.04A, any "substantial public interest" in addressing "systemic bias against fathers" arising from entry of restraining orders based on "subjective fear" does not warrant review of Division One's unpublished opinion in this case under RAP 13.4(b)(4).

4. This Court should award attorney fees incurred in answering this petition to mother.

Division One awarded attorney fees to Lisa under RCW 7.04A.250(3). This Court should likewise award her fees incurred in answering this petition on the same statutory basis. *See* RAP 18.1(j).

D. Conclusion.

This Court should deny review and award fees to respondent.

I certify that this answer is in 14-point Georgia font and contains 3,282 words, in compliance with the Rules of Appellate Procedure. RAP 18.17(b).

Dated this 24th day of July, 2025.

SKELLENGER BENDER, P.S. SMITH GOODFRIEND, P.S.

By: */s/ Elizabeth A. Bianchi* By: */s/ Valerie A. Villacin*
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DECLARATION OF SERVICE

The undersigned declares under penalty of perjury, under the laws of the State of Washington, that the following is true and correct:

That on July 24, 2025, I arranged for service of the foregoing Answer to Petition for Review, to the court and to the parties to this action as follows:

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DATED at Everett, Washington this 24th day of July, 2025.

/s/ Victoria K. Vigoren
Victoria K. Vigoren

FILED
1/21/2025
Court of Appeals
Division I
State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

In the Matter of the Marriage of JOHN TORSTEN LOOP, Appellant, and LISA MICHELLE LOOP, Respondent.	No. 86382-7-I DIVISION ONE UNPUBLISHED OPINION

HAZELRIGG, A.C.J. — John "Jack" Loop challenges the trial court's entry of a restraining order pursuant to an arbitration decision issued in his dissolution matter. However, he fails to demonstrate that the arbitrator lacked the authority to propose an order prohibiting him from contacting his child, A.L. Accordingly, we affirm the trial court's entry of the restraining order.

FACTS

Jack and Lisa Loop[1] were married on August 13, 2005. They have one child, A.L., who is currently 17 years old. The parties separated on December 7, 2020, when Jack was arrested for a domestic violence incident against Lisa.[2] Jack filed for separation on January 11, 2021. An agreed temporary family law order was issued on February 22, designating Lisa as the primary residential parent. On

[1] Because the parties share the same last name, we refer to them by their first names. No disrespect is intended.

[2] Jack was later convicted of assault in the fourth degree in connection with this incident after entry of a guilty plea.

June 1, the trial court entered a temporary parenting plan, providing that "the "father's contact with the child shall be limited to a therapeutic setting based on the lack of emotional ties between the daughter and her father at this time." In spite of this order, the court later noted that Jack "engaged in a relentless campaign of surveillance and unwanted contact" with A.L. Some examples of Jack's behavior included surreptitiously recording a therapy session, repeatedly contacting A.L.'s tennis coach to be admitted to her practice, creating a fake Instagram[3] account to follow A.L., and adding pointed songs to her playlist with titles such as "Parental Alienation" and "Mom Lied About Everything."

A new temporary parenting plan was entered on August 12, which stated,

> Father agrees that until the 12/13/21 review hearing, there shall be no contact with [A.L.] unless she initiates such contact. *This agreement includes not initiating contact with* [*A.L.*] *via email, text message, or sending notes through third parties or placing songs on* [*A.L.*]*'s playlists.*
>
> *The father shall not intentionally show up at places he knows* [*A.L.*] *will be nor shall he watch her from afar.*

The amended temporary parenting plan entered in December 2021 similarly prohibited Jack from contact with A.L. unless she initiated it.[4]

On April 15, 2022, the trial court entered a second amended temporary parenting plan reestablishing contact between Jack and A.L. in phases, as recommended by parenting evaluator Dr. Lynn Tuttle. In phase 1, Jack was permitted to have one three-hour therapeutic supervised visit per week, but was not otherwise permitted to communicate with A.L. unless she initiated the contact.

[3] An Internet based social media platform.
[4] The review hearing was not conducted until April 2022.

In the supervised visit on May 8, Jack read a letter of apology to A.L., which A.L. felt was insincere. A.L. became upset and left the visit. Dr. Mollie Hughes, the visit supervisor, described Jack as making irrational assertions "possibly as a way to completely disregard [A.L.'s] feelings and thoughts as her own." Hughes immediately resigned as visit supervisor as a result.

Shortly after this failed visit, Jack had a book and game that he had ordered online delivered to A.L., despite the parenting plan prohibiting him from doing so. In October of that same year, Jack had a package containing naloxone delivered to A.L.'s home.[5] A.L. was truly upset by these deliveries and considered them to be "disturbing invasions of her privacy."

On January 12, 2023, Jack and his counsel signed a stipulation for arbitration agreeing "to submit all disputes, claims or controversies to neutral, binding arbitration at JAMS[6]." Lisa and her counsel signed the stipulation on February 8. Jack subsequently tried to back out of the stipulation, which compelled Lisa to file a motion to enforce the arbitration agreement. The court granted Lisa's motion and the parties proceeded to arbitration before Helen Halpert, a retired judge.

Arbitration was held on April 25 and 26 and from May 1 to 5. Jack and Lisa both testified at the arbitration, as did Dr. Tracee Parker and Dr. Jean Mercer. The arbitrator also accepted declarations in lieu of testimony from 12 additional witnesses. Following closing arguments on May 12 but before the arbitrator had

[5] Naloxone is a drug that rapidly reverses an opioid overdose. *Save Lives*, UNITED STATES DRUG ENFORCEMENT ADMINISTRATION, https://dea.gov/onepill/save-lives.

[6] The organization JAMS offers mediation, arbitration, and dispute resolution services.

issued her decision, Jack posted photos on A.L.'s photo sharing application in violation of the temporary parenting plan. The arbitrator found it "particularly concerning that Jack made the decision to violate the various court orders that prohibit him from contacting [A.L.] by any means, while he was awaiting my decision on parenting issues. This demonstrates either complete lack of control or a concerning degree of hubris."

The arbitrator subsequently issued a 55-page narrative award, which was twice amended in response to motions for reconsideration from both parties. In connection with the award, the arbitrator also drafted a parenting plan, findings of fact and conclusions of law regarding domestic violence and parenting issues, and a restraining order. The parenting plan placed restrictions on Jack under RCW 26.09.191 due to his history of domestic violence and abusive use of conflict. As with the temporary parenting plans, the permanent parenting plan prohibited Jack from communicating with A.L. by any means unless A.L. initiated contact. In her findings of fact and conclusions of law, the arbitrator concluded that the testimony of multiple experts, Jack's past conduct, and his lack of insight into the harm he had caused to A.L.'s emotional and psychological well-being, all supported restricting Jack's residential time in this manner as necessary to protect A.L. The arbitrator also concluded that a restraining order was warranted to enforce these restrictions "[b]ecause the provisions in the parenting plan have been ineffective to curb Jack's behavior towards" A.L.

On February 23, 2024, the trial court confirmed the arbitration award in part and entered the final parenting plan, findings of fact and conclusions of law

regarding domestic violence and parenting issues, and restraining order, as drafted by the arbitrator with minor modifications.[7] Jack designated only the restraining order in his notice of appeal.[8]

ANALYSIS

I. Standard of Review

Jack appeals the trial court's imposition of a restraining order that prohibits him from contacting A.L. As a preliminary matter, Lisa asserts that we should not review Jack's claims of error because his appeal is likely to become moot by the date of this decision and Jack is similarly restricted by the terms of the parenting plan. The restraining order does not expire until September 1, 2025, and as Jack correctly identifies, the restraining order carries criminal penalties for its violation, while the parenting plan does not. Accordingly, this appeal is not moot and we review Jack's claims of error on their merits.

Courts in dissolution proceedings have broad statutory and equitable authority to impose and fashion restraining orders. *Blackmon v. Blackmon*, 155 Wn. App. 715, 721-22, 230 P.3d 233 (2010) (explaining protection and restraining orders essentially types of injunctions and thus equitable in nature). We review a trial court's decision to impose a restraining order for abuse of discretion. *In re Marriage of Freeman*, 169 Wn.2d 664, 671, 239 P.3d 557 (2010). "A trial court abuses its discretion if its decision

[7] The trial court struck the provision in the parenting plan requiring the parties to submit additional disputes to arbitration and added an order to surrender weapons to the restraining order, as the court believed both of these changes to be mandated by statute. These modifications are not at issue in this appeal.

[8] The limitations on Jack's contact with A.L. that he challenges in his appeal of the restraining order are mirrored in the parenting plan. However, because that order was not designated for review, we do not consider the propriety of the restrictions therein.

is manifestly unreasonable or based on untenable grounds." *In re Marriage of Littlefield*, 133 Wn.2d 39, 46-47, 940 P.2d 136 (1997).

The restraining order in this matter was entered by the trial court pursuant to the findings of fact and conclusions of law issued by an arbitrator. Judicial review of an arbitration award is exceedingly limited. *Davidson v. Hensen*, 135 Wn.2d 112, 119, 954 P.2d 1327 (1998). A court may disturb an award only on the narrow grounds listed in RCW 7.04A.230(1*). AURC III, LLC v. Point Ruston Phase II, LLC*, 3 Wn.3d 80, 86, 546 P.3d 385 (2024). Our review of an arbitrator's award is confined to a review of the decision by the court that confirmed, vacated, modified, or corrected that award. *Expert Drywall, Inc. v. Ellis-Don Constr., Inc.*, 86 Wn. App. 884, 888, 939 P.2d 1258 (1997).

II. Authority of the Arbitrator

Jack asserts that the restraining order prohibiting him from contacting A.L. should be vacated because the arbitrator did not have the authority to propose such an order. An arbitrator exceeds their powers within the meaning of RCW 7.04A.230(1)(d) when the arbitration award exhibits a facial legal error. *Broom v. Morgan Stanley DW, Inc.*, 169 Wn.2d 231, 239-40, 236 P.3d 182 (2010). The facial legal error standard is a "very narrow ground for vacating an arbitral award" that furthers the "purposes of arbitration" while preventing "obvious legal error." *Id.* at 239. Furthermore, the facial legal error standard

> does not extend to a potential legal error that depends on the consideration of the specific evidence offered or to an indirect sufficiency of the evidence challenge. Courts are not permitted to conduct a trial de novo when reviewing the award, they "do not look to

> the merits of the case, and they do not reexamine evidence." "The error should be recognizable from the language of the award."

Salewski v. Pilchuck Veterinary Hosp., Inc., 189 Wn. App. 898, 904, 359 P.3d 884 (2015) (footnotes and internal quotation marks omitted) (first quoting *Broom*, 169 Wn.2d at 239; and then quoting *Cummings v. Budget Tank Removal & Envtl. Servs., LLC*, 163 Wn. App. 379, 389, 260 P.3d 220 (2011)). Where the arbitration award sets forth the arbitrator's factual findings and conclusions of law, we consider any issues of law evident in those findings and conclusions as part of the "face of the award." *Cummings*, 163 Wn. App. at 389.

Jack first asserts that the arbitrator did not have the authority to propose a restraining order protecting his daughter for more than one year, as restraining orders protecting minors are limited to one year under RCW 7.105.315(2)(a). While a protection order issued pursuant to RCW 7.105.315 that restrains a parent from contacting their child is restricted to "a fixed period not to exceed one year," *that* "*limitation is not applicable to orders for protection issued under chapter 26.09,* 26.26A, or 26.26B RCW." RCW 7.105.315(2)(a) (emphasis added).

The arbitrator indicated in her findings of fact and conclusions of law that a restraining order was warranted under RCW 26.09.050.[9] Similarly, the restraining order signed by the court appears on the mandatory form used for protection orders entered pursuant to chapter 26.09 RCW. Because the restraining order was plainly issued under chapter 26.09 RCW, the one-year limitation does not apply and the arbitrator had the authority to recommend a longer order.

[9] In an e-mail to the parties dated September 25, 2023, the arbitrator reiterated that she authorized the restraining order pursuant to RCW 26.09.300.

Jack further asserts that the arbitrator did not have the authority to impose a restraining order because the Uniform Family Law Arbitration Act (UFLAA), chapter 26.14 RCW, prohibits arbitrators from issuing protection orders. Jack cites no authority for this argument. Additionally, RCW 26.14.902 provides that the UFLAA applies to arbitration agreements signed on or after January 1, 2024, and only applies to earlier agreements if the parties expressly agree in writing. This matter was arbitrated pursuant to an agreement signed in 2023 and nothing in the record indicates that the parties ever agreed to have the UFLAA apply. Jack's argument that we should disregard the plain language of the statute for policy reasons is not well taken.

III. Notice and Due Process

Jack next asserts that imposition of the restraining order violated his right to due process because he did not receive notice that a restraining order was a possibility. We disagree.

RCW 26.09.050 empowers the court in a family law action to "make provision for the issuance within this action of the restraint provisions of a domestic violence protection order or an antiharassment protection order." Furthermore, RCW 26.09.191(3) authorizes a court to restrict or eliminate a parent's contact with the child upon the finding of certain factors articulated by statute, including a long-term emotional impairment which interferes with the parent's performance of parenting functions, the absence or substantial impairment of emotional ties between parent and child, abusive use of conflict, or other factors adverse to the best interests of the child. *In re Marriage of Underwood*, 181 Wn. App. 608, 611, 326 P.3d 793 (2014).

Because both of these statutes grant broad discretion to the court to fashion an appropriate remedy, it is not necessary for a party in a dissolution to make a separate request for a restraining order.

Additionally, the procedural history of this case demonstrates that Jack had actual notice of the possibility of a restraining order. The stipulation for arbitration signed by Jack contained no restrictions on the arbitrator's authority and instead authorized the arbitrator to decide "all disputes, claims or controversies" at issue in the dissolution. Jack's contact with A.L. was initially restricted when the first temporary parenting plan was entered by the court on June 1, 2021. At least two additional temporary parenting plans were entered prior to arbitration, both of which contained significant restrictions on Jack's ability to contact A.L. Under these circumstances, Jack had sufficient notice that the arbitrator might exercise her discretion to propose a restraining order that implemented the restrictions ordered in the parenting plan.

Thus, Jack was both legally and factually on notice that the arbitrator might authorize a restraining order in conjunction with a parenting plan. To the extent Jack argues that he was not afforded an opportunity during the arbitration to contest the basis for the restraining order, this assertion is not reviewable because Jack did not provide a copy of any records from the arbitration proceedings. *See Story v. Shelter Bay Co.,* 52 Wn. App. 334, 345, 760 P.2d 368 (1988) (declining to review claim of error where appellant failed to provide adequate record).

IV. Additional Challenges To Restraining Order

Jack asserts that the arbitrator disregarded the recommendations of the parenting evaluator in fashioning the parenting plan and recommending a

restraining order. We will not disturb a child custody disposition absent a showing of manifest abuse of discretion. *In re Custody of J.E.*, 189 Wn. App. 175, 182, 356 P.3d 233 (2015). We do not reassess credibility determinations or weigh conflicting evidence. *In re Marriage of Black*, 188 Wn.2d 114, 127, 392 P.3d 1041 (2017). Both the narrative award and the findings of fact and conclusions of law quote directly from Tuttle's report, indicating that the arbitrator gave the parenting evaluator's recommendations due consideration. The weight the arbitrator ultimately gave to the proposals of the parenting evaluator are within the sole province of the arbitrator and we will not disturb those determinations.

Jack additionally claims that the imposition of a restraining order violates the constitutional guarantee of equal protection, his citizenship rights, and Washington's Parenting Act of 1987.[10] Because Jack did not develop any of these arguments in his brief, we decline to consider them. *See Norcon Builders, LLC v. GMP Homes VG, LLC*, 161 Wn. App. 474, 486, 254 P.3d 835 (2011) (courts will not consider inadequately briefed arguments).

Jack also advocates for a number of policy changes, including prohibiting testimony by social workers and forbidding court commissioners from hearing protection order cases. These arguments should be directed to the legislature, not this court. *See McCaulley v. Dep't of Lab. & Indus.*, 5 Wn. App. 2d 304, 316, 424 P.3d 221 (2018).

Finally, Jack asserts multiple new arguments in his reply brief, including improper application of the rules of evidence, failure to appoint a guardian ad litem,

[10] LAWS OF 1987, ch. 460, § 57.

misconduct by the arbitrator, and a request for sanctions against Lisa's counsel. "An issue raised and argued for the first time in a reply brief is too late to warrant consideration." *Cowiche Canyon Conservancy v. Bosley*, 118 Wn.2d 801, 809, 828 P.2d 549 (1992). We therefore decline to consider any of Jack's new arguments on reply.

V. Attorney Fees on Appeal

Lisa requests an award of attorney fees on appeal pursuant to RAP 18.1(c), RCW 26.09.140, and RCW 7.04A.250(3). Under RCW 26.09.140, this court may, after considering the financial resources of the parties, "order a party to pay for the cost to the other party of maintaining the appeal." *See also In re Marriage of Kaufman*, 17 Wn. App. 2d 497, 521, 485 P.3d 991 (2021). However, because Lisa failed to comply with the procedural requirements set out in RAP 18.1(c) her request for fees is denied.

Affirmed.

WE CONCUR:

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

In the Matter of the Marriage of JOHN TORSTEN LOOP, Appellant, and LISA MICHELLE LOOP, Respondent.	No. 86382-7-I DIVISION ONE ORDER GRANTING MOTION FOR RECONSIDERATION AND AMENDING OPINION

Respondent filed a motion for reconsideration on January 30, 2025. After consideration of the motion, the panel has determined that the motion for reconsideration shall be granted and the opinion shall be amended.

Now, therefore, it is hereby

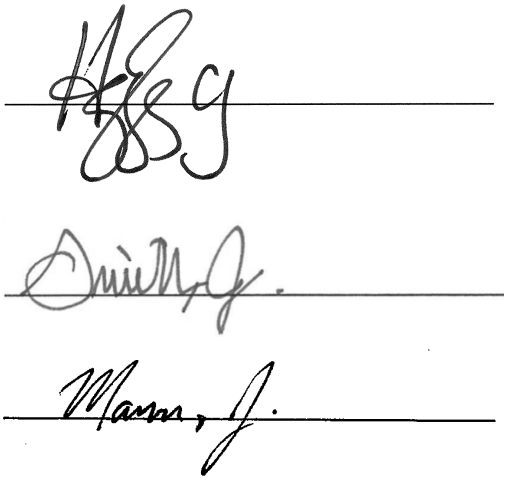
ORDERED that the motion for reconsideration is granted; and it is further

ORDERED that the opinion of this court filed on January 21, 2025 in the above-entitled matter shall be amended and Part V, entitled "Attorney Fees on Appeal," shall be entirely replaced with the following:

> Lisa requests an award of attorney fees on appeal pursuant to RAP 18.1(c), RCW 26.09.140, and RCW 7.04A.250(3). Under RCW 26.09.140, this court may, after considering the financial resources of the parties, "order a party to pay for the cost to the other party of maintaining the appeal." *See also In re Marriage of Kaufman*, 17 Wn. App. 2d 497, 521, 485 P.3d 991

(2021). However, Lisa did not timely file an affidavit of financial need in support of her request for a fee award based on RCW 26.09.140. Nonetheless, Lisa is correct that she is separately entitled to fees on appeal under RCW 7.04A.250. Accordingly, we award Lisa reasonable fees for responding to this appeal under RCW 7.04A.250 contingent on her compliance with the procedural requirements of the RAPs.

Affirmed.



SMITH GOODFRIEND, PS

July 24, 2025 - 1:33 PM

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