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October 27, 2024

**FOR SETTLEMENT PURPOSES ONLY
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VIA EMAIL

The Honorable Steve Rosen (Ret.)
Rosen ADR

Re: *In re the Marriage of Robert Edward Moyer, II and Christine Moyer*
King County Superior Court Cause No. 23-3-05392-7 SEA
Mediation, 9:00 a.m. November 1, 2024 via Zoom

Dear Judge Rosen:

Thank you for agreeing to mediate the issues in this dissolution of marriage proceeding. The undersigned represents Robert Moyer. Christine Moyer is represented by Natalie de Maar.¹ You will recall that you assisted the parties in resolving temporary orders on July 12, 2024. A copy of the Temporary Family Law Order is attached at **Exhibit 1**.

This letter and the exhibits provided with it are presented for settlement purposes only and may not be used for any other purpose whatsoever. The issues presented for resolution include parenting, child support, characterization and division of assets and liabilities.

I. INTRODUCTION

This is the dissolution of a 25-year marriage. They date of separation is September 15, 2023, which is when Robert moved out of the family home at Christine's request. Robert is 57 and Christine is 47. The parties have two sons, Robert Edward Moyer, III ("Max"), age 16 and Adrian Moyer, age 12. Christine has an adult daughter, Elsa, from a prior relationship who Robert helped raise from a young girl. Elsa is not subject to this proceeding but has been involved behind the scenes because Christine has shared with her the progression of this proceeding. We believe Elsa has used her relationship with Max and Adrian to influence their relationship with Robert.

¹ For purposes of maintaining the distinction between the parties, we will refer to them by their first names. No disrespect is intended.



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II. PROCEDURAL STATUS

Christine filed her petition for divorce on October 16, 2023. At the time, Christine was represented by AnnaLisa Danysh of Inslee Best. Natalie de Maar substituted as counsel on May 9, 2024. Trial was originally scheduled for September of 2024 but was continued by agreement to December 16, 2024 to accommodate the parenting evaluator, Connor Lenz's, request for additional time to complete his evaluation. Judge Rampersad is the assigned judge.

On February 6, 2024, Robert agreed to the entry of a temporary restraining order. **Exhibit 2.** In the fall of 2023, Christine mistakenly thought Robert was surveilling her when she and the boys noticed surveillance cameras in the garage and the exterior of the house that had been installed years earlier. The system never worked properly due to poor internet connection. The day Robert moved out of the family home, with the front door and garage doors open and the WiFi extender in Christine's office more visible to the system, the cameras activated and there was an alert notification on the parties' phones. Christine overreacted and inappropriately involved and frightened the boys by telling them Robert was surveilling them. Adrian also saw the notification on Robert's phone. Robert explained what happened to Christine and Adrian. Christine did not believe him. Robert wanted to assure Christine he respected her boundaries hence his agreement to the restraining order.

Ms. Danysh's office submitted the incorrect version of the order to the court which included a provision that Robert is a "credible threat." There were subsequent negotiations between the first version of the order and the second version which expanded the mode of communication from just OFW to OFW and email. In addition, the attorneys acknowledged in the conversations the "credible threat" box should not have been checked. Attached at **Exhibit 3** are emails from Christine's attorney's office acknowledging the error and an OFW exchange between Christine and Robert correcting the error. Despite the acknowledged error, Christine declined to enter the correct order. Despite Christine's assertions, Robert is not a credible threat to her or the boys. Robert was the sole caretaker of Adrian and Max for 66 days last summer while Christine was travelling. Nothing happened or has happened since that would indicate he is a danger to the boys. Christine has used the temporary order as a tool to resist and refuse Robert's residential time with Adrian and Max.

Following months of therapy sessions with Monique Brown and Kari Betts and repeated attempts to negotiate a parenting plan with Ms. Danysh, the parties were unable to reach agreement on a residential schedule. On April 3, 2024 the parties entered into an agreed order appointing Connor Lenz as their parenting evaluator. Mr. Lenz's report is attached at **Exhibit 4.**



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On May 9, 2024, Ms. de Maar substituted in as counsel for Christine. Up until this point, Robert did not have regular residential time with the boys. Ms. de Maar recognized there should be a residential schedule in place. To that end, the parties agreed to work with Jennifer Kielin for reunification counseling and they entered into a Stipulation Re: Residential Schedule on June 9 which provides:

- Robert has supervised residential time with Adrian every Saturday from 10:00 a.m. to 4:00 p.m. which may be adjusted as agreed to accommodate Adrian's and the supervisor's schedules.
- The parties shall participate in reunification counseling with Jennifer Kielin.
- The parties will follow Ms. Kielin's recommendations unless either party files a motion with the court seeking to amend that recommendation within 7 days.

See **Exhibit 5**.

The parties were operating without temporary financial orders, using Christine's income and the funds in their joint Fidelity account to pay their expenses. The Fidelity account was funded, when needed, from the sale of Robert's Microsoft stock awards. The parties came close to an agreement on the division of expenses. They enlisted your Honor's assistance to reach a final agreement including division of their expenses and use of the timeshares. Exhibit 1.

Written and informal discovery has been conducted. At Christine's request, Robert agreed to participate in a vocational assessment conducted by John Fountaine. Mr. Fountain's report is discussed in more detail below.

On his own volition, Robert is undergoing a domestic violence assessment. The assessment has not been completed.

III. FACTUAL BACKGROUND

A. The Parties.

Robert:

Robert's Sobriety. Robert is a recovering alcoholic. Before 2019, he drank alcohol excessively during family vacations and on the weekends. He has been arrested for suspicion of driving under the influence twice, once in 2013 and once in 2019. In 2013 he received a deferred prosecution and in 2019 he plead guilty to reckless driving. His drinking contributed to the marriage's turbulence: Christine and Robert would have nasty fights—though never physical altercations



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between them—and the alcohol made things worse. Unfortunately, the boys witnessed many of the fights. Christine produced in discovery a timeline of her perceived acts of domestic violence dating back to 1997 and damning declarations from family friends and neighbors. The declarations are rife with hearsay. We fully expect she will include them in her mediation materials. She provided them to Connor Lenz. The timeline and declarations were provided to Robert’s domestic violence assessor.

Robert has been sober for three years and three months. He has taken his sobriety very seriously since his 2019 arrest for suspicion of DUI when he completed inpatient treatment at Driftwood in Austin Texas. In 2019 he had a “New Life Alcohol Assessment” which concluded that he does not meet the diagnostic criteria for a substance abuse disorder. **Exhibit 6.** In 2020 a “New Life Recovery Solutions” letter released and discharged Robert upon successful completion of a 150-hour course, which included 12 randomized ETG UAs. **Exhibit 7.** A letter from Robert’s mental health counselor in July 2021 discusses his then-weekly sessions. **Exhibit 8.** Currently, Robert attends multiple AA / SMART Recovery meetings per week and meets with his sponsor twice a week. All of which are an essential part of his recovery.

Since October 2023, Robert has taken an average of 4 Soberlink tests per day to prove to Christine there is no drinking: 1111 consecutive negative tests as of October 22, 2024, except for one test on May 5, 2024, which showed positive because his identity was not verified. Another test taken 1 hour and 43 minutes later was negative so Robert could not have been drinking because alcohol does not metabolize that quickly. **Exhibit 9.** Robert takes Vivitrol shots every 28 days to block any feeling of pleasure from drinking.

At the beginning of the case, he took seven UA Panel Tests between October and December 2023, all of which came back negative for alcohol. An October 2023 New Life Recovery Solutions Assessment diagnosed that Robert is “in full sustained remission” and “do[es] not currently meet diagnostic criteria for an active substance use disorder.” **Exhibit 10.** A November 2023 Millennium Health Drug Test Report found some THC in his system which he used occasionally as a sleep aid, but everything else was negative. **Exhibit 11.** He continues to take both random and on demand 12 panel tests a minimum of four times a month.

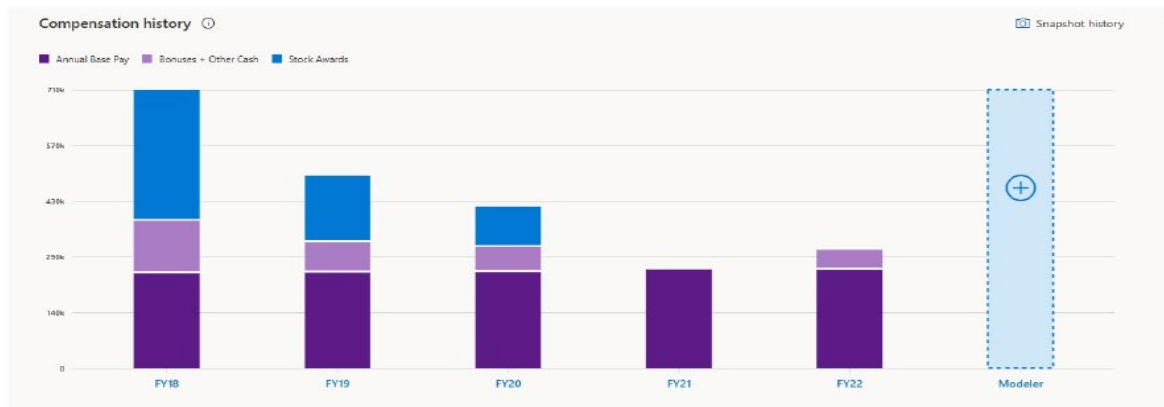
On June 25, 2024, I received an email from Ms. de Maar, stating that Adrian thought Robert was intoxicated during their joint therapy session with Jennifer Kielin the previous day. Robert immediately took a 10 panel UA and a hair follicle test. Both came back negative for all categories, except for Amphetamines which is triggered because he takes Vyvanse for his ADHD. His hair follicle test results showed trace amounts of THC because he took CBD gummies in October of 2023 as a sleep aid. CBD can have trace amounts of THC in it. Robert has not knowingly smoked marijuana or ingested anything that would contain THC since then. **Exhibit 12.**



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Robert will participate in whatever treatment is suggested as a result of the domestic violence assessment. The domestic violence assessment will most likely be concluded in a month.

Robert's Employment and Income History: Robert is 57-years old. He is currently unemployed. Robert has a degree in journalism. Despite not having an education in computer science, he worked in tech for 30 years. Robert was laid off from Microsoft after 24 years due to company restructuring and poor performance. Robert was experiencing substantial stress and anxiety in his role as a Group Program Manager. He could not concentrate, had trouble sleeping and was irritable which led to his receiving negative performance reviews. Accordingly, Robert's total income declined between 2018 and 2022. His salary remained constant but his bonus and variable income decreased dramatically. In 2019, Robert's bonus was \$129,000 but by 2022 it dropped to \$45,500, a 65% decline. In 2018 his variable income was \$465,900 and plummeted to \$160,900 by 2021. In 2022, Robert did not receive any stock awards. Robert's combined variable and bonus income decreased 89.93% over those four years. The chart below is an excellent visual of the decline in Robert's income.



At the time of his layoff, Robert met the criteria of Microsoft's 55/15 rule (55 years of age and 15 years of continuous service). Christine and Robert decided he should take advantage of the early retirement opportunity offered in conjunction with his layoff for several reasons. First, it would reduce his stress level. Second, it would allow him to take over much of the day-to-day care of Max and Adrian so Christine could focus on her position and advancing her career at Starbucks. Third, they had sufficient savings and investments to meet their financial needs until Robert was able to find another career path or position with the tech industry that was less stressful. In addition, Robert's Microsoft stock vested upon his *retirement* and he was free to exercise the stock pursuant to the vesting schedule. He received a severance package comprised of a lump sum payment of \$160,000, \$246,245 in accelerated stock vesting and an additional \$43,484 in transitional benefits totaling \$449,729. This one-time payout was reported on his 2023 W-2.



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Robert's Future Employment Prospects: Robert disagrees with Christine's vocational expert John Fountaine's vocational assessment which suggests Robert could return to work at a senior level in the tech industry earning a salary of between \$509,000 and \$916,000. The assessment is flawed on many levels and includes inaccuracies about Robert's exit from Microsoft, his future prospects there and his earning potential. The most glaring error is Mr. Fountaine's calculation of Robert's income potential, by averaging Robert's W-2 income over the past five years (2019 – 2023) resulting in an inflated average annual income of \$752,938. The W-2s during this timeframe include stock vests from prior grants as ongoing compensation. As reflected above, Robert's stock awards continued to decline and then became nonexistent in 2022 so should not be considered as continuing income. The average also includes Robert's one-time severance package of \$449,729. The projected ongoing compensation of \$752,938 is not accurate and certainly not attainable for Robert for several, irrefutable reasons.

Robert is 57 years old. The tech industry is interested in younger and less expensive prospects for program management positions. Robert does not have a computer science degree. In today's job market, particularly within the tech industry, a degree in computer science or related technical field is often a fundamental requirement for senior positions. Without this qualification and the fact that Robert was laid off, he faces additional challenges to land a position equal to his last position at Microsoft.² Artificial intelligence advancements and outsourcing trends are reshaping the landscape of senior level tech roles. Mr. Fountaine misrepresents that Robert declined a senior position with Microsoft in January of 2023. While he was actively interviewing and despite in-house referrals, no formal offer was extended.

Robert is in treatment with Luis Merced a licensed mental health counselor who specializes in trauma. Mr. Merced diagnosed Robert with PTSD. Attached at **Exhibit 13** is a letter from Mr. Merced explaining Robert's diagnosis and treatment which involves learning better ways to cope with his PTSD other than the use of alcohol and explains that Robert's PTSD was conflated by the significant stress associated with his role at Microsoft. Mr. Merced discusses how Robert is improving but recommends on-going therapy. Robert is in the process of determining what the best avenue for him will be going forward that will balance financial sustainability with his health and well-being. Given his age (57), lack of a degree in computer science, and his need to be mindful of stressors given his PTSD diagnosis and alcoholism, he must carefully choose his next career path which most likely will not be a level 67 position at Microsoft or similar position at the "FANG" group (Facebook, Amazon, Netflix and Google).

² Layoffs in the tech sector, especially at Robert's age, can carry a stigma that affects how recruiters and hiring managers view candidates. Senior tech positions often rely on networking and specialized recruitment processes which the layoff could impact.



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Robert is exploring owning and operating an Airbnb in the form of a boutique hotel in a desired location with the goal of it eventually evolving into a wellness resort that offers non-traditional, alternative treatment options for persons suffering from trauma and PTSD. In addition, Robert may pursue becoming a psychedelic assisted therapy guide which could take up to 24 months to complete. He may also decide to pursue a non-clinical path which could take up to 11 months to complete the process. In the interim Robert may need to obtain work as a contract employee utilizing his management skills for retail organizations and possibly tech companies. As a new hire, Robert could expect to earn 10 to 20% less than a tenured employee. Deducting this amount from Robert's salary at Microsoft (\$256,000), Robert could expect to earn a salary of \$204,800. This figure aligns with the Bureau of Labor and Statistics 2023 data of \$204,390 as discussed in Mr. Fountaine's assessment report.

Given Robert's age, his absence from the tech industry for over a year and a half, and his need to work in a profession that will not exacerbate his PTSD and/or trigger his desire to drink, Robert will not return to the workforce in a position where his income will equal his last income at Microsoft or at the level Mr. Fountaine suggests. Between September 2023 and June of 2024, Robert submitted 64 job applications, eleven of which were product manager positions. The scarcity of response reflects the difficulty securing a comparable role given the issues discussed above. A copy of Robert's job search log is attached at **Exhibit 14**. Robert continues to look for work.

Robert currently receives unemployment benefits in the amount of \$900 a week. His benefits are scheduled to end on **. Since division of the joint Fidelity account, Robert has been using his predistribution from the joint Fidelity account (\$**) to pay his living expenses. Robert's monthly expenses total \$32,636 which includes 50% of the boys' expenses of \$7,731 (the boys attend SAAS), \$1,320 per month for the residential supervisor, and \$1,175 per month for urinalysis testing and Soberlink. Robert's expenses will increase with the added expense of reunification counseling, domestic violence treatment and a parenting coordinator as suggested by Mr. Lenz. Conversely, Christine has been able to use her salary to pay her living expenses negating or minimizing the need to dip into savings and/or investments to make ends meet.

Christine:

Christine's Employment History. ***What is Christine's education.*** Christine is 47-years old and works for Starbucks as a Senior Tax Manager. Christine base salary is \$215,347. In 2023 she received a \$24,537 bonus and \$15,000 in stock. **Exhibit 15**. Christine is most likely due for a merit increase in November of 2024. Prior to working for Starbucks, Christine was a tax preparer for Moss Adams.



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Christine's Anxiety. Christine is a highly anxious person, some of which may be due to the issues in the marriage that stemmed from Robert's drinking and their volatile verbal exchanges. Because of her anxiety, she often overreacts as she did regarding the surveillance system at the Kirkland residence which led to the entry of the temporary restraining order. Christine's family resides in Hong Kong. Without her family for support here, she has turned to the parties' neighbors, friends, her adult daughter Elsa from a prior relationship, and the boys for support. Robert has exercised poor judgment in his communications with Christine following their separation and throughout this divorce proceeding, mostly because of his frustration due to his restricted residential time with Adrian which is no excuse. These communications have no doubt impacted Christine's anxiety level. No one faults Christine for this, but Christine has not been able to separate her issues with Robert from the children. As Jennifer Kielin noted, Christine needs to separate her feelings toward Robert from parenting. Christine has punished Robert for the issues in their marriage by inappropriately involving the children in the divorce and exposing them to her anxiety, which has further impacted the boys' relationship with Robert, mainly Max and Adrian to a lesser degree. Christine told Ms. Kielin she was open to receiving coaching on how to hide her anxiety from the boys. We believe this should be a requirement in the parenting plan. If Christine does not separate her issues with Robert from parenting, reunification with Max will most likely never happen and will impede reunification with Adrian. One example of Christine inappropriately including the children in the divorce is when Christine shared with Max that Robert used a picture of Max as an exhibit to his motion for a temporary parenting plan. Max went into a rage and sent a horrible and threatening text message to Robert. Christine should have never told Max about the motion.

V. MEDIATION RELIEF REQUESTED AND ANALYSIS

A. Parenting.

Parenting History:

From the day the boys were born, Robert took an active role in every aspect of parenting, cooking, grooming and hygiene, bedtime routines, managing medications and health care. He coached their sports teams and volunteered at events. After he was laid off from Microsoft in March of 2023, he became the boys' primary caregiver. His relationship with the boys blossomed more than before. He was in charge of the boys' daily lives and ensured their well-being without incident. He led trips to Whistler, Leavenworth, and the beach. He took them on float trips, went camping, climbing, hiking, kayaking, mountain biking, played lots of basketball, watched Seahawks and Mariners games, and attended all the boys' sports events (he also coached), and attended all medical appointments.



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Between the end of March and October of 2023 Robert spent 66 days being the *sole* care provider for Max and Adrian while Christine was on work trips or attending luxury spas, such as Mirava Wellness Resort. It was an excellent opportunity for Robert to spend time with the children and support Christine because she was so busy with her job and professional commitments. He loved that part of his new “Stay at home Dad” role. Below is a list of the time Robert spent with the boys last spring, summer and fall without incident:

- March 27-30: Christine was away for a work conference. I was solo with the boys in Kirkland.
- April 8-15: The family was in Cabo on a spring break vacation. We were together as a family.
- April 17-28: Christine was in the UK for work while I was solo with the boys in Kirkland.
- May 18-21: Christine’s girl’s trip to a resort in Arizona. I was solo with the boys in Kirkland.
- June 26-30: I hosted Adrian all week for beach camp. We were solo in Alki.
- June 18-25: Christine and Max went to Whistler, I watched Adrian at Alki and in Kirkland.
- July 22-30: I hosted Max and two friends’ daily activities and trips. Commuted from Alki.
- Aug. 4-10: I watched the boys and hosted Christine’s brother and sons (they reside in Hong Kong) for a Whistler trip.
- Aug 12-18: We enjoyed an REI family trip to visit Bryce and Zion as a regular family event.
- Aug. 28-Sept 1: I had Adrian at the beach house all week for beach camp. We stayed at Alki.
- Oct. 5-10: I watched the boys and household while Christine vacationed in New York.

In March 2024, Adrian's behavior changed abruptly. Their previously affectionate interactions became cold and detached, reflecting language tied to Christine's domestic violence accusations. This coincided with Christine limiting Robert’s time with Adrian to supervised visits. Their bond weakened rapidly, with a significant reduction in his warmth towards Robert which he believes is directly attributable to Christine's interference.

Attempts to Achieve an Agreed Parenting Plan.

Christine and Robert worked with multiple therapists to address their divorce, co-parenting, individual betterment, and development of a Parenting Plan. They began seeing Dr. Monique Brown in December 2023. They had four joint sessions over the course of three months. Christine and Robert also had two individual sessions, and Max and Adrian had individual sessions. Despite coming up with a comprehensive 50:50 parenting plan with appropriate safeguards to make Christine feel comfortable, she would not commit. For reunification therapy the parties were referred to Kari Betts and participated in sessions with her as well. As a result of their first session with Ms. Kielin, Adrian *and* Max spent 6 hours with me on Father’s Day. This was huge as Robert



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had not seen Max since Christmas 2023. Despite the visit going without incident, Robert has not spent time with Max since then. Their communications are limited to text messages and phone calls regarding mostly computer related matters and virtually non-existent more recently due to Christine sharing Robert's motion with Max.

In June of 2024, Robert and Christine engaged Jennifer Kielin as a reunification therapist. On July 1, 2024, after having met with the Robert, Christine and the boys, Ms. Kielin requested a joint meeting with counsel for the parties, the parties' and the children's therapists. During the Zoom conference Ms. Kielin relayed:

1. Supervised residential time is not because of risk or physical harm to Adrian and is not necessary. It should be phased out.
2. Adrian and Robert have a strong bond that needs nurturing and support.
3. The current residential time is not enough to build and maintain Robert's relationship with Adrian;
4. For maintenance building, there needs to be contact two times a week for several hours at a minimum;
5. Because Robert is the boys' father, there will be contact, some oxygen (more time with Robert) to allow reunification to happen;
6. Christine should separate her own issues with Robert from parenting.

During the Zoom conference, Ms. de Maar raised Christine's reasons why Robert should not have additional residential time with Adrian, including unsupervised time, which did not dissuade Ms. Kielin from her recommendations. Robert filed a motion to adopt Ms. Kielin's recommendations. Christine vociferously objected to the filing of the motion claiming Ms. Kielin could not make a recommendation regarding the residential schedule and that the confidential therapist relationship had been violated. Robert does not recall having signed a confidentiality agreement but Ms. Kielin confirmed he had. Despite our disagreement regarding Ms. Kielin's authority, we struck the motion. It was our position based on the clear language of the Residential Stipulation (**Exhibit 5**) Ms. Kielin's recommendations would be adopted if no one filed a motion within 7 days of her recommendation. Christine had not filed a motion.

Ms. de Maar copied Ms. Kielin and Conner Lenz on her emails regarding the motion. Ms. Kielin asked to have a conference with counsel. She issued a formal Status Report/Treatment Summary at **Exhibit 16**. Ms. Kielin recommended that steps must be taken to be appropriate for reunification therapy:



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1. More contact between Robert and Adrian (minimum of 2 contacts of 2 – 4 hours per week)
2. A 60-to-90-day period of stability in the family system prior to starting the intervention (stability equals no major conflicts, no new litigation, compliance with court orders, and no significant boundary violations).
3. Behavioral-based benchmarks for Robert to gain more/liberalized contact hours
4. A structured residential plan that provides for regular increases in contact based on Robert's behavior and Adrian's adjustment
5. A PC to implement the plan, monitor Robert's progress towards benchmarks and compliance with communication stipulations, monitor the children's adjustment, and to facilitate parent communication and minor dispute resolution.
6. This family may benefit from a team approach to family-systems therapy, such as individual therapists and a family therapist, all focused on addressing the resist/refuse dynamics.

I reached out to Ms. de Maar regarding scheduling additional time of 2 to 4 hours twice weekly. Ms. de Maar interpreted Ms. Kielin's recommendation to mean the minimum visit requirement would replace the 6 hours of supervised residential time every other Saturday. I do not believe this was Ms. Kielin's recommendation as she said the current residential time was not enough to build and maintain Robert's and Adrian's relationship.

What is most telling about Ms. Kielin's recommendations is that Christine cannot separate her feelings toward Robert from his parenting of Adrian and Max. This is why, despite their efforts to enter into a parenting plan with appropriate safeguards in place for the boys, Christine has backed out every time. We also believe this is why Christine reacted so violently to the motion for a temporary parenting plan. She does not want Robert to have more time with Adrian.

Since initiating reunification in early May, the situation has statistically worsened each week as follows:

- Despite multiple therapeutic recommendations and legal remedies, there's been no meaningful improvement in Robert's residential time this year.
- Christine preventing Robert from seeing Adrian until September 14th, eliminated their time together for another 28 days.³

Below is a summary of the parenting time Robert had with Adrian since June of 2024:

- June 30 to August 3: 6 hours over 34 days (0.74%)

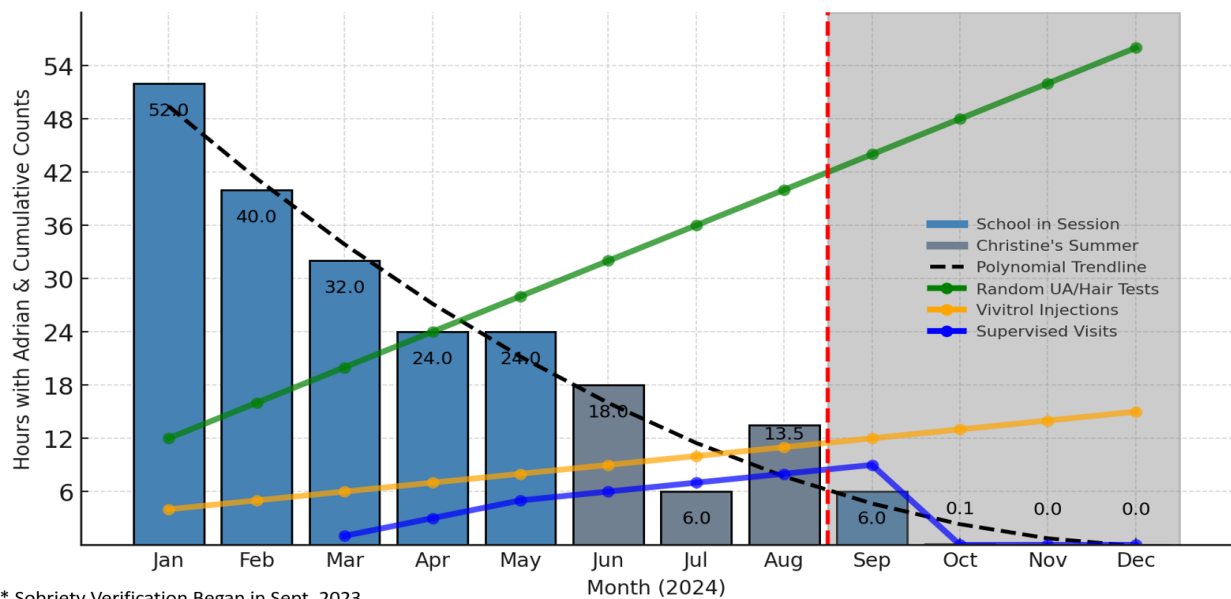
³ On August 24, Robert had a very brief visit with Adrian (90 minutes) which is not counted here because it did not believe it met the bar for a normal visit as stipulated. They could not go anywhere or do anything.



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- August 17 to September 13: 90 minutes over 28 days (0.22%)

This is a 72.73% reduction in time. The August 18 to September 14 custody split will be Robert 0.22% vs. Christine 99.78%. Below is a chart of how his parenting time has decreased.



The chart shows parenting time and what Robert has done over eight months to demonstrate his suitability as a parent. Despite his efforts, the hours spent with Adrian have consistently decreased. It's the inverse of his actions. His contact with Adrian has declined as follows:

- January: Adrian and Robert spent 52 hours together, indicating a decent start to the year.
- February: Their time decreased to 40 hours, marking the start of a downward trend.
- March: Their time dropped to 32 hours, but they still had sleepovers at Robert's place.
- June: Their time was reduced to 18 hours, a 25% decrease from May with no Basketball because Christine would not sign him up due to Adrian's jam-packed summer schedule including a two-week trip to Hong Kong.
- July: Their time dropped sharply to 6 hours that month, or 67% less than in June.
- August: A slight rebound to 13.5 hours occurred, but it failed to reverse the trend.
- September: There was 27 days between regular supervised visits for Adrian and Robert.



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This is evidence that Christine has disregarded the stipulation regarding residential time. Ms. Kielin and Mr. Lenz recognize acknowledge the disruption and the need for routine contact and visits between Robert and Adrian.

Robert is well aware of how his alcoholism impacted the family. He is working hard to assure Adrian and Max they are and will be safe with him. But Christine interferes with Robert's attempts by withholding the children and inappropriately including the boys in the divorce. For example, Max learned that Robert had included a picture of him as an exhibit to his motion for a temporary parenting plan. Max sent Robert very angry texts about Robert using his picture. Max should have never been informed of this. Adrian has questioned Robert about the amount of rent he pays. This was during the time the parties were negotiating allocation of expenses. Robert did not share this information with Adrian so it must have been Christine. Elsa reported to Mr. Lenz that Christine shared with Elsa at the age of six that Robert pushed her into a wall. While Ms. Kielin opined Christine struggles to hide her anxiety and distress surrounding Robert and accommodates Adrian's anxiety and that Christine was open to coaching, no such requirement is made of her in Mr. Lenz's report.

The parties' marriage counselor, Debbie Bayer, reported to Mr. Lenz she believed Christine was being coached by an attorney regarding her participation in the 2023 sessions. Ms. Bayer further reported Robert would watch the children for a week during her absence and then Christine would decide it was unsafe for the boys to be with Robert. Ms. Bayer opined there was a lot of power play on Christine's part and told Christine she was weaponizing the children. Ms. Bayer felt Christine was projecting some of "her stuff" onto the children and could have given Robert more space. This mirrors Ms. Kielin's opinion that Christine could not separate her feelings about Robert from parenting. Christine told Ms. Bayer on many occasions that Robert was a good dad.

Connor Lenz's Parenting Evaluation.

What is most striking about Mr. Lenz's report is it is focused on Robert and his behaviors and not at all on Christine's impact on the current family dynamic. Robert does not deny his role in the marriage and the anxiety it caused the family; however the absence of reporting on Christine's role gives an impression of bias by Mr. Lenz. Robert provided Mr. Lenz copious amounts of material which documented Christine's resistance and refusal to Robert spending time with Adrian. He mentioned in his report that Christine reported Robert was having affairs but failed to mention that Christine had an affair during the marriage. Extra-marital affairs should not be included in a parenting evaluation unless the children were impacted by them, which they were not. It is important to note that the "affairs" Christine raised were relationships Robert and Christine were entering into with third parties and were consensual on Christine's behalf. Despite Robert sharing the amount of times he and Christine used mushrooms together, Mr. Lenz adopted Christine's



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minimized reporting over Robert's. It is notable that Christine would not sign a release for Mr. Lenz to interview her therapist, while Robert signed all releases requested of him. Christine effectively prevented Mr. Lenz any insight into her.

Mr. Lenz acknowledges and commends Robert's commitment to his sobriety and the lengths Robert has gone to assure Christine and the boys that he is not drinking; however, this acknowledgment is not reflected in his residential recommendations.

Much of Christine's reporting and that of her collateral witnesses, specifically, Lisa Rudolph could not be corroborated by Mr. Lenz.

Mr. Lenz recommends a residential schedule with increased time over the course of nine months, three phases at 90 days each with the final phase limited to alternating weekends and one mid-week evening visit every week. Mr. Lenz fails to include school breaks, Christmas and Christmas Eve in his recommendations. A huge oversight, if not intentional, which it does not appear to be because he makes recommendations for summer vacations and other holidays. Mr. Lenz also recommends sole decision making which is extreme, especially in light of a parenting coordinator coming on board and appropriate parameters in place regarding the OFW exchange regarding joint decisions. Christine should not be given carte blanche to make decisions regarding school and extracurriculars for which Robert is financially responsible for. More importantly, Robert has always been engaged in the children's education and healthcare and managed both almost exclusively after he was laid off from Microsoft.

Robert has proven over and over that he will do whatever it takes to ensure Adrian and hopefully, one day, Max will trust him again and want to spend time with him. Robert's interactions with Christine are concerning and it is understandable why Mr. Lenz finds there was domestic violence in this marriage. Robert does not disagree with the recommendations for domestic violence treatment, reunification counseling, individual therapy and continued monitoring via Soberlink and drug testing. All of which Robert has done on his own. Robert agrees a parenting coordinator is necessary. Robert is committed to understanding his past and present behaviors and working on improving them to de-escalate the family dynamics.

Robert's proposed Parenting Plan is attached at **Exhibit 17** and provides the following:

Residential Schedule:

Phase one as proposed by Mr. Lenz, 90 days supervised one weekend day each week, is too restrictive and maintains the status quo. This does not corroborate Ms. Kielin's recommendation that Robert have more frequent contact with Adrian. Supervised visits have been in place for the



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past 7 months. Mr. Schneider's visitation reports have all been positive with Mr. Schneider reporting that Adrian always enjoys his time with his father. Robert proposes that phase two, 6 hours every Sunday and Wednesdays from after school until 7:30 p.m. become phase one for a period of 90 days (11/1/2024 – 1/31/2025). Robert has commenced the domestic violence assessment and treatment process. He is waiting for the completed assessment and treatment recommendations. Robert is already providing Soberlink reports to Christine. He takes random drug tests and Christine receives the results. Robert will participate in all counseling recommendations made by Mr. Lenz.

Phase three should become phase two with residential time from every other Saturday at noon to Sunday at noon and Wednesday after school until 7:30 p.m. for a period of 90 days, starting February 1, 2025 to April 30, 2025.

Phase four should become phase three with residential time from Friday after school until Sunday at 6:00 p.m. and every Wednesday after school from May 1, 2025 to August 31, 2025.

Robert should be able to request an expanded residential time in January of 2027 if he is in compliance with all guidelines recommended by Mr. Lenz.

Summer vacations shall commence in phase three, the summer of 2025, with Robert receiving one week of vacation and expanded to two weeks in the summer of 2026.

Holidays should be as set forth in Mr. Lenz's recommendations. School breaks shall be included and commence in January of 2026.

B. Spousal and Child Support.

For settlement purposes, Robert is not seeking spousal support and proposes that income be imputed to him at \$204,000 a year for purposes of calculating child support. He further proposes a 50:50 split of the children's uninsured medical and agreed upon extracurricular activities and post-secondary educational support.

The parties' 2022 and 2023 tax returns, Christine's W-2s and most recent available pay stub are attached at **Exhibits 18, 19, 20 and 21**, respectively.

Robert's proposed Order of Child Support and Child Support Worksheets are attached at **Exhibit 22**.

D. Characterization of Assets.



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All assets are community with the exception of Starbucks stock issued post-separation and vests following separation. The separate and community character of this asset is reflected on the proposed asset allocation spreadsheet. See also the *Short* analysis at **Exhibit 23**.

E. Allocation of Assets.

All property is to be divided in a manner that is just, equitable and according to the factors set forth in RCW 26.09.080. The statute provides:

Disposition of property/liabilities – Factors.

In a proceeding for dissolution of the marriage or domestic partnership, legal separation, declaration of invalidity, or in a proceeding for disposition of property following dissolution of the marriage or the domestic partnership by a court which lacked personal jurisdiction over the absent spouse or absent domestic partner or lacked jurisdiction to dispose of the property, the court shall, without regard to misconduct, make such disposition of the property and the liabilities of the parties, either community or separate, as shall appear just and equitable after considering all relevant factors including, but not limited to:

- (1) The nature and extent of the community property;
- (2) The nature and extent of the separate property;
- (3) The duration of the marriage or domestic partnership; and
- (4) The economic circumstances of each spouse or domestic partner at the time the division of property is to become effective, including the desirability of awarding the family home or the right to live therein for reasonable periods to a spouse or domestic partner with whom the children reside the majority of the time.

Although no one factor is given greater weight, of paramount concern to the Court are the economic circumstances of the parties when the divorce becomes final. ***DeRuwe v. DeRuwe***, 72 Wn.2d 404, 433 P.2d 209 (1967). These statutory requirements, however, are not exclusive and courts consider other relevant factors in determining a just and equitable property division such as the parties' health, ages, education, and employability. ***In re Marriage of Mathews***, 70 Wash. App. 116, 121, 853 P.2d 462, *review denied*, 122 Wn.2d 1021 (1993). All property of the parties is before the court for distribution and courts have wide discretion in disposing of property and liabilities. ***Davis v. Davis***, 13 Wash. App. 812, 537 P.2d 1048 (1975); ***In re the Marriage of Irwin***, 64 Wash. App. 38, 822 P.2d 797 (1992).



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Robert W. Winsor, former King County Superior Court Judge, opined that marriages be defined as short (five years or less), long (25 years or more) and mid-range (all others). This is a long-term marriage.

“In dissolving a marriage of 25 years or more, the trial court must put the parties in roughly equal financial position for the rest of their lives.” *In re the marriage of Rockwell*, 141 Wash. App. 235, 243, 170 P.3d 572 (2007), citing *Washington Family Law Deskbook* § 32.3(3) at 17 (2d. ed. 2000) “[F]or a marriage lasting over 25 years, ‘after [which] a husband and wife have toiled on together for upwards of quarter of a century in accumulating property . . . the ultimate duty of the court is to make a fair and equitable division under all the circumstances’” *Rockwell* at 576 citing *Sullivan v. Sullivan*, 52 Wash. 160, 164, 100 P.321 (1909). “Future earning potential is a substantial factor to be considered by the trial court in making a just and equitable property distribution.” *Rockwell* at 579 citing *In re the Marriage of Hall*, 103 Wash. 2d 236, 248, 692 P.2d 175 (1984). “[I]n considering a party’s future earnings capacity, a trial court may consider the age, health, vocational training and work history of the party.” *Rockwell* at 579, citing *Washington Family Law Deskbook*, § 32.3(4)(a) (1st ed.)

Christine is 10 years younger than Robert. She has a lucrative position at Starbucks as a Senior Tax Manager. She earns a handsome salary and receives bonuses and stock awards. She has many productive work years ahead of her where she can grow her estate.

At age 57 and in light of his lay off from Microsoft, his absence from the work industry and the tech industry in particular, a degree in journalism as opposed to a computer science degree, Robert’s PTSD diagnoses and prior issues with alcohol, Robert’s future career paths are limited and most likely not as lucrative as Christine’s. He must be careful not to return to work in a position which may trigger his PTSD and possibly cause him to drink again. With 10 fewer years to work than Christine he will not be able to grow his estate as much as Christine will be able to.

Given the factors above, Robert may very well be entitled to a disproportionate award of assets. However, for settlement purposes only, Robert proposes a 53:47 division of the assets in his favor as set forth on his proposed Asset Allocation provided at **Exhibit 24**.

We look forward to a productive mediation session with your valuable assistance.

Very truly yours,

Lisa Ann Sharpe



LASHER
HOLZAPFEL
SPERRY &
EBBERSON

PLLC

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Enclosures

cc: Robert Moyer
Natalie de Maar



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EXHIBIT INDEX

The following documents are provided in order to facilitate the mediation process:

1. July 12, 2024 Temporary Family Law Order
2. February 26, 2024 Temporary Restraining Order
3. Emails and OFW Exchange Re: Correcting Restraining Order
4. Connor Lenz Parenting Evaluation Report
5. June 9, 2024 Residential Stipulation
6. 2019 New Life Alcohol Assessment
7. 2020 New Life Recovery Solutions letter
8. July 2021 Luis Merced letter
9. Soberlink Results
10. October 2023 New Life Recovery Solutions Assessment
11. November 2023 Millennium Health Drug Test Report
12. June 2024 10 panel UA and Hair Follicle Test Results
13. June 27, 2024 Luis Merced Letter
14. Job Search Log
15. Christine's 2023 Compensation/Rewards Planning Summary
16. Jennifer Kielin Status Report/Treatment Summary
17. Robert's Proposed Parenting Plan
18. 2022 Tax Return⁴
19. 2023 Tax Return⁴
20. Christine's 2023 W-2
21. Christine's 9/27/2024 Pay Stub
22. Robert's Proposed Order of Child Support and Child Support Worksheets
23. Short Analysis – Starbucks RSUs
24. Roberts Proposed Asset Allocation Spreadsheet

⁴ First two pages only are provided. The complete return can be made available upon request.