

## **APPENDIX TABLE OF CONTENTS**

### **OPINIONS AND ORDERS**

Order Denying Petition for Review, Supreme Court of Washington (March 8, 2023).....	1a
Amended Opinion, Court of Appeals of the State of Washington, Division One (September 6, 2022).....	3a
Opinion, Court of Appeals of the State of Washington, Division One (July 11, 2022) .....	11a
Findings and Conclusions, Superior Court of Washington, King County (March 4, 2021)....	19a

**ORDER DENYING PETITION FOR REVIEW,  
SUPREME COURT OF WASHINGTON  
(MARCH 8, 2023)**

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THE SUPREME COURT OF WASHINGTON

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IN THE MATTER OF THE MARRIAGE OF:  
AXEL RIETSCHIN,

*Petitioner,*

v.

DOMINIKA RIETSCHIN,

*Respondent.*

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No. 101410-4

Court of Appeals No. 82473-2-I

Before: GONZÁLEZ, Chief Justice, and  
MADSEN, STEPHENS, YU, JOHNSON, Judges.

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Department II of the Court, composed of Chief Justice González and Justices Madsen, Stephens, Yu, and Whitener (Justice Johnson sat for Justice Whitener), considered at its March 7, 2023, Motion Calendar whether review should be granted pursuant to RAP 13.4(b) and unanimously agreed that the following order be entered.

IT IS ORDERED:

That the petition for review is denied and the Clerk's motion to strike the portions of the reply to

App.2a

the answer to the petition for review unrelated to attorney fees is granted. The Respondent's request for attorney fees for filing an answer to the petition for review is granted. The Respondent is awarded reasonable attorney fees and expenses pursuant to RAP 18.1(j). The amount of the attorney fees and expenses will be determined by the Supreme Court Clerk pursuant to RAP 18.1. Pursuant to RAP 18.1(d), the Respondent should file an affidavit with the Clerk of the Washington State Supreme Court.

DATED at Olympia, Washington, this 8th day of March, 2023.

For the Court

/s/ González, C. J.

Chief Justice

**AMENDED OPINION, COURT OF APPEALS  
OF THE STATE OF WASHINGTON,  
DIVISION ONE  
(SEPTEMBER 6, 2022)**

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

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**IN THE MATTER OF THE MARRIAGE OF:  
AXEL RIETSCHIN,**

*Appellant,*

v.

**DOMINIKA RIETSCHIN,**

*Respondent.*

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**No. 82473-2-I**

**UNPUBLISHED OPINION**

**Before: CHUNG, James VERELLEN,  
Linda COBURN, Judges.**

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CHUNG, J. — Axel Rietschin appeals the trial court's dissolution of his marriage to Dominika Rietschin.<sup>1</sup> Axel asserts that the superior court lacked subject matter jurisdiction over the parties' marriage because they were both foreign nationals who intended to return to their home countries at some time in the

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<sup>1</sup> Because the parties shared a last name, we refer to them by first name for clarity. We intend no disrespect.

## App.4a

future. RCW 26.09.030 allows anyone who is, or is married to, a Washington resident, to seek a divorce in this state. Residence in this context means domicile, which requires both residence in fact and an intent to make a place of residence one's home. Here, evidence at trial showed that ever since they moved to Washington for Axel's work, Dominika and Axel were both physically present in Washington, Dominika considered Washington her home, and she intended to stay here. The evidence established her domicile was Washington. Therefore, the trial court had authority to adjudicate the dissolution and issue attendant orders relating to property division and child custody and support.

We affirm.

### FACTS

Dominika, a Polish citizen, and Axel, a Swiss citizen, married in Switzerland in 2012. In 2014, Dominika, Axel, and their two children moved to Washington for Axel's work. They rented a house and shipped their belongings from Switzerland. They enrolled the children in local public schools and got them involved in after-school activities and summer camps, established medical care, engaged in cultural and community activities, and registered their vehicles in Washington. They both held jobs in Washington. They borrowed money toward the purchase of a home here, though the purchase fell through due to inspections.

Dominika and Axel separated in October 2018, and Dominika filed for dissolution in April 2019. Axel contested the court's jurisdiction over the dissolution proceedings, arguing that because he was in Washington on a "temporary" work visa, he and his dependents were not domiciled here. At trial, Dominika testified

that Axel's job was a permanent position—an opportunity for him to make his career—and that the parties had no concrete plans or date to return to Switzerland. She recounted that she viewed the family's 2014 relocation to Washington as "a new beginning." She further stated that her personal intent was to remain permanently in Washington with her two children she had with Axel, her fiancé, and her new baby. Axel characterized his status as a temporary worker as "like a tourist in this country." He testified that the plan was always to return to Switzerland, and the only thing that changed was the anticipated date of return. Axel kept his apartment in Geneva and rented it to students.

The trial court determined that the domicile requirement was met and that it had jurisdiction to dissolve the parties' marriage. After finding it had jurisdiction, the court then dissolved the parties' marriage and divided property according to the parties' Swiss marital contract. The court also awarded Dominika custody and primary decision-making authority over the children and ordered Axel to pay child support. Further, the court awarded Dominika attorney fees based on the parties' need and ability to pay and imposed sanctions and civil penalties against Axel for repeated failure to comply with court orders.

Axel appeals the trial court's exercise of jurisdiction over the divorce proceedings.

## ANALYSIS

### I. Domicile and Subject Matter Jurisdiction

Axel contends that the trial court lacked subject matter jurisdiction over the dissolution because the

parties were not residents of Washington.<sup>2</sup> A trial court's decision as to subject matter jurisdiction is a question of law that we review *de novo*. *Conom v. Snohomish Cnty.*, 155 Wn.2d 154, 157, 118 P.3d 344 (2005).

RCW 26.09.030 requires that in order for a party to file a petition for dissolution in Washington, either the petitioner or the petitioner's spouse must be a resident of the state. Residence, in this context, means "domicile." See *In re Marriage of Strohmaier*, 34 Wn. App. 14, 16, 659 P.2d 534 (1983); *Sasse v. Sasse*, 41 Wn.2d 363, 365, 249 P.2d 380 (1952) (construing predecessor statute). "Domicil[e] is a jurisdictional fact," and this court conducts a *de novo* review of the jurisdictional facts. *In re Marriage of Robinson*, 159 Wn. App. 162, 168-69, 248 P.3d 532 (2010) (citing *Mapes v. Mapes*, 24 Wn.2d 743, 753, 167 P.2d 405 (1946)).

"The indispensable elements of domicile are residence in fact coupled with the intent to make a place

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<sup>2</sup> Though the parties use the term "subject matter jurisdiction," the state constitution vests the superior court with subject matter jurisdiction over matters including "of divorce, and for annulment of marriage." Const. art. IV, sec. 6. "Subject matter jurisdiction is the authority of the court to hear and determine the type of action before it." *In re Marriage of Robinson*, 159 Wn. App. 162, 167, 248 P.3d 532 (2010) (citing *In re Adoption of Buehl*, 87 Wn.2d 649, 655, 555 P.2d 1334 (1976)). We note that a "[tribunal] does not lack subject matter jurisdiction solely because it may lack authority to enter a given order. A tribunal lacks subject matter jurisdiction when it attempts to decide a type of controversy over which it has no authority to adjudicate." *Marley v. Dep't of Labor & Indus.*, 125 Wn. 2d 533, 539, 886 P.2d 189 (1994). More precisely, then, the issue here is whether the court had authority pursuant to RCW 26.09.030 over the dissolution based on either spouse's residency in the state.

## App.7a

of residence one's home." *Strohmaier*, 34 Wn. App. at 17. Domicile is primarily a question of intent, which may be shown by both the parties' own testimony and by surrounding circumstances. *Mapes*, 24 Wn.2d at 748. "[T]he more extrinsic and corroborative evidence [a party] can introduce which is consistent with [their] stated intention, the more likelihood there is that the trier of the fact will believe [them]." *Marcus v. Marcus*, 3 Wn. App. 370, 371, 475 P.2d 571 (1970) (internal quotation marks omitted) (quoting *Thomas v. Thomas*, 58 Wn.2d 377, 381, 363 P.2d 107, 110 (1961)). "[T]he intention to make a home must be an intention to make a home at the moment, not to make a home in the future." *Strohmaier*, 34 Wn. App. at 17 (quoting *In re Estate of Lassin*, 33 Wn.2d 163, 167, 204 P.2d 1071 (1949)).

Here, the undisputed evidence of Dominika's years lived in Washington, combined with the testimony regarding her subjective intention to remain and make a permanent home here support the trial court's finding that she is domiciled in the state. Dominika stated that she sought a divorce in Washington rather than Switzerland "[b]ecause I live in United States." She testified that she did not want to return to Switzerland or Poland because "I live here currently, I have three children, and I am in a happy relationship. I don't have reason, frankly, to go back to Europe."

Axel argued that Dominika's intent was illusory, as her immigration status was linked to his and she had no legal right to remain in the country without him. According to Axel, Dominika has no legal way to effectuate her intent. However, Axel presented no legal support for his argument that the trial court cannot

adjudicate a divorce if the parties are present in the U.S. on temporary nonimmigrant visas.

We reject Axel's argument based on immigration status and future intent. Neither U.S. citizenship nor U.S. legal status is required to establish domicile for purposes of a dissolution proceeding; Washington's statute, RCW 26.09.030, requires only residency.<sup>3</sup>

The parties' testimony and corroborating evidence presented below unequivocally established Dominika's intent to make Washington her home beginning in 2014 and continuing throughout the dissolution proceedings. The longstanding rule is that "[o]nce acquired, domicile is presumed to continue until changed." *Strohmaier*, 34 Wn. App. at 17. The burden of proving a change in domicile rests upon the one who asserts it, and the change in domicile must be shown by substantial evidence. *Id.* Intent to make a home in the future is not relevant to the determination of domicile. *See Strohmaier*, 34 Wn. App. at 17. Axel's speculation about Dominika's future immigration status after their divorce is insufficient to meet his burden of proving a change in her domicile by substantial evidence.

Because the court's jurisdiction over a dissolution requires only one party to be a resident, Dominika's

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<sup>3</sup> Other jurisdictions that have addressed the issue have held that a person with a nonimmigrant visa may still establish domicile for purposes of a residency requirement for dissolution. *See, e.g., Maghu v. Singh*, 2018 VT 2, 206 Vt. 413, 181 A.3d 518; *In re Marriage of Dick*, Cal. App. 4th 144, 156, 18 Cal. Rptr. 2d 743 (1993); *Bustamante v. Bustamante*, 645 P.2d 40, 42 (Utah 1982); *Abou-Issa v. Abou-Issa*, 229 Ga. 77, 79, 189 S.E.2d 443 (1972); *Alves v. Alves*, 262 A.2d 111, 115 (D.C. 1970). Further, under ER 413(b), evidence of a party's immigration status is inadmissible unless it is essential to proving an element of a cause of action.

residence alone was sufficient for the trial court to adjudicate the dissolution pursuant to RCW 26.09.030 and to issue the attendant rulings on property, parenting and child custody, and maintenance.<sup>4</sup> Thus, we affirm the trial court's rulings in this matter.

## II. Attorney Fees

Dominika requests fees on appeal. This court has authority to award attorneys' fees where authorized by statute, agreement, or equitable grounds. *In re Marriage of Greenlee*, 65 Wn. App. 703, 707, 829 P.2d 1120 (1992). RCW 26.09.140 specifically provides for attorney fees on appeal. In deciding whether to award fees under this statute, we "examine the arguable merit of the issues on appeal and the financial resources of the respective parties." *In re Marriage of Griffin*, 114 Wn.2d 772, 779, 791 P.2d 519 (1990). RAP 18.1(c) also requires the timely filing of a financial affidavit supporting a party's request for fees based on need.

Dominika timely filed an affidavit of financial need. Axel failed to counter with an affidavit proving his inability to pay. *In re Marriage of Fox*, 58 Wn. App. 935, 940, 795 P.2d 1170 (1990). Therefore, we grant Dominika's request for attorney fees on appeal.<sup>5</sup>

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<sup>4</sup> Axel conceded in his reply brief and at oral argument that the trial court had personal jurisdiction over him as well as subject matter jurisdiction to make child custody determinations under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), Chap. 26.27 RCW. As such, we need not separately address the trial court's authority or jurisdiction to decide property distribution, child support, and parenting/visitation rights.

<sup>5</sup> Because Dominika established a right to fees under RCW 26.09.140 and RAP 18.1, we need not address her arguments on alternative bases for fees.

App.10a

Affirmed.

/s/ Chung, J.

J.

WE CONCUR:

/s/ Coburn, J.

/s/ Verellen, J. P.T.

**OPINION, COURT OF APPEALS OF THE  
STATE OF WASHINGTON,  
DIVISION ONE  
(JULY 11, 2022)**

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

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**IN THE MATTER OF THE MARRIAGE OF:  
AXEL RIETSCHIN,**

*Appellant,*

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**DOMINIKA RIETSCHIN,**

*Respondent.*

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**No. 82473-2-I**

**Before: CHUNG, James VERELLEN,  
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CHUNG, J. — Axel Rietschin appeals the trial court's dissolution of his marriage to Dominika Rietschin.<sup>1</sup> Axel asserts that the superior court lacked subject matter jurisdiction over the parties' marriage because they were both foreign nationals who intended to return to their home countries at some time in the future. RCW 26.09.030 allows anyone who is, or is

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married to, a Washington resident, to seek a divorce in this state. Residence in this context means domicile, which requires both residence in fact and an intent to make a place of residence one's home. Here, evidence at trial showed that ever since they moved to Washington for Axel's work, Dominika and Axel were both physically present in Washington, Dominika considered Washington her home, and she intended to stay here. The evidence established her domicile was Washington. Therefore, the trial court had authority to adjudicate the dissolution and issue attendant orders relating to property division and child custody and support.

We affirm.

## FACTS

Dominika, a Polish citizen, and Axel, a Swiss citizen, married in Switzerland in 2012. In 2014, Dominika, Axel, and their two children moved to Washington for Axel's work. They rented a house and shipped their belongings from Switzerland. They enrolled the children in local public schools and got them involved in after-school activities and summer camps, established medical care, engaged in cultural and community activities, and registered their vehicles in Washington. They both held jobs in Washington. They borrowed money toward the purchase of a home here, though the purchase fell through due to inspections.

Dominika and Axel separated in October 2018, and Dominika filed for dissolution in April 2019. Axel contested the court's jurisdiction over the dissolution proceedings, arguing that because he was in Washington on a "temporary" work visa, he and his dependents were not domiciled here. At trial, Dominika testified

that Axel's job was a permanent position—an opportunity for him to make his career—and that the parties had no concrete plans or date to return to Switzerland. She recounted that she viewed the family's 2014 relocation to Washington as "a new beginning." She further stated that her personal intent was to remain permanently in Washington with her two children she had with Axel, her fiancé, and her new baby. Axel characterized his status as a temporary worker as "like a tourist in this country." He testified that the plan was always to return to Switzerland, and the only thing that changed was the anticipated date of return. Axel kept his apartment in Geneva and rented it to students.

The trial court determined that the domicile requirement was met and that it had jurisdiction to dissolve the parties' marriage. After finding it had jurisdiction, the court then dissolved the parties' marriage and divided property according to the parties' Swiss marital contract. The court also awarded Dominika custody and primary decision-making authority over the children and ordered Axel to pay child support. Further, the court awarded Dominika attorney fees based on the parties' need and ability to pay and imposed sanctions and civil penalties against Axel for repeated failure to comply with court orders.

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## ANALYSIS

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place of residence one's home." *Strohmaier*, 34 Wn. App. at 17. Domicile is primarily a question of intent, which may be shown by both the parties' own testimony and by surrounding circumstances. *Mapes*, 24 Wn.2d at 748. "[T]he more extrinsic and corroborative evidence [a party] can introduce which is consistent with [their] stated intention, the more likelihood there is that the trier of the fact will believe [them]." *Marcus v. Marcus*, 3 Wn. App. 370, 371, 475 P.2d 571 (1970) (internal quotation marks omitted) (quoting *Thomas v. Thomas*, 58 Wn.2d 377, 381, 363 P.2d 107, 110 (1961)). "[T]he intention to make a home must be an intention to make a home at the moment, not to make a home in the future." *Strohmaier*, 34 Wn. App. at 17 (quoting *In re Estate of Lassin*, 33 Wn.2d 163, 167, 204 P.2d 1071 (1949)).

Here, the undisputed evidence of Dominika's years lived in Washington, combined with the testimony regarding her subjective intention to remain and make a permanent home here support the trial court's finding that she is domiciled in the state. Dominika stated that she sought a divorce in Washington rather than Switzerland "[b]ecause I live in United States." She testified that she did not want to return to Switzerland or Poland because "I live here currently, I have three children, and I am in a happy relationship. I don't have reason, frankly, to go back to Europe."

Axel argued that Dominika's intent was illusory, as her immigration status was linked to his and she had no legal right to remain in the country without him. According to Axel, Dominika has no legal way to effectuate her intent. However, Axel presented no legal support for his argument that the trial court cannot

adjudicate a divorce unless the parties are U.S. citizens.

We reject Axel's argument based on immigration status and future intent. Neither U.S. citizenship nor U.S. legal status is required to establish domicile for purposes of a dissolution proceeding; Washington's statute, RCW 26.09.030, requires only residency.<sup>3</sup>

The parties' testimony and corroborating evidence presented below unequivocally established Dominika's intent to make Washington her home beginning in 2014 and continuing throughout the dissolution proceedings. The longstanding rule is that “[o]nce acquired, domicile is presumed to continue until changed.” *Strohmaier*, 34 Wn. App. at 17. The burden of proving a change in domicile rests upon the one who asserts it, and the change in domicile must be shown by substantial evidence. *Id.* Intent to make a home in the future is not relevant to the determination of domicile. *See Strohmaier*, 34 Wn. App. at 17. Axel's speculation about Dominika's future immigration status after their divorce is insufficient to meet his burden of proving a change in her domicile by substantial evidence.

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residence alone was sufficient for the trial court to adjudicate the dissolution pursuant to RCW 26.09.030 and to issue the attendant rulings on property, parenting and child custody, and maintenance.<sup>4</sup> Thus, we affirm the trial court's rulings in this matter.

## **II. Attorney Fees**

Dominika requests fees on appeal. This court has authority to award attorneys' fees where authorized by statute, agreement, or equitable grounds. *In re Marriage of Greenlee*, 65 Wn. App. 703, 707, 829 P.2d 1120 (1992). RCW 26.09.140 specifically provides for attorney fees on appeal. In deciding whether to award fees under this statute, we "examine the arguable merit of the issues on appeal and the financial resources of the respective parties." *In re Marriage of Griffin*, 114 Wn.2d 772, 779, 791 P.2d 519 (1990). RAP 18.1(c) also requires the timely filing of a financial affidavit supporting a party's request for fees based on need.

Dominika timely filed an affidavit of financial need. Axel failed to counter with an affidavit proving his inability to pay. *In re Marriage of Fox*, 58 Wn. App. 935, 940, 795 P.2d 1170 (1990). Therefore, we grant Dominika's request for attorney fees on appeal.<sup>5</sup>

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<sup>4</sup> Axel conceded in his reply brief and at oral argument that the trial court had personal jurisdiction over him as well as subject matter jurisdiction to make child custody determinations under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), Chap. 26.27 RCW. As such, we need not separately address the trial court's authority or jurisdiction to decide property distribution, child support, and parenting/visitation rights.

<sup>5</sup> Because Dominika established a right to fees under RCW 26.09.140 and RAP 18.1, we need not address her arguments on alternative bases for fees.

App.18a

Affirmed.

/s/ Chung, J.  
J.

WE CONCUR:

/s/ Verellen, J.

/s/ Coburn, J.

**FINDINGS AND CONCLUSIONS,  
SUPERIOR COURT OF WASHINGTON,  
KING COUNTY  
(MARCH 4, 2021)**

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**SUPERIOR COURT OF WASHINGTON,  
COUNTY OF KING**

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**In Re Petitioner: DOMINIKA RIETSCHIN,  
And Respondent: AXEL RIETSCHIN,**

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**No. 19-3-03895-4 SEA**

**Findings and Conclusions about a Marriage  
(FNFCL)**

**Before: Samuel S. CHUNG, Judge.**

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**FINDINGS AND CONCLUSIONS  
ABOUT A MARRIAGE**

**1. Basis for findings and conclusions**

Court hearing (trial) on January 5, 2021, January 7, 2021, January 12, 2021, January 20, 2021, where the following people were present:

Petitioner: Dominika Rietschin

Respondent: Axel Rietschin

Petitioner's lawyer: Elena Yager

Respondent's lawyer: Jennifer Miller

**The Court makes the following findings of fact and conclusions of law:**

**2. Notice**

The Respondent has appeared in this case, or has responded to or joined the Petition.

The Respondent was served on May 1, 2019, in person.

**3. Jurisdiction over the marriage and the spouses**

At the time the *Petition* was filed,

the Petitioner lived in Washington State  
the Respondent lived in Washington State

The Petitioner and Respondent lived in this state while they were married, and the Petitioner still lives in this state or is stationed here as a member of the armed forces.

**Conclusion:**

The court has jurisdiction over the marriage.  
The court has jurisdiction over the Respondent.

**4. Information about the marriage**

The spouses were married on August 17, 2012, at Versoix, Switzerland.

**5. Separation Date**

The marital community ended on October 1, 2018.  
The parties stopped acquiring community property and incurring community debt on this date.

**6. Status of the marriage**

**Divorce** - This marriage is irretrievably broken, and it has been 90 days or longer since the *Petition*

## App.21a

was filed and the *Summons* was served or the Respondent joined the Petition.

**Conclusion:** The Petition for divorce, legal separation or invalidity (annulment) should be: approved.

### 7. **Separation Contract**

The spouses were married in Switzerland and signed a Contract de Marriage (Marriage Contract) dated August 9, 2012.

**Conclusion:** The parties should: be ordered to comply with the terms of the contract.

### 8. **Real Property (land or home)**

Neither spouse owns any real property.

**Conclusion:** The division of real property described in the final order is fair (just and equitable).

### 9. **Community Personal Property (possessions, assets or business interests of any kind)**

The spouses' community personal property is listed below. (Include vehicles, pensions/ retirement, insurance, bank accounts, furniture, businesses, etc. Do not list more than the last four digits of any account number. For vehicles, list year, make, model and VIN or license plate number.)

1. 2015 Mazda CX5 (VIN: JM3KE4BE2F0450940)
2. 2018 Ford Focus RS
3. Fidelity account in Axel Rietschin's name
4. Morgan Stanley account in Axel Rietschin's name

App.22a

5. First Tech Credit Union account(s) in Axel Rietschin's name
6. Business(es) in Axel Rietschin's name
7. First Tech Credit Union checking account in Dominika Rietschin's name
8. First Tech Credit Union savings account in Dominika Rietschin's name
9. \$20,000 withdrawal from First Tech Credit Union account(s) in Axel Rietschin's and Dominika's Rietschin's name
10. \$2018 tax return proceeds

**Conclusion:** The division of community personal property described in the final order is fair (just and equitable).

10. **Separate Personal Property** (possessions, assets or business interests of any kind)

The separate personal property has already been divided fairly between the spouses. Each spouse should keep any separate property that s/he now has or controls.

**Conclusion:** The division of separate personal property described in the final order is fair (just and equitable).

**11. Community Debt**

The spouses' community debt is listed below:

Debt Amount	Creditor (person or company owed this debt)	Account Number (last 4 digits only)
\$10,000	Personal loan from Jerzy Isajew	

**Conclusion:** The division of community debt described in the final order is fair (just and equitable).

**12. Separate Debt**

Neither spouse has separate debt.

**Conclusion:** The division of separate debt described in the final order is fair (just and equitable).

**13. Spousal Support (maintenance/alimony)**

Spousal support was not requested.

**Conclusion:** Spousal support should not be ordered because it was not requested.

**14. Fees and Costs**

The Petitioner incurred fees and costs, and needs help to pay those fees and costs. The other spouse has the ability to help pay fees and costs and should be ordered to pay the amount as listed in the final order. The court finds that the amount ordered is reasonable.

Fees for a guardian ad litem (GAL) or other court-appointed professional should be paid as listed in the final order. The court has considered rele-

vant factors including each party's ability to pay, and finds the fees as ordered are reasonable.

**15. Protection Order**

No one requested an *Order for Protection* in this case.

**Conclusion:** The court should **not** approve an Order for Protection because no one requested one.

**16. Restraining Order**

The Petitioner requested a *Restraining Order*.

**Conclusion:** The court should: not approve a Restraining Order

**17. Pregnancy**

Neither spouse is pregnant.

**Note:** The law considers the other spouse to be the parent of any child born during the marriage or within 300 days after it ends. If the other spouse is not the parent, either spouse may file a Petition to Decide Parentage (FL Parentage 301) in court. In most cases, the deadline to file the Petition to Decide Parentage is before the child turns four. (See RCW 26.26A.115, 26.26A.435.)

If everyone agrees, both spouses and the child's biological father can sign an Acknowledgment (and Denial) of Parentage. Those forms must be notarized and filed with the Washington State Registrar of Vital Statistics to be valid.

18. Children of the marriage

The spouses have the following children together who are still dependent

Child's name	Age
1. A.R.	10
2. K.R.	7

If there are children listed above who do not have both spouses listed on their birth certificates, the State Registrar of Vital Statistics should be ordered to amend the children's birth certificates to list both spouses as parents.

19. **Jurisdiction over the children** (RCW 26.27.201-.221, .231, .261, .271)

The court can approve a Parenting Plan for the children the spouses have together because (check all that apply; if a box applies to all of the children, you may write "the children" instead of listing names):

**Exclusive, continuing jurisdiction** – A Washington court has already made a custody order or parenting plan for the children, and the court still has authority to make other orders for the children.

**Home state jurisdiction** – Washington is the children's home state because: The children lived in Washington with a parent or someone acting as a parent for at least the 6 months just before this case was filed, or if

the children were less than 6 months old when the case was filed, they had lived in Washington with a parent or someone acting as a parent since birth.

**20. Parenting Plan**

The court signed the final *Parenting Plan* filed separately today.

**21. Child Support**

The dependent children should be supported according to state law.

The court signed the final *Child Support Order* and *Worksheets* filed separately today.

**22. Other findings or conclusions (if any):**

The Court issued its oral ruling on February 5, 2021. The Court hereby incorporates the oral ruling, and also summarized them below.

This matter came for a contested trial before this Court on January 5, 7, 12, and 20, 2021. The Petitioner/Mother, Dominika Rietschin was represented by Elena Yager, and the Respondent/Father Axel Rietschin was represented by Jennifer Miller. Due to Covid-19, the trial was held via Zoom video without objection.

The following witnesses testified, the following order:

Zbigniew Kukowski, a friend of the mother

Anna Chororoska, a friend of the mother

The Mother

Alan Ruder, the GAL

## App.27a

Gabriela Diez Gomez, a friend of the Father  
Sebastian Michaud, Father's friend  
Fredrick Smith, Father's former manager  
Vasser Aboudkhil, Father's friend  
Mariela Kulawiec, Mother's friend  
Grzegorz Kostyra, Mother's current fiancé  
The Father.

Background History. The parties met in 2003 in Geneva, Switzerland. The Mother, who is a Polish national, was working and attending school in Switzerland. The Father, who is a Swiss national, was born and grew up in Geneva, Switzerland. The parties have two children, A.R., who is 10 years old, and K.R. who is 7 years old. They were both born in Switzerland. They carry both Swiss and Polish passports.

The Mother and the Father began living together the same year they met. They then married in August 12, 2012. Just prior to their wedding, the parties executed a Marriage Contract under Swiss marital regime laws governing property rights. I will talk about this more later in this opinion.

The family then moved to the US in 2014 following a company transfer. The Mother moved out of the family home on October 1, 2018 with the two children. She filed the current Petition for Dissolution on April 30, 2019.

Jurisdiction. The Father has argued that this Court does not have the authority to hear this case because he is a Swiss national; he and the Mother were married in Switzerland; the children were born

in Switzerland and that he intended to return to Switzerland.

This case concerns 4 distinct legal causes of actions: dissolution of a marriage, division of property, parenting, and child and spousal support. In Washington, under the “divisible divorce” concept, each cause of action has separate jurisdictional requirements. First, on the marital status, under RCW 26.09, this Court has jurisdiction to terminate the marital status and be given full faith and credit by other states, if there is sufficient nexus based on “domicile” status. Domicile is residence in fact, or physical presence and the present intent to make a place one’s home. Furthermore, under RCW 26.09.030, Washington permits either a resident or a spouse of a resident to petition for dissolution.

Evidence at trial showed that the parties came to the US in 2014, after the Father was transferred by his employer Microsoft from its office in Geneva, Switzerland to Washington State. The family then lived in Sammamish, Washington, the children attended local schools. The Mother testified that the Father’s transfer was for a long term, and that the family had intended to purchase a home in Washington. Furthermore, the Mother stated that she has no plans to return to Switzerland, and that he intends to live in Washington where her current fiancé and her newly born child are located. The Court finds that the domicile requirements for rendering a decree of dissolution are met and that this Court has jurisdiction to dissolve this marriage.

Similarly, the Court finds that this Court has jurisdiction over parenting, spousal maintenance and child support causes of action because they are based

on in personam jurisdiction over the affection persons. Both parties reside in Washington and the Father was served in Washington. Parenting proceeding jurisdiction that gives the authority for this Court and also for interstate recognition of custody and visitation rights are codified in RCW 26,27.030, under the Uniform Child Custody Jurisdiction and Enforcement Act. Washington is the home state, i.e., of the two children involved in this case. They have lived here for 6 months prior to the petition.

With respect to division of property, the Court finds that when in personam jurisdiction is established and the property is located in Washington, the court has jurisdiction to distribute property.

Division of Assets. As noted, the parties in this case signed a Swiss Marital Contract on August 9, 2012, just a few weeks prior to their civil marriage ceremony. Under Swiss law, parties entering into a marriage have 3 options for how to govern their property rights: Community, wherein ownership of property is shared; Separate, wherein ownership is kept separate, and a hybrid system of the two. The August 8, 2012 marriage contract the parties signed is a separate ownership regime agreement. The document is in French, and the English translation which neither side disputed, is Exh. 125, and 131.

Washington State applies Washington law in determining the enforceability of such agreements even if they are executed abroad or in Washington. *In re Marriage of Obaidi*, 154 Wn. App 609, review denied 169 Wn. 2d 1024 (2010). Under Washington contract law, this Court finds that the parties entered into the agreement willingly and knowingly, and finds no duress in the execution of the agreement. The Court

App.30a

also does not find that the agreement violates any Washington law or public policy.

The Court awards personal properties awarded to each spouse as stated in the Final Divorce Order pursuant to Articles 4, 5 and 7 of the Marriage Contract. With respect to the debt obligations, the Court finds that the debt was jointly incurred by both parties. Spousal maintenance was not requested by either party.

Lawyer's Fees. The Court awards lawyer's fees to incurred by the Mother to be paid by the Father under RCW 26.09.140 based on the resources of the parties. The Court finds that the Father has the means to pay the fees and the Mother has the need for their payment. The Court also finds that throughout this case, the Father has repeatedly disregarded court orders, failing to provide records and information, as well as not paying temporary spousal support, and that civil penalties are appropriate as ordered.

/s/ Samuel S. Chung  
Judge

3/4/2021

Date

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