III. THE COURT'S FINDING THAT W. IS J.'S PRESUMED FATHER IS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE AND IS INCORRECT AS A MATTER OF LAW.

The court granted presumed father status to W. because he "asked for genetic testing," was "here stepping forward and indicating that he wants to have a role—a stronger role in the child's life," and T. "knows he is not the biological father." (RT .) Neither the results of the genetic testing nor the fact that W. "stepp[ed] forward" to seek a role in J.'s life after dependency was established was sufficient to give him presumed father status. Family Code section 7611 sets forth the various situations in which a man will be recognized as the presumed father of a child. In addition to the presumptions created by sections 7540 [child of a woman cohabiting with her husband who is not sterile or impotent] and 7570 [establishment of paternity by voluntary declaration], a presumption of paternity arises where a man who neither legally marries or attempts to legally marry the mother of the child both "'receives the child into his home and openly holds out the child as his natural child.'" (*In re Tanis H.* (1997) 59 Cal.App.4th 1218, 1228, quoting Fam. Code § 7611, subd. (d).) For the rebuttable presumption to arise, the putative father must establish these two elements by a preponderance of the evidence. (*In re Spencer W.* (1996) 48 Cal.App.4th 1647, 1652.)

The juvenile court's paternity findings are reviewed for substantial evidence. (See, *Robert L. v. Superior Court* (1996) 45 Cal.App.4th 619, 625 [review hearing findings].) Substantial evidence is evidence which is reasonable, credible, and of solid value to support the conclusion of the trier of fact. (*In re Lynna B.* (1979 DCA1) 92 Cal. App. 3d 682, 695.) All conflicts must be resolved in favor of the respondent and the reviewing court must indulge in all

reasonable inferences to support the findings of the juvenile court. (*Ibid*.) However, substantial evidence is not merely "*any* evidence. [Citations.] A decision supported by a mere scintilla of evidence need not be affirmed on appeal. [Citation.]" (*In re Savannah M.* (2005) 131 Cal.App.4th 1387, 1393.) "'While substantial evidence may consist of inferences, such inferences must be "a product of logic and reason" and "must rest on the evidence" [citation]; *inferences that are the result of mere speculation or conjecture cannot support a finding* [citations].'" (*Ibid*., emphasis in original.)

There is no evidence in this case that W. lived with J.'s mother when he was conceived, that he was either married to or had attempted to be married to J.'s mother, or that he had signed a voluntary declaration of paternity. Nor was there any evidence that W. had accepted J. into his home and held J. out to the public as his son.

Until this action was filed, W. made no attempt to see J., despite M.'s having informed him on multiple occasions that she believed him to be J.'s biological father. (CT .) W. had driven through J.'s neighborhood and never stopped to visit J. (CT .) There is no evidence that he offered to assist M. during her pregnancy, no evidence that he offered M. financial assistance with J. and the costs of his birth, and no evidence that he ever contacted M. and asked to see J. In short, there no evidence that he made any sort of gesture that could be construed as either a financial or emotional commitment to the child as soon as he was put on notice that J. may be his child. This is what is required of a biological father who wishes to assert presumed father status in a dependency case. (*In re A.A.* (2003) 114 Cal.App.4th 771, 779.) Stepping forward for the first time after a dependency action has been filed is insufficient.

By contrast, petitioner was the man who was present at J.'s birth, who was J.'s full-time care giver after J. was born, and who fed, cared for, played with, and sheltered J. as any good parent would. T. is the man who had a parent-child relationship with J.

The fact that W. had been shown to be J.'s biological father did not make him J.'s presumed father without evidence that he also received the child into his home and held the child out to the public as his own child. (*In re A.A. supra,* 114 Cal.App.4th at. p. 786.) Indeed, W. was nothing more than a "casual inseminator" not entitled to presumed father status. (*Michael U. v. Jamie B.* (1985) 39 Cal.3d 797, conc. opinion of Mosk J.)