

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
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CLERK

NO. 100501-6

SUPERIOR COURT OF THE STATE OF WASHINGTON

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SARAH COSENTINO,

Respondent,

v.

JOHN MITCHELL,

Petitioner.

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Response of Sarah Cosentino on John Mitchell's Petition for Review

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Attorney for Respondent Sarah Cosentino

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**A. IDENTITY**

Respondent is Sarah Cosentino. Ms. Cosentino is the petitioner in the domestic violence protection order action and subsequent contempt action below. Ms. Cosentino asks this Court to deny Petitioner's request for a Motion to Modify.

**B. COUNTERSTATEMENT OF FACTS**

It should be noted from the outset that Mr. Mitchell is an adjudicated domestic violence perpetrator. This fact has been litigated up and down, and this very Court has previously refused to take up his request for review – a request that he abandoned when he failed to even bother to attend the hearing set by the Court.

Given that he refuses to acknowledge the legitimacy or authority of the Court, Mr. Mitchell has continuously failed to abide by the orders of the Courts. This is what led to the finding of contempt against him when he refused to abide by the provisions prohibiting him from operating websites for the purposes of harassing Ms. Cosentino. That contempt finding was the reason that the lower court ordered a \$500 per day sanction for each day that the websites he operated remained up.

While Mr. Mitchell pleads indigency, he takes no actual steps to make findings of indigency or remedy his perceived failure of the Court to address his request for a finding of indigency. This is despite the fact that he has sought to redress every single other perceived slight that he believes the courts have perpetrated on him.

On the instant action, at the Court of Appeals below, Mr. Mitchell first complained that he was unaware that the case could be dismissed by claiming that he did not receive the June 25<sup>th</sup> letter stating the same. This strained credulity then and should continue to do so now. Mr. Mitchell routinely received and responded to documents and requests from this Court up until the time that he abandoned his instant action. He made no attempt to remedy deficiencies when the Court issues similar letters on May 12, 2021, April 20, 2021, or March 18, 2021. Mr. Mitchell did nothing and intended to do nothing. His entire purpose in each of these filings is based in his desire to harass Ms. Cosentino – the very thing that the underlying DVPO seeks to prevent.

Mr. Mitchell's previous appeal to the Court of Appeals involved an interlocutory appeal of the actual DVPO. His previous

appeal was denied. He filed numerous reconsideration motions. He then sought review by this Court. As with the instant action, he failed to follow through on deadlines and then failed to attend a hearing before the Supreme Court Commissioner, so that request for cert was denied as abandoned. Throughout all of this, Mr. Mitchell has done the bare minimum to drag proceedings on while forcing Ms. Cosentino to incur attorney's fees the entire time.

Mr. Mitchell has also never provided the Court with proof of unemployment or an inability to work if he is not working. He was previously employed by Microsoft, and there have been no stated reasons why he could not obtain a similar job at an equivalent company.

Mr. Mitchell is the very picture of a vexatious litigant and an abuser. This motion, like the myriad of others he has filed between the Superior Court, the Court of Appeals and this Court should be denied. Ms. Cosentino should be awarded reasonable attorney's fees.

**C. ARGUMENT WHY MOTION SHOULD BE DENIED AND FOR COSTS AND FEES**

As set forth above, Mr. Mitchell has provided no cognizable reason for his intransigent failure to make even bare responses on his

appeal. This has become a pattern, and especially when the underlying cause is a DVPO in which Mr. Mitchell was found to be an abuser of Ms. Cosentino, the Court should not allow abuse to continue through intransigent baseless litigation. While he makes statements about the *should* language of *Ashbaugh*, those arguments ignore the totality of Mitchell's record of abusive litigation. His actions to drag the litigation on and on endlessly are not driven by excusable neglect or incompetence. His actions are driven by the desire to continue to abuse Ms. Cosentino in the only way remaining to him – litigation. When viewed in light of the history, the Court of Appeals' dismissal was both reasonable and warranted. Mr. Mitchell was given every opportunity to keep his frivolous lawsuit afloat, but he elected not to.

We again note that RAP 14.2 permits the substantially prevailing party to recover costs. This should be no more true than in cases originating under RCW 26.50. Fees and costs are expressly considered under RCW 26.50.060. Ms. Cosentino has been forced to endure substantial (and often unnecessary) litigation from Mr. Mitchell. She was awarded fees below and should be awarded fees at this juncture as well.

**D. CONCLUSION**

For the reasons stated herein, Ms. Cosentino respectfully requests the Court deny Mr. Mitchell's Petition for Review and requests she be awarded her necessary and reasonable costs.

RESPECTFULLY SUBMITTED this 9<sup>th</sup> day of February, 2022.

McKINLEY IRVIN

By: 

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Attorneys of Record:

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CERTIFICATE OF SERVICE

I certify that on February 9<sup>th</sup>, 2022, I caused to be served a true and correct copy of the foregoing Response to Motion to Modify on the following parties via electronic service:

John Mitchell  
john@johnmitch.com

DATED this 9<sup>th</sup> day of February, 2022.

  
\_\_\_\_\_  
JEFFREY WELLING



**MCKINLEY IRVIN PLLC**

**February 09, 2022 - 9:01 AM**

**Transmittal Information**

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 100,501-6  
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