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Supreme Court No. 203059092

COA No. No. 83074-1-I

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

ELODIE-YOHANNA ARDES-GUISOT

Petitioner

v

STEPHANE BLAISE BONFILS

Respondent

PETITION FOR REVIEW

Elodie-Yohana Ardes-Guisot
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- A. UNPUBLISHED OPINION dated September 18, 2023, *Elodie Yohanna Ardes-Guisot Vs Stephane Blaise Bonfils*

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3. *Gulf Oil Corp. v. Gilbert*, 330 U.S. at 508-09
4. *Piper Aircraft Co. v. Reyno*, 454 U.S. 235, 257 (1981)
5. *Burger King Corp. v. Rudzewicz*, 471 U.S. 462 (1985)
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1. RAP 13.3
2. RAP 13.4
3. RCW 4.28.185
4. Fourteenth Amendment and Article I, Section 10 of the Washington State Constitution
5. RCW 26.50.010

I. INTRODUCTION

Pursuant to RAP 13.3 and 13.4, Petitioner Elodie Yohanna Ardes-Guisot respectfully petitions this Honorable Court for review of the Unpublished Opinion of the Court of Appeals, Division I (the “**Appellate Court**”) dated 09/18/2023 (the “**Opinion**”) and subsequent Order denying Motion for Reconsideration dated 10/17/2023 (the “**Order**”), both of which affirmed the King County Superior Court’s dismissal of her Petition for Dissolution of Marriage on the grounds *inter alia* forum non conveniens. This petition for review challenges the Appellate Court’s Opinion on several key legal and factual issues and seeks a reversal of the same.

II. IDENTITY OF MOVING PARTY

Elodie-Yohanna Ardes-Guisot (the “**Petitioner**” who is also referred to as the “Appellant” before the Appellate Court) respectfully seeks review of the Opinion issued by the Appellate Court.

III. APPELLATE COURT’S DECISION/OPINION

Petitioner seeks review of the Appellate Court’s UNPUBLISHED OPINION dated September 18, 2023, *Elodie Yohanna Ardes-Guisot Vs Stephane Blaise Bonfils*.

IV. STATEMENT OF FACTS

1. The petitioner respectfully submits this petition to challenge the adverse decision/opinion rendered by the Appellate Court, which affirmed the decision of the King County Superior Court. This decision dismissed the petitioner's Petition for Dissolution of Marriage. The dismissal by the lower courts was primarily based on the doctrine of forum non conveniens.

2. By way of background, it is submitted that Elodie Yohanna Ardes-Guisot (the Petitioner) and Stephane Blaise Bonfils (the Respondent) married on March 7, 2011, in Nevada. Post-marriage, they established their life in Paris, France, but maintained significant connections to Washington State. In 2013, they leased their first house in Medina, Bellevue, Washington. Concurrently, a subsidiary company, Exequo Corp, was established in Bellevue, with the Petitioner assuming the roles of director, shareholder, and employee, as creative director/ Stylist within Exequo, the parent company. Subsequent to this establishment, they initiated collaborative efforts in international business ventures, engaging in extensive travel between 2013 and 2016 across the United States, Europe, and Asia. In 2015, they moved to Madrona, Washington, reflecting their commitment to establishing a life in the state. Their business interests anchored them to Washington, evidenced by their investment in and management of the company, substantiated by shared assets and operations within the state. They obtained their B1 visa in October 2014 and

their E2 visa in April 2015.

3. In May 2016, the Petitioner reported filed a complaint with Seattle police following an incident of domestic violence an incident of domestic violence by the Respondent in their Washington home to the Seattle Police Department. Subsequent to this incident and due to ongoing abuse, the Petitioner fled the marital home. She sought and was granted a Temporary Order of Protection in New York, which later became a 'full' final protection order in February 2019.

4. In April 2018, without the petitioner's knowledge, while both parties resided in the U.S. as alien residents holding E2 visas on the basis of the Exequo Corp Bellevue based in Washington State, they were simultaneously engaged in a proceeding before two New York family court judges. These proceedings involved an order of protection and a request for spousal support. To mislead the New York Family court and the petitioner, the Respondent chose not to disclose the initiation of divorce proceedings in France, which the Respondent voluntarily sent to an address that was not the petitioner's home address, even though he was fully aware of the Petitioner's New York address. In a motion opposing the payment of spousal support, the defendant explicitly stated the petitioner's address in New York. The litigation over this marriage has been ongoing for the past several, mainly due to the fact that the respondent never served the petitioner with the French divorce proceedings, as required by international regulations for people living in other

countries under visa status. The respondent initiated divorce proceedings in France without even notifying the New York family court judges or the attorneys involved in the 2 different cases. The Petitioner, however, was deeply rooted in the United States seeking legal remedies against the Respondent. Unaware of the French proceedings.

5. After being stabbed and assaulted on the streets of New York, and a year of recovery, both physical and psychological, during the challenging year of Covid, and the slow reopening of institutions, the Petitioner filed for dissolution of marriage in King County Superior Court, Washington, in December 2020, citing Washington as the proper forum due to her established residency, the location of shared marital assets, and the couple's business interests in the state.

6. The trial court of King County Superior Court dismissed the Petitioner's petition on the doctrine of forum non conveniens, asserting that France was a more appropriate forum. This decision was affirmed by the Appellate Court, which overlooked crucial aspects of the Petitioner's connection to Washington, her inability to effectively pursue the case in France, and the relevance of Washington law to the marital dispute.

7. The Petitioner contests the lower courts' including Appellate Court decisions, arguing that they failed to properly consider the significant ties both parties have to Washington, the difficulties and inequities of litigating in France,

and the substantial evidence supporting Washington's jurisdiction over the dissolution proceedings. Furthermore, the Petitioner asserts that her constitutional rights to access the courts and due process were inadequately considered in the appellate court's decision.

8. The Petitioner contends that the application of forum non conveniens was fundamentally flawed, disregarding Washington's substantial interest in the case and the Petitioner's significant ties to the state. Notably, the Petitioner and Respondent maintained a marital domicile in Washington State, were co-owners and co-managers of a business entity within the State, and held substantial property interests there. The certificate issued by the Seattle police unmistakably underscores the assaults and harassments by the Respondant.

9. The lower courts' decisions failed to consider the private interest factors, such as the ease of access to proof, the cost of obtaining attendance of willing witnesses, and the enforceability of a foreign judgment, as well as public interest factors, including the local interest in adjudicating local disputes and applying Washington law to Washington residents. These failures represent a departure from established precedents set forth by the Washington Supreme Court in cases such as *In re Marriage of Owen*, 126 Wn. App. 487, and *Myers v. Boeing Co.*, 115 Wn.2d 123, and the U.S. Supreme Court in *Gulf Oil Corp. v. Gilbert*, 330 U.S. 501, and *Piper Aircraft Co. v. Reyno*, 454 U.S. 235.

10. Moreover, the Opinion of the Appellate Court and the Trial Court's decision have effectively deprived the Petitioner of her constitutional rights, including the right to access the courts and to due process, especially concerning her pursuit of legal redress as a victim of alleged domestic violence—a matter of significant public policy interest in Washington.

V. QUESTIONS PRESENTED FOR REVIEW

1. Did the Appellate Court commit legal error by affirming the trial court's dismissal of the Petitioner's dissolution petition based on forum non conveniens without a comprehensive analysis of private and public interest factors required by law and precedent, especially, under *In re Marriage of Owen*, 126 Wn. App. 487, and the Supreme Court's guidance in *Gulf Oil Corp. v. Gilbert*, 330 U.S. 501, and *Piper Aircraft Co. v. Reyno*, 454 U.S. 235?

2. Did the Appellate Court err in affirming the trial court's determination regarding the lack of personal jurisdiction over the Respondent and the existence of an adequate alternative forum, contrary to the evidence demonstrating the Respondent's substantial connections to Washington and the inadequacies of the French forum, as outlined in RCW 4.28.185 (long-arm statute) and *Burger King Corp. v. Rudzewicz*, 471 U.S. 462 (1985)?

3. Did the Appellate Court decision to affirm the dismissal of the

Petitioner's petition without addressing her constitutional challenges violate her rights under the Due Process Clause of the Fourteenth Amendment and Article I, Section 10 of the Washington State Constitution, especially considering the state's interest in domestic relations and the protection of victims of domestic violence?

VI. ARGUMENTS

A. ERRONEOUS APPLICATION OF FORUM NON CONVENIENS DOCTRINE

1. The appellate court's endorsement of the trial court's dismissal under the forum non conveniens doctrine failed to adhere to the legal standards and factors established in case law. This doctrine, as articulated in *Piper Aircraft Co. v. Reyno*, 454 U.S. 235 (1981), is not an unconditional ground for dismissal but a carefully balanced judicial determination. The appellate court overlooked this nuanced approach, resulting in a miscarriage of justice.

2. The doctrine is a narrow exception, reserved for exceptional circumstances (*Gulf Oil Corp. v. Gilbert*, 330 U.S. 501, 1947), which were not adequately demonstrated in this case. The balance of both private and public interest factors did not clearly favor France over Washington, contrary to the conclusions of the Appellate Court.

3. The Appellate Court did not sufficiently address the factors outlined in

Myers v. Boeing Co., 115 Wn.2d 123 (1990), and *In re Marriage of Owen*, 126 Wn. App. at 505-06. The Court of Appeal's decision did not sufficiently address the factors outlined in these cases. These factors include the following:

- The relative ease of access to proof
- The availability and cost of obtaining attendance of witnesses
- The possibility of a view of the premises
- The enforceability of a judgment if one is obtained
- The relative advantages and obstacles to a fair trial
- The other practical problems that make a trial easy, expeditious, and inexpensive
- The administrative difficulties flowing from court congestion
- The local interest in having localized controversies decided at home
- The appropriateness of having a trial of a diversity case in a forum that is at home with the state law that must govern the action
- The avoidance of unnecessary problems in conflicts of laws or in the application of foreign law
- The unfairness of burdening citizens in an unrelated forum with jury duty

Some of the key factors from the above list, such as the availability of evidence, enforceability of judgment, administrative difficulties, and the local

interest in resolving domestic disputes within Washington, were not properly weighed in the current case. The Petitioner's ability to access justice and effectively litigate her case was significantly impeded by the dismissal. Washington State's interest in adjudicating this dispute was not given due consideration, undermining the state's commitment to protect and provide justice for victims of domestic abuse.

4. The Appellate Court also failed to consider the hardship and inconvenience that the Petitioner would face if forced to litigate her case in France, where she has no ties, no familiarity with the legal system, and no access to adequate legal representation. The Petitioner would also be subjected to the risk of inconsistent judgments, as the French court would not be bound by the rulings of the Washington courts on the issues of spousal support and domestic violence protection orders. The Petitioner would also be deprived of the benefits of Washington's community property laws, which recognize the equal contribution of both spouses to the marital estate and provide for a fair and equitable distribution of assets and liabilities. The Petitioner would also be denied the opportunity to present her case to a jury of her peers, as the French court does not provide for jury trials in dissolution cases. These factors demonstrate that the Petitioner has a strong interest in maintaining her action in Washington, and that the dismissal for forum non conveniens would cause her undue prejudice and hardship.

**B. RELIANCE ON UNSUPPORTED FACTUAL FINDINGS AND
ERROR IN INTERPRETATION OF JURISDICTIONAL
REQUIREMENTS**

5. The Appellate Court's Opinion relied on unsupported factual findings regarding the adequacy of the French forum and the Respondent's ties to Washington. As outlined in *Burger King Corp. v. Rudzewicz*, 471 U.S. 462 (1985), and RCW 4.28.185, the Respondent's substantial connections to Washington establish personal jurisdiction, a critical factor disregarded by the appellate court.

6. The lower court and Appellate Court's interpretation of RCW 4.28.185 was too narrow, overlooking the broader implications of the Respondent's business and personal ties to Washington, which establish a significant connection to the state. The Respondent co-owned and co-directed a Washington-based company with the Petitioner, which generated substantial income and assets within the state. The Respondent also maintained a marital home in Washington, where he resided with the Petitioner. The Respondent also engaged in conduct that gave rise to the Petitioner's claims for spousal support and domestic violence protection orders in Washington. These facts show that the Respondent purposefully availed himself of the benefits and protections of Washington law, and that he could reasonably anticipate being haled into court in Washington. See *Burger King Corp. v. Rudzewicz*, 471 U.S. at 474-76; RCW 4.28.185(1)(b),(c),(d)

7. The Appellate Court overlooked crucial evidence submitted by the Petitioner, contradicting the trial court's findings on jurisdiction and the development of the dissolution proceedings in France. This omission led to a flawed understanding of the case's facts and an unjust dismissal.

8. The Appellate Court simply stated that in its Opinion that the Petitioner "fails to demonstrate that the trial court abused its discretion" and that she "fails to provide any explanation of why a parallel dissolution action should commence in Washington." However, the Court did not explain how the trial court properly balanced the private and public interest factors under *Owen*. The Court also did not acknowledge that the Petitioner provided several explanations of why Washington was a proper and convenient forum for her dissolution action, such as:

- a. Washington was the last place where she and the Respondent resided as a couple, and she had established domicile and residency in Washington since 2015/2016.
- b. Washington had personal jurisdiction over both parties, as they had lived in a marital relationship within this state and had maintained contacts with this state since 2013 in their First house in Seattle – Medina, Washington and the establishment of a subsidiary in 2013 on which their visas were both linked since 2015.
- c. Washington had subject matter jurisdiction over the dissolution of

marriage and the division of property, as it was a community property state and had an interest in protecting the rights of its residents.

- d. Washington had a strong public policy interest in providing access to justice and expeditious resolution of marital status and property rights, especially for victims of domestic violence like the Petitioner.
- e. France was not an adequate alternative forum, as it did not recognize community property or spousal support, and it applied different rules of evidence and procedure that would prejudice the Petitioner's case.
- f. The Respondent had engaged in forum shopping and delay tactics by filing for divorce in France after he learned that the Petitioner had filed for spousal support and then dissolution in in the US.
- g. The dissolution proceeding in France was not well developed or ongoing, as it had been stalled by the Respondent's failure to cooperate and comply with discovery requests, such as his non-existent taxes in France or the USA since the sale of the companies for a person who is domiciled in his former company currently owned by Lionbridge, an American corporation based in 60 Countries including Washington State. The Respondent has always refused to disclose his residence to the courts in Paris, Washington and New York.
- h. The Petitioner had not accepted jurisdiction in France through her

conduct, as she had only sought interim measures to protect her rights as automatically ordered by the French courts pending the resolution of her dissolution action in Washington.

By overlooking or misapprehending these points of law and fact, this court committed a reversible error and deprived the Petitioner of her right to have her case heard on its merits in Washington. Therefore, this court should reconsider its decision and reverse the trial court's dismissal for forum non conveniens.

C. VIOLATION OF CONSTITUTIONAL RIGHT TO ACCESS COURTS

9. The Appellate court's decision failed to consider the Petitioner's constitutional right to access the courts, as protected under both federal and state constitutions (*In re Marriage of King*, 162 Wn.2d 378, 2007; *Boddie v. Connecticut*, 401 U.S. 371, 1971). This right is crucial for an individual seeking justice in marital disputes, particularly in cases involving domestic violence.

10. By not addressing the Petitioner's constitutional challenges, the Appellate Court's decision contravenes fundamental principles of due process. This oversight not only affects the Petitioner's ability to seek justice but also sets a concerning precedent for future cases involving similar jurisdictional and

constitutional issues.

11. The Petitioner's right to access the courts is not merely a procedural right, but a substantive one that implicates her liberty and property interests. See *Boddie v. Connecticut*, 401 U.S. at 376-77. The Petitioner has a liberty interest in obtaining a legal dissolution of her marriage, which affects her personal status and identity. See *In re Marriage of King*, 162 Wn.2d at 385. The Petitioner also has a property interest in obtaining a fair and equitable distribution of the marital assets and liabilities, as well as spousal support, which affect her economic well-being and security. See *id.* at 386. The dismissal of her petition for dissolution in Washington effectively forecloses these interests, as the French forum does not provide the same substantive and procedural protections as the Washington forum. See *id.* at 387-88.

12. The Petitioner's right to access the courts is also not merely a personal right, but a public one that implicates the state's interest in the administration of justice. See *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 575-76 (1980). The state has an interest in ensuring that its courts are open and accessible to all who seek redress of grievances, especially in matters of domestic relations, which are traditionally within the state's domain. See *id.* at 580-81; *Sherrer v. Sherrer*, 334 U.S. 343, 353 (1948). The state also has an interest in protecting the rights and safety of victims of domestic violence, which are matters of significant public policy and concern. See RCW 26.50.010; *In re Marriage of King*, 162 Wn.2d at 389-90. The

dismissal of the Petitioner's petition for dissolution in Washington undermines these interests, as it deprives the state of its opportunity to exercise its jurisdiction and apply its laws to a dispute that arose within its borders and involved its residents.

D. DUE PROCESS CONCERNS IN HANDLING FRAUD AND FORGERY CLAIMS

13. The Appellate Court's failure to address the Petitioner's submissions relating to fraud and forgery in the evidence presented by the Respondent raises significant due process concerns and merits intervention by the Supreme Court.

E. MISINTERPRETATION OF ADEQUATE ALTERNATIVE FORUM:

14. The Appellate Court erred in accepting the trial court's assertion that France was an adequate alternative forum, overlooking the principles established in *Piper Aircraft Co. v. Reyno*, 454 U.S. 235 (1981), which requires a genuine and fair opportunity for litigation in the alternative forum.

VII. CONCLUSION

15. In view of the serious errors in applying the *forum non conveniens* doctrine, misinterpreting jurisdictional requirements, and overlooking constitutional rights, the Petitioner respectfully requests this Honorable Court to grant the Petition for Review. The decision of the Appellate Court may kindly be reversed, and the case remanded to the trial court for proceedings that fully respect the legal standards and uphold the Petitioner's rights and interests under Washington law.

I certify that this petition for review contains 3227 words in compliance with RAP 18.17, excluding the exempted sections under the Rule.

Respectfully submitted



ELODIE-YOHANNA ARDES-GUISOT
Pro Se Petitioner
elodieyohanna@gmail.com

Date: November 16, 2023

APPENDIX A

DECLARATION OF SERVICE

On said day below I electronically served a true and accurate copy of this *Petition for Review* to the following:

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Copy electronically served via portal to:
Washington State's Supreme Court
Clerk's Office

I declare under penalty of perjury under the laws of the State of Washington and the United States that the foregoing is true and correct.

DATED: November 16, 2023, at Seattle, Washington.



ELODIE-YOHANNA ARDES-GUISOT
Pro Se Petitioner
elodieyohanna@gmail.com

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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

In the Matter of the Marriage of:

ELODIE YOHANNA ARDES-GUISOT,

Appellant,

and

STEPHANE BLAISE BONFILS,

Respondent.

No. 83074-1-I

DIVISION ONE

UNPUBLISHED OPINION

HAZELRIGG, A.C.J. — Elodie Yohanna Ardes-Guisot appeals from a dismissal of dissolution proceedings based on the doctrine of forum non conveniens. Because Ardes-Guisot fails to demonstrate that the trial court abused its discretion, we affirm.

FACTS

Elodie Yohanna Ardes-Guisot and Stephane Bonfils began living together as a couple in October 2009, in Paris, France. They married on March 7, 2011, in the state of Nevada. The parties appear to agree that they maintained separate households by May 2016,¹ and that Bonfils petitioned a French court for divorce in April 2018. However, the parties dispute whether those proceedings

¹ Ardes-Guisot alleges that she moved from Bonfils' home in Seattle to New York after incidents of domestic violence in late May 2016, while Bonfils counters that Ardes-Guisot never lived with him in Seattle. He asserts that Ardes-Guisot resided in her Paris apartment during the time in question and only visited him in Washington in May 2016 to obtain his signature on her application for a work permit.

have been resolved.² On November 25, 2020, Ardes-Guisot filed a petition for dissolution of the marriage in King County Superior Court.

ANALYSIS

Ardes-Guisot assigns error to the court's dismissal of her petition based on forum non conveniens.³ However, she also asserts the court erred in its conclusion that it did not have personal jurisdiction over the parties and the procedure by which it addressed the various questions presented.⁴ As such, we will first clarify the concepts at issue in this case before reaching the merits of the appeal.

I. Jurisdiction

Jurisdiction refers to “the power of a court to hear and determine a case.” In re Marriage of Buecking, 179 Wn.2d 438, 447, 316 P.3d 999 (2013). Without jurisdiction, the “court cannot proceed at all in any cause.” Steel Co. v. Citizens for a Better Env't, 523 U.S. 83, 94, 118 S. Ct. 1003, 140 L. Ed. 2d 210 (1998) (quoting Ex parte McCardle, 74 U.S. 506, 514, 19 L. Ed. 264 (1868)); see also Pastor v. 713 SW 353rd Place, 21 Wn. App. 2d 415, 423, 506 P.3d 658 (“If a

² Bonfils maintains that the divorce proceedings in France are ongoing while Ardes-Guisot alleges in her opening brief that those proceedings were dismissed in the “French Family Court” on November 5, 2021.

³ Latin for “an inconvenient forum.”

⁴ Ardes-Guisot also challenges the court's acceptance of certain evidence, failure to take judicial notice of her assertions regarding domestic violence, and failure to conduct an evidentiary hearing. She further asserts that much of Bonfils' evidence was forged or otherwise fraudulent. Because the threshold issue of forum non conveniens was dispositive, the court did not err in declining to consider evidence related to the merits of the case.

As to the claims of fraud and forgery, the proper vehicle for such a challenge would have been a motion to vacate the dismissal order on that basis under CR 60. Under our Civil Rules, the trial court may relieve a party from a final order based on “[f]raud . . . misrepresentation, or other misconduct of an adverse party.” CR 60(b)(4). Because the record does not demonstrate that Ardes-Guisot pursued this remedy in the trial court, we will not entertain this argument for the first time on appeal. RAP 2.5(a).

tribunal lacks subject matter jurisdiction, the implication is that it does not have authority to decide the claim at all or order any type of relief.”), review denied, 200 Wn.2d 1005 (2022). “Jurisdiction is the power to declare the law” and, when it is absent, the only remaining function of the court is to announce that fact and dismiss the case.⁵ Id. The party asserting jurisdiction has the burden of establishing its requirements “by prima facie evidence.” In re Marriage of Yocum, 73 Wn. App. 699, 703, 870 P.2d 1033 (1994).

Jurisdiction is comprised of two components: jurisdiction over the person and jurisdiction over the subject matter. Buecking, 179 Wn.2d at 447. A court exercises personal jurisdiction in a number of ways, including the following bases: consent, domicil, residence, presence, appearance in an action, and/or doing business in the state. RESTATEMENT (SECOND) OF CONFLICT OF LAWS § 27 (1971). RCW 4.28.185, our state’s long-arm statute, may subject a nonresident defendant to the jurisdiction of our courts if the provisions of the statute and due process requirements are both satisfied. Yocum, 73 Wn. App. at 702. This is referred to as “long-arm” jurisdiction. Oytan v. David-Oytan, 171 Wn. App. 781, 798, 288 P.3d 57 (2012). To find if these requirements are satisfied, the court focuses on the nature and extent of “the defendant’s relationship to the forum

⁵ Ardes-Guisot additionally argues that her right to due process was violated when the trial court dismissed her case without considering the merits and cites to the unpublished case, In re Dependency of A.K.I., noted at 163 Wn. App. 1017 (2011). In A.K.I., the court ruled that the mother’s due process rights were violated when the trial court terminated her parental rights based, in part, on her mental health conditions, despite the fact that she was not notified that her mental health status would be considered as a basis for termination.

Independent from the fact that this is not a dependency case and the rights at issue are vastly different, A.K.I. is not controlling here because Ardes-Guisot has been provided with notice and opportunity to be heard on the issue of jurisdiction. Because she fails to provide argument on this issue under the proper legal framework, we decline to further analyze this challenge. RAP 10.3(a)(5), (6).

[s]tate.” Duell v. Alaska Airlines, Inc., ___ Wn. App. 2d. ___, 530 P.3d 1015, 1019 (2023) (quoting Ford Motor Co. v. Montana Eighth Jud. Dist. Ct., ___ U.S. ___, 141 S. Ct. 1017, 1024, 209 L. Ed. 2d 225 (2021)). The long-arm statute requires an analysis of the specific individual’s contacts with the forum state, as well as the nature and quality of those interactions. Oytan, 171 Wn. App. at 802.⁶

As it pertains to dissolution actions specifically, the long-arm statute provides, in relevant part:

(1) Any person, whether or not a citizen or resident of this state, who in person or through an agent does any of the acts in this section enumerated, thereby submits said person . . . to the jurisdiction of this state as to any cause of action arising from the doing of any of said acts:

...
(f) Living in a marital relationship within this state notwithstanding subsequent departure from this state, as to all proceedings authorized by chapter 26.09 RCW, so long as the petitioning party has continued to reside in this state or has continued to be a member of the armed forces in this state.

RCW 4.28.185.

Ardes-Guisot argues that the trial court erred in failing to assume personal jurisdiction over Bonfils through the long-arm statute. However, she provides no relevant authority for her argument that Washington may exercise personal jurisdiction over an out-of-state spouse simply because the other spouse resides in Washington.⁷ Further, although she is accurate that the long-arm statute is unnecessary if the nonresident party consents to jurisdiction, she does not

⁶ At issue in Oytan was the phrase “living in a marital relationship within this state,” and there, the court found a distinction between residency and the act of living in a marital relationship. 171 Wn. App. at 799. It reasoned that, because marital arrangements differed and long-distance relationships were common, a fact-specific inquiry is necessary. Id. at 800-01. However, the petitioning party must be a resident of the state, whereas the respondent must merely have been previously living here in a marital relationship. Id. at 800.

⁷ Ardes-Guisot also does not provide evidentiary support for her assertion that she resided in Washington at the time of her petition for dissolution in King County.

provide evidence in support of her assertion that Bonfils has so consented and the record shows otherwise as Bonfils moved to dismiss the case for lack of personal jurisdiction, clearly indicating his lack of consent.

Regardless, the trial court dismissed the case on the basis of forum non conveniens and only made a single passing reference to personal jurisdiction in its final order, therefore we do not consider Ardes-Guisot's challenge regarding personal jurisdiction.⁸

II. Forum non Conveniens

Under the doctrine of forum non conveniens, which is distinct from the concept of personal jurisdiction, courts have the discretion to decline jurisdiction when the convenience of the parties and the ends of justice would be better served if the action were brought and tried in another forum. In re Marriage of Owen, 126 Wn. App. 487, 503-04, 108 P.3d 824 (2005).⁹ Because a motion to dismiss for forum non conveniens requires a fact-specific analysis of the case, we review decisions based on this doctrine for an abuse of discretion. Sandhu

⁸ The trial court's only reference to personal jurisdiction was a comment in Conclusion of Law 2, which stated that "even if this court in Washington had any jurisdiction in this case (which it concludes it does not) France, not Washington would be the convenient forum." (Emphasis added.)

⁹ Ardes-Guisot references Lansverk v. Studebaker-Packard Corp., 54 Wn.2d 124, 338 P.2d 747 (1959) in support of her argument that forum non conveniens is not part of the law in Washington. Lansverk was explicitly overruled, in relevant part, by Werner v. Werner, 84 Wn.2d 360, 371, 526 P.2d 370 (1974), which held that forum non conveniens is "an inherent discretionary power of the courts."

Ardes-Guisot also references Piper Aircraft Co. v. Reyno, 454 U.S. 235, 102 S. Ct. 252, 70 L. Ed. 2d 419 (1981) to aver that, before a trial court is permitted to exercise forum non conveniens, an adequate alternative forum must be available that may exercise jurisdiction over the defendant. She alleges that an adequate forum is not available because the French court did not have jurisdiction over her or Bonfils, as they were both residing in the United States. However, the trial court here determined that Ardes-Guisot consented to the applicable jurisdiction in France as evidenced by her conduct of participating in the proceedings. The court's finding in this regard is unchallenged, therefore it is a verity on appeal. See In re Marriage of Petrie, 105 Wn. App. 268, 275, 19 P.3d 443 (2001).

Farm, Inc. v. A&P Fruit Growers, Ltd., 25 Wn. App. 2d 577, 588, 524 P.3d 209, 217 (2023). “A trial court abuses its discretion when its decision is manifestly unreasonable or based on untenable grounds,” including those that are unsupported by the record. Id. The reviewing court “may not find abuse of discretion simply because it would have decided the case differently—it must be convinced that no reasonable person would take the view adopted by the trial court.” Gilmore v. Jefferson County Pub. Transp. Benefit Area, 190 Wn.2d 483, 494, 415 P.3d 212 (2018) (emphasis and internal quotation marks omitted) (quoting State v. Salgado-Mendoza, 189 Wn.2d 420, 427, 403 P.3d 45 (2017)); see also In re Parenting & Support of C.A.S., 25 Wn. App. 2d 21, 26, 522 P.3d 75 (2022) (“A decision is manifestly unreasonable if it is outside the range of acceptable choices considering the facts and applicable legal standard.”).

Here, Ardes-Guisot fails to demonstrate that the trial court abused its discretion. She does not assign error to any of the trial court’s factual findings, which makes them verities on appeal and limits the review of this court to determining whether the trial court’s unchallenged findings support its conclusions of law. In re Marriage of Petrie, 105 Wn. App. 268, 275, 19 P.3d 443 (2001). The only reasoning that she provides for filing an adjacent dissolution proceeding in King County is that it was the last place where she and Bonfils resided as a couple, an allegation that Bonfils disputes.

The court expressly found that Ardes-Guisot was actively participating in the ongoing dissolution proceedings in France, as evidenced by her request for interim measures in the French court, including seeking spousal support and

attorney fees, as well as an investigation into Bonfils' assets. The trial court found that the dissolution proceeding in France was well developed and that Ardes-Guisot had accepted jurisdiction in France through her conduct. These unchallenged findings support the trial court's conclusions of law. Ardes-Guisot fails to provide any explanation of why a parallel dissolution action should commence in Washington; the trial court did not abuse its discretion. Accordingly, the trial court did not err in declining to reach the merits of Ardes-Guisot's claims.¹⁰

III. Attorney Fees

Ardes-Guisot requests attorney fees under RAPs 14.2 and 18.1. RAP 14.2 provides that the appellate court will award costs to the party that "substantially prevails on review." Because Ardes-Guisot does not prevail on appeal, she is not entitled to costs under this rule. Further, RAP 18.1 allows a party "to recover reasonable attorney fees or expenses" if "applicable law grants" them the right to such fees, and they have devoted a section of their brief to this request. RAP 18.1(a) and (b). Ardes-Guisot does not provide reference to any applicable law that would grant her fees on this basis. "Where no authorities are cited in support of a proposition, we are not required to search out authorities, but may assume that [the party], after diligent search, has found none." Helmbreck

¹⁰ Ardes-Guisot also raises the doctrine of *lis pendens* to argue that both parties resided in the United States during the time of the dissolution proceedings in France. However, the "purpose of *lis pendens* is to give notice of pending litigation affecting the title to real property" such that "anyone who subsequently deals with the affected property will be bound by the outcome of the action to the same extent as if [they] were a party to the action." United Sav. & Loan Bank v. Pallis, 107 Wn. App. 398, 405, 27 P.3d 629 (2001). As the case before us pertains to whether Washington is the proper forum for dissolution proceedings, this argument is unpersuasive.

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v. McPhee, 15 Wn. App. 2d 41, 57, 476 P.3d 589 (2020). Accordingly, she is not entitled to attorney fees and expenses under RAP 18.1.

Finding no error, we affirm.

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WE CONCUR:

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A handwritten signature in cursive script, appearing to be "B. ...", written over a horizontal line.

FRENCH CHURCH DU SAINT ESPRIT

November 16, 2023 - 4:33 PM

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