

No. 43530-6-II

IN THE WASHINGTON STATE COURT OF APPEALS

DIVISION II

DAWN BAUER,

Respondent,

vs.

NYLES BAUER,

Appellant.

APPEAL FROM THE SUPERIOR COURT  
OF THURSTON COUNTY

Cause No. 09-3-00087-6

FILED  
COURT OF APPEALS  
DIVISION II  
2013 APR -8 PM 1:22  
STATE OF WASHINGTON  
BY \_\_\_\_\_  
DEPUTY

RESPONSE OF RESPONDENT

DAWN BAUER

PMB 5360

PO BOX: 257

OLYMPIA, WA, 98507

pm

## Table of Contents

1. NOTICE OF STATUS CONFERENCE ASSIGNMENT OF TRIAL  
DATE (NTTD) & DECLARATION OF MAILING
2. DECLARATION OF PAUL BATTAN
3. ARGUMENT

**I. MR. BAUER HAD NOTICE OF TRIAL:**

In August 25, 2010 on the trial date attorney Mr. Normoyle showed up on the behalf of Mr. Bauer. Mr. Bauer was aware of the date for trial but he didn't come to trial. The notice was sent to him April 27, 2010. (See page one) On August 18, 2010 Mr. Bauer sent an email to my lawyer Paul Battan saying on his email, "It's my understanding that I now represent myself, at least temporarily." (See Declaration of Paul Battan) which proves Mr. Bauer was aware of the trial.

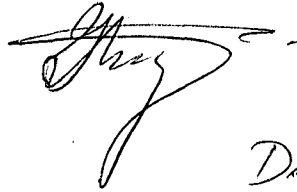
As to jurisdictions Mr. Bauer offers no facts establishing the court's lack of jurisdiction in this case. Mr. Bauer doesn't have any prove of he withdraw his lawyer if he did I didn't receive any papers relating to issue. I also didn't receive RP 10 at 3-19; CP 29-62 from him nor from his lawyer. I have no idea what he is talking about when he stated those numbers.

**II. MOTION WAS UNTIMELY:**

No abuse of discretion by court in denying the motion to vacate because it was untimely under Civil Rule 60. Mr. Bauer argues that CR 60 (b) (1) applies and justifies his motion to vacate. But CR 60 (b) specifically limits motions under CR 60 (b) (1) to one year. Whether the motion is brought within a "reasonable time" is irrelevant to CR 60 motion based on CR 60 (b) (1). As such, this appeal should be denied.

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

Dated this *April* day of *5<sup>th</sup>*, 2013, at Olympia, Washington.

A handwritten signature in black ink, appearing to read 'Darwin Bauer', with a stylized flourish extending from the end.

DARWIN BAUER

RECEIVED  
APR 29 2010  
Paul Battan - Attorney at Law

**COPY**  
**FOR YOUR INFORMATION**  
From: Paul Battan, Attorney at Law  
(360) 754-3901 Fax (360) 705-1008

To: DAWN  
Date: 4-29 By: PW

**SUPERIOR COURT OF WASHINGTON  
IN AND FOR THURSTON COUNTY  
FAMILY & JUVENILE COURT**

In Re Modification:  
DAWN G. BAUER,  
  
Petitioner,  
and  
NYLES J. BAUER,  
  
Respondent.

NO. 09-3-00087-6

NOTICE OF STATUS CONFERENCE,  
ASSIGNMENT OF TRIAL DATE (NTTD)  
& DECLARATION OF MAILING

**Clerk's Action Required**

TRIAL JUDGE:..... JUDGE ANNE HIRSCH  
STATUS CONFERENCE:..... THURSDAY, AUGUST 12, 2010 AT 8:30 AM  
ASSIGNMENT OF TRIAL DATE:..... WEEK BEGINNING AUGUST 19-24, 2010  
LENGTH OF TRIAL..... THREE (3) DAYS

NOTE: Trials are heard the week after the above Status Conference beginning on Thursday and continuing through Tuesday the following week. Your specific trial start date and time will be determined at Status Conference which starts promptly at 8:30 am and lasts about 15 minutes.

DATED: April 27, 2010

By Direction of Judge Chris Wickham  
Presiding Judge, Family & Juvenile Court

Bev Morgan  
Bev Morgan, Sr. Judicial Assistant

DECLARATION OF MAILING

I, Bev Morgan, certify and declare under penalty of perjury under the Laws of the State of Washington that on April 27, 2010, I mailed a copy of this document to the following:

Paul Battan  
Attorney at Law  
203 E 4<sup>th</sup> Ave  
Olympia WA 98501

Nyles Bauer  
1125 Quince St NE  
Olympia WA 98506

Judy Murray  
Guardian ad Litem  
INTEROFFICE MAIL

Bev Morgan  
Bev Morgan, Sr. Judicial Assistant

EXPEDITE  
 Hearing is set:  
 Date: 5-10-12  
 Time: 1:30  
 Judge/Calendar: CASEY  
 No hearing is set.

E-FILED  
5-7-12

SUPERIOR COURT OF WASHINGTON  
 COUNTY OF THURSTON  
 FAMILY & JUVENILE COURT

In re the Marriage of:

NO. 09-3-00087-6

DAWN BAUER,

DECLARATION OF  
PAUL BATTAN  
(DECL)

Petitioner,

and

NYLES BAUER,

Respondent.

I, Paul Battan, make the following statement under penalty of perjury in response to Mr. Bauer's motion to vacate and his claim that he did not know that he was represented by Mr. Normoyle at trial.

1. Mr. Normoyle filed a notice of withdrawal as Mr. Bauer's attorney on August 6, 2010 that became effective August 16, 2010.

2. On August 18, 2010 I received from Mr. Bauer the email attached as Exhibit 1 in which he states "It's my understanding that I now represent myself, at least temporarily." This was sent from the email address [nyles314@hotmail.com](mailto:nyles314@hotmail.com).


3. On August 24, 2010 I received from Mr. Normoyle the email attached as Exhibit 2 in which he states "I am re-appearing on behalf of Nyles. I do not expect him to be present so the trial should be over quickly." This was copied to Mr. Bauer at the email

1  
2 address nyles314@hotmail.com as shown on Exhibit 2, page 2.

3 4. On August 25, 2010 Mr. Normoyle filed a notice of Re-Appearance as Mr.  
4 Bauer's attorney.

5 I declare under penalty of perjury under the laws of the state of Washington that the  
6 foregoing is true and correct.

7 DATED this 7th day of May, 2012, at Olympia,  
8 Washington.

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11 \_\_\_\_\_  
12 PAUL BATTAN WSBA #13852  
13 Attorney for Petitioner  
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## Paul Battan

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**From:** Nyles Bauer [nyles314@hotmail.com]  
**Sent:** Wednesday, August 18, 2010 12:22 AM  
**To:** paul@paulbattan.com  
**Subject:** It's my understanding...

Dear Paul,

It's my understanding that I now represent myself, at least temporarily.  
I'd like to resolve this case amicably, and with Eli's absolute truest best interests in mind.  
If this is something that you'd be interested in, all cards on the table, then simply reply to this e-mail.

Yours Sincerely,

Nyles

**Exhibit 1**



**Paul Battan**

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**From:** Law Office of Brent Normoyle [bnlaw@ymail.com]  
**Sent:** Tuesday, August 24, 2010 10:22 AM  
**To:** Paul Battan  
**Cc:** Nyles and Norma Bauer; bauerx1@msn.com  
**Subject:** Re: Bauer

Dear Paul,

I am re-appearing on behalf of Nyles. I do not expect him to be present so the trial should be over quickly. I will give you a call this afternoon to make one last shot at a partial settlement.

I am faxing a copy of the Notice of Re-Appearance. And, yes, I would like a copy of your trial memorandum.

Sincerely,

Brent Normoyle

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Law Office of Brent Normoyle  
202 Central Street N.E., Ste. 240  
Olympia, WA 98506  
[www.normoylelaw.com](http://www.normoylelaw.com)  
(360) 705-0202 (tel)  
(360) 705-0222 (fax)

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**From:** Paul Battan <[paul@paulbattan.com](mailto:paul@paulbattan.com)>  
**To:** Brent Normoyle <[bnlaw@ymail.com](mailto:bnlaw@ymail.com)>  
**Cc:** "Patti White, Legal Assistant" <[patti@paulbattan.com](mailto:patti@paulbattan.com)>  
**Sent:** Mon, August 23, 2010 2:30:40 PM  
**Subject:** Bauer

Brent:

We have sent Ms. Bauer's trial memorandum to Mr. Bauer. Would you like us to provide you with a courtesy copy?

**Paul Battan**  
**Attorney at Law**  
505 Security Building  
203 East Fourth Avenue  
Olympia, Washington 98501  
Phone: (360) 754-3901  
Fax: (360) 705-1008  
[www.paulbattan.com](http://www.paulbattan.com)

