Appellate Court No. 43633-7-II

IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION II

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paul-david: Shoemaker,
Petitioner/Appellant

v.

Dawn Marie Shoemaker,
Respondent/Appellee

Appeal from Incidents of Marriage,
Custody, Support, Maintenance,
Attorney Fees and Costs

Case No. 06-3-00340-9

Hon. Sally Olsen
Superior Court of Washington
Kitsap County

Appellant's Reply Brief

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paul-david: Shoemaker
PSC 5000 735 5th Street
JBLM-McChord [98438-9998]
[(801)] 938 -4820

TABLES

TABLE OF AUTHORITIES

Citing's below:
All cites below in this Opening Brief are intended to be ["*cf*"].
"The same As compared to our beliefs" in support of my claim in common law, then and now.

Maxims

US Code

Federal Acts (mandatory)

Revised Code of Washington (RCW)

Rules of Appellate Procedure

Rules of Professional Conduct/Discipline Holdings

Legal Law Review

Case Law-Holdings

U.S. Supreme Court

9th Circuit

WA Court of Appeals

WA Courts

All others

Canada

Identifications of Parties

1. paul-david is the father of ethan-michael and will be referred to herein and throughout as paul-david, Paul, or Appellant; paul-david gives his NOTICE OF APPEARANCE herein
2. maria-janet is the mother of paul-david his POA while serving in the military around the world defending America and will be referred to as maria-janet or maria
3. Dawn Marie Shoemaker is paul-david's ex-wife, the mother of ethan-michael she will be referred to as Dawn, Respondent, or Appellee
4. ethan-michael is the parties' child and will be referred to as ethan-michael or e.m.s
5. Cameron J. Fleury is Dawn's attorney of record and will be referred to as Mr. Fleury, Fleury or attorney-witness

Definitions by Noel Webster's Dictionary

-A-

1. Abuse of Discretion—Means the improper usage or treatment of an entity, often to unfairly or improperly gain benefit
2. Adequate Cause—Means denoting adequate or substantial grounds or reason to take a certain action, or to fail to take an action
3. Authority to Act—Means authority to make a legal decision

-B-

4. Bias or Manipulation—Means one-sided, lacking a neutral viewpoint, not having an open mind. Bias can come in many forms and is often considered to be synonymous with prejudice

-C-

5. Custody Decree—Means an official decision made by a court of law

-D-

6. Dishonest Services—Means when a public official deprives citizens of their "right" to the official's honest services
7. Domicile—Means a person's fixed, permanent, and principal home for legal purposes

-E-

8. Eye Witness—Means one who sees an occurrence or an object; *especially*: one who gives a report on what he or she has seen

-F-

9. First-hand Knowledge—Means referring to something which the witness actually saw or heard, as distinguished from something he learned from some other person or source

-G-

-H-

10. Home of Record—Means a person's place of living when s/he entered the military; not meant as residence or domicile

-I-

-J-

11. Judge Shopping—Means a practice of filing several lawsuits that asserts the same claim. Judge shopping is usually done in a court or a district with multiple judges. It is done with the hope of having one of the lawsuits assigned to a favorable judge; also a practice that has been universally condemned
12. Jurisdictional Connections—Means significant connection to the state and the presence in the state of substantial evidence about the child's present or future care, protection, training, and personal relationships. This type of jurisdiction is conferred by both the Uniform Child Custody Jurisdiction Enforcement Act and the Parental Kidnapping Prevention Act.

-K, L, M, N, O-

-P-

13. Power of Attorney—Means a legal document giving one person the power to act for another person who can have broad or *specific* authority to make legal decisions when the principle person cannot be present to sign necessary legal documents.

-Q-

-R-

14. Rational Argument—Means the capacity for consciously making sense of things, applying logic, for establishing and verifying facts
15. Rebutted—Means to provide evidence or argument that refutes or opposes; a proof of claim rebutting an assumption or presumption

-S-

16. SIQ—Means being militarily ordered and restricted to one's home or room due to illness by a military medical commander
17. Statutorily Required Factors—Means mandatory without discretion

-T-

-U-

18. Untenable Grounds—Means cannot be maintained or supported; not defensible; as an untenable doctrine; untenable ground in argument.

-W, X, Y, Z-

VERIFICATION[1]

[1] "i, :paul-david:, a man with a soul and a spirit, in the above entitled Declarant-paul-david's Reply Brief by Commercial Affidavit hereby verify under penalty of perjury under the laws of the **United States of America,** [*cf*: Articles of Confederation 1777] without the **"United States"** [*cf*: Northwest Ordinance 1787] (federal government), that the below statements of facts and laws is true and correct, according, to the best of my current information, first-hand knowledge and belief, so help me God, pursuant to 28 USC 1746(1) (Constitution, Laws and Treaties of the United States are supreme law of the land, notwithstanding anything in the Organic Constitution or Organic Laws of Washington State, and Ten Universal Commercial Maxims, or above, to the contrary.)See also Supremacy Clause."

SUPPLEMENTAL STATEMENT OF THE CASE

This Supplemental Statement of the Case is intended to remind the court of facts alluded to in the opening brief for clarity. A brief relvant review is as follows: On 4/13/2011, later reset to 4/29/2011 Cameron J. Fleury sought contempt again against Paul; the court denied the motion and attempted to set a trial date for 5/6/2011. (EX: 49 Sub# 133-138, 142-144).

On 5/6/2011, Fleury for the a third time, attempted to get the Kitsap Court to grant his contempt motion against Paul. That hearing was rescheduled to 6/10/2011, where the original trial judge rightfully denied Fleury's motion for contempt against Paul and granted Paul's Motion for continuance. (EX: 49 Sub# 145-146).

On 8/19/2011, trial Judge was assigned and immediately served in "open court" with an Affidavit of Prejudice from Paul by his POA (maria-janet). Paul's POA was permitted by the court to argue for Paul against Fleury's Motion to Compel, despite significant challenges regarding a conflict of interest detailed in Paul's Affidavit. (EX: 49 Sub# 165-166).

On 12/7/2011, the court heard Fleury's Motion to Shorten Time and then set a new trial date of 3/5/2012, but Paul did not receive proper notice from the court of this date. (EX: 49 Sub# 168-170).

On 3/5/2012 Paul spent all of his duty day being seen at the base medical clinic, where he was then placed on Sick Quarters (SIQ) and was restricted to his home per military doctors' orders. Paul's POA (maria-janet) was present in court on his behalf as the court had previously permitted her to do so. (EX: 49 Sub# 165-166). maria informed the court of Paul's medical restrictions and sought an immediate continuance until his release from SIQ. The court refused to acknowledge maria, despite previously being willing to do so, and denied any continuance. Although the court attempted to contact his military chain of command, they could not be reached. Despite the request for the continuance, the court proceeded with trial. Respondent testified and exhibits

were entered during Paul's absence. (CP: 693-694)(RP: P7 Ln 19-25; P8 Ln 10-19; P25 Ln 12-17; P27 Ln 14-19).

The next day, March 6, 2012, trial still continued in Paul's absence, even after the court was supplied with documentation verifying his military medical restriction preventing him from be present at the first day of trial. The court on this day contacted Paul's unit and confirmed he was still on SIQ since the previous afternoon. *(See trial minutes).* Paul's POA again sought immediate continuance until his release from SIQ, the court again denied Paul's POA continuance request. Respondent testified and exhibits were again entered despite Paul's absence. (CP: 695-696)(RP: P29 Ln 16-23; P59 Ln 21-24).

On 3/14/2012 trial resumed, Paul was finally released from SIQ and was able to be present. The court denied Paul's objections regarding the previous two days of trial occurring in his absence. Trial was rushed and forced to be finished by 4pm by the court. (CP: 697-699)(RP: P24 Ln 13-15; P27 Ln 14-20; P28 Ln 4-11; P29 Ln 11-15, P30 Ln 3-23; P54 Ln 25; P55 Ln 1-13).

LEGAL ARGUMENT[2]

Fleury argues that Paul has not presented any debatable issues on appeal. Paul disagrees and sets forth the following issues **1.** The trial court abused its discretion by ignoring procedural protections guaranteed to Paul by the SCRA, and by ordering onerous restrictions to residential time with Paul's son without adequate findings to support such orders. **2.** At multiple stages in litigation, including Trial, the Paul was denied due process protections afforded to him by the SCRA including failure to stay proceedings and appoint Paul counsel. **3.** The parties' jurisdictional connections to Washington

[2] The following citations with footnotes from Appellant's Opening Argument are hereby reiterated and incorporated in their entirety hereto and herein, as if fully reproduced herein to be considered on the merits of this appeal. "[*cf:* **Robin v. Hardaway** (1772) Acts of the Legislature contrary to God's Law, must be considered **as void**, *8 Co. 118. a. Bonham's case. Hob. 87; 7 Co. 14.) a. Calvin's case.]*[*cf:* **Crandall v. Nevada** (1867)]"; "[*cf:* **U.S. v. Mason**, 412 U.S. 391, 400 (1973)]"

were lost after their 6 years of absence. **4.** The 2010 modification of custody was not adjudicated *pursuant* to the Parentage Act and thus was untenable. **5.** Regarding sanctions, no sanctions should be awarded if the action is brought in good faith and has meritorious claims. The claims set forth herein have significant merit, and are not frivolous or brought in bad faith. *Rhinehart v. Seattle Times,* 59 Wn. App *supra.* **6.** Likewise, the Trial court should not have awarded Respondent fees, nor should Respondent be awarded fees on this appeal for multiple reasons set forth herein.

I. ABUSE OF DISCRETION

Discretion is not unbounded, and findings are required to support the court's rulings. *In re Marriage of Shryock*, 76 Wn. App. 848, 888 P .2d 750 (1995); *In re Marriage of Stern*, 57 Wn. App. 707, 717, 789 P .2d 807. review denied. 115 Wn. 2d 1013. 797 P .2d 513 (1990). A trial court abuses its discretion if its decision is manifestly unreasonable or is based on untenable grounds or untenable reasons. *In re Marriage of Kovacs*, 121 Wn.2d 795, 801, 854 P.2d 629 (1993); *In re Marriage of Littlefield*, 133 Wn.2d 39, 940 P.2d 1362 (1997). When a court does not state adequate reasons for its decision (e.g. on adequate cause), its decision is an abuse of discretion. *Kinnan v. Jordan*, 131 Wn. App. 738, 750, 129 P.3d 807 (2006). While a court is not required to make findings on every factual issue, the court must make findings on ultimate facts and material issues. *Wold v. Wold*, 7 Wn. App. 872, 503 P.2d 118 (1972). "A material fact is one which a reasonable man would attach importance to in determining his course of action." *Wold,* at 875.

The court abused discretion in each of the following circumstances: First, the trial court failed to address its initial and untimely[3] lack of adequate cause on 10/20/2010 regarding the TRO petition. (CP: 770 pt 4.2)(Opening Brief [OB] at P15 Ln 16-21). The Parentage Act dictates that for the court's initial change of

[3] See *Robertson v. Robertson*, 113 Wn. App. 711, 54 P.3d 708 (2002); RCW 2.24.050.

custody on 10/20/2010: "[its] required to deny the motion unless it finds that *"adequate cause"* for hearing the motion is established by the affidavits, [unrebutted]..." **(emphasis added)** "...these procedures protect stability by making it more difficult to challenge the status quo...the court did not make the necessary finding that there was a substantial change in [e.m.s'] circumstances that would necessitate modification *See* RCW 26.09.260, .270...[Paul] points to the court's failure to expressly analyze the factors in RCW 26.09.187. *Id*" (*In re Parentage of C.M.F.,* No. 88029-8; quoting *In re Parentage of Jannot,* 149 Wn.2d 123, 127-28, 65 P.3d 664 (2003)), RCW 26.09.285.

Second, Paul asserts the FFCL and Memorandum Decision (MD) both neglect to address the inadequacies of the court's 10/20/2010 order which similarly, "ignores the fact that [Dawn] not only petitioned the court to make [herself] the primary residential parent, but [she] also asked to be custodian...it is far from clear that the courts in this state have the authority to contradict RCW 26.09.285 by making the parent who is not the primary residential parent, the custodian." *In re Parentage of C.M.F.,* at 13 *infra.* (OB at P18 Ln 8-10). The court's MD was silent regarding to the fact that Dawn neither contested nor appealed the parties Agreed Order for 4 full years.

Third, under the Parentage Act and RCW 26.09.285 the parties' June 2006 Parenting Plan was a custody *decree* designating Paul as primary residential parent (CP: 1-2, 335-348, 352-355) and required the Respondent to fulfill all legislative requirements prior to the court's modification of the primary residential parent. "In sum, if a custody decree is an order that designates a parent custodian "solely" for the purposes of other statutes, and [Paul] was appointed by the court to be custodian "solely" for the purposes of other statutes; then making [Dawn] custodian "solely" for the purposes of other statutes would require modification. To the extent that all parentage orders designate a parent the custodian in this manner or establish one

parent's residence as the primary residence, all parentage orders are custody decrees." *In re Parentage of C.M.F.,* at 14 *infra.* (CP: 770 pt 4.2)(OB at P37 Ln 13)

The trial court's final orders suggest a basis of untenable grounds, as the only grounds used for *assuming* e.m.s' "status-quo" with Dawn and continuing parenting restrictions against Paul, were strictly based on the *accusation* that Paul was "vexatious," not an unfit parent. Here, the court's final orders suggest an abuse of its discretion by remaining silent on regarding the initial custody modification of the primary residential parent/custodian, without a finding of adequate cause, under the Parentage Act/RCW 26.09.285.

A. The Trial Court Abused Its Discretion By Entering a Severely Restrictive Parenting Plan Without Findings to Adequately Support Those Restrictions and Ignoring the Statutorily Required Factors of the Washington Parentage Act

When imposing limits on a parent's natural parenting of his children, the court should impose the least restrictive limitation necessary to protect the child's best interest. *In re Marriage of Jensen-Branch*, 78 Wn. App. 482, 899 P.2d 803 (1995). The trial court's parenting plan provided Paul no visitation with his son. The FFCL *do not* adequately set forth findings with rational arguments that would justify such a restrictive residential schedule. While there was a finding of contempt, there was no expert testimony of any significant detrimental behavior from Paul towards e.m.s. Moreover, Paul was never able to respond to any domestic violence allegations, insofar the court denied Paul from examining Dawn directly about her testimony that was apparently used as a basis for the court's findings. Such severe restrictions require substantial findings as to how those level of restrictions are in the best interest of e.m.s; such findings are absent from the record. This suggests the court's restrictions were inappropriate and a manifest abuse discretion.

Due to the trial court's inadequate findings of how Paul was a

detrimental risk to e.m.s, the Court of Appeals *should* reverse because the court "imposed limitations in the parenting plan without making adequate findings regarding the alleged risk..." **(Emphasis Added)** *Katare v. Katare*, 140 Wn. App. 1041, 2007 WL 2823311 (2007), rev denied, 163 Wn.2d 1051, 187 P.3d 750 (2008). Here, the court's inadequate findings of why it was in the child's best interests to have *no* visitation with his father suggests bias. The findings may have been a basis for *some* restrictions, but not for restrictions that Paul have no contact with his son except by monitored, written communication.

This case is similar in facts to *Marriage of Fortner*, 138 Wn. App. 1029, 2007 WL 1252768 (2007) because in that case the Court of Appeals chastised and reversed the trial orders for inadequate findings regarding a central issue in the case: the mother's allegations that the father was abusive. Here, the trial court's findings that "vexatious litigation" and one instance where Air Force Central Review Board (CRB) decision "met criteria" against Paul suggests the court's findings/determinations are inadequate because the court remained conspicuously silent on the multiple CRB determinations which "did *not* meet criteria" (CP: 419-420) AND the other court dismissals of Dawn's similar false allegations against Paul due to "insufficient evidence." (CP: 33, 383). The trial court's findings suggest significant bias and inadequacy as they conspicuously remain silent on the legislative intent of the Parentage Act. (OB at P38 Ln 3-8)

B. The Trial Judge Abused Discretion By Failing to Recuse and by Demonstrating Significant Bias Against paul-david.

The trial court's final orders are recognizably lopsided in Respondent's favor and demonstrate a manifest conflict of interest against not only maria-janet (RP: P127 Ln 4, 6-9; P129 Ln 7-11; P144 Ln 2; P148 Ln 1-16) but ultimately Paul, both during the trial as well as the pre-trial hearings once the Judge was served "in open court" with an Affidavit of Prejudice and "refused" to

acknowledge the requirement under conflict of interest to recuse; with a witness present in court. (1st CP index at P2)(RP: P127 Ln 4, 6-9; P129 Ln 7-11), (george-leon Supplemental affidavit under RAP 9.11).

Unfortunately, the trial court's record of the above occurrence suggests the record has been mutilated by the KC Superior Court and is validated by the mysterious disappearance of the Affidavit of Prejudice and SCRA notice from the court's record and the VRP. (1st CP index at P2). The court "lost" multiple records pertaining to Paul's formal requests for the trial Judge to recuse due to a conflict of interest. First, on 8/19/2011 after the filing of the Affidavit of Prejudice and SCRA notice, Paul filed on 8/29/2011 a Motion for Reconsideration/Intent to Remove in-line with the recognizable conflict of interest outlined in the Affidavit of Prejudice; the court thereby did *not* respond as required by law. (CP: 642-688). In fact, Exhibit 49 [sub# 167] recorded Paul's Motion for Reconsideration/Intent to Remove, however, the very next docket entry [sub#168] occurs 4 months later on a Motion to Shorten Time is filed by Fleury on 12/6/2011. Additionally, the court's decision (CP: 706 Ln 21-23) references the Order to Compel, but remains silent on Paul's Reconsideration request without cause. (CP: 706 Ln 24).

It is aptly clear the trial court demonstrated a significant bias by favorably relying on only Fleury's exhibits and Dawn's testimony entered on the record, during Paul's excused medical absence when he could neither contest nor object. After the court received ample requests for continuance from his POA, the court still proceeded despite Paul's excused medical absence. This is one of many substantial judicial procedural errors, abuses of discretion and denials of Paul's constitutionally protected due process rights. (RP: P10 Ln 20-21; P24 Ln 13-15; P27 Ln 14-19; P29 Ln 11-15; P55 Ln 25, P56 Ln 1-7; P62 Ln 11-15).

These factors suggest a clear significant bias and substantiates Paul's assertions of *mutilation, prejudice, and bias* which squarely meets "crimes against justice" by the court.

II. VIOLATIONS OF PROCEDURAL DUE PROCESS

A. The Court Failed to Comply with Procedural Requirements Under the Servicemembers' Civil Relief Act (SCRA)

In general, a litigant must wait for a final judgment before they can appeal as of right, RAP 2.2(a)(1). Exceptions are given to military members regarding the courts procedures as provided by the Servicemembers' Civil Relief Act (SCRA)(50 U.S.C. Appx. § 521, 522); Soldiers and Sailors Civil Relief Act (SSCRA)(1940 Section 201).

The SCRA imposes specific requirements which must be fulfilled before a default judgment can be entered, 50 U.S.C. Appendix, § 520; *Ledwith v. Storkan*, D.Neb.1942, 6 Fed. Rules Serv. 60b.24, Case 2, 2 F.R.D. 539, and also provides for the vacation of a judgment in certain circumstances. One of these requirements is that a proceeding must be automatically stayed if requested by the Servicemember. 50 U.S.C. App. § 522; "[o]nce the court has notice, regardless of how notice was given...if the stay request is denied, the court must make findings of fact about the lack of material effect, or ensure...the prerequisite to obtaining a stay is a showing that he is unavailable to appear at the civil court hearing."

1. Failure to Continue the Trial Until paul-david Could Be Present Violated the SCRA.

Here, Paul's SCRA notice to the trial court on 2/10/2011(CP: 592-596, 608-609) of his military commander's denial of leave for the 2/11/2011 contempt hearing, met SCRA requirements of Paul to notify the court of his inability to be present. This mandated the court to automatically *stay* the contempt hearing under 50 U.S.C. Appx. § 521(d)(1) AND appoint Paul an attorney due to being unrepresented under § 521(b)(2); *pursuant* to the SCRA. Moreover, § 522(a) states "This section applies to any civil action or proceeding, including any child custody proceeding, if [Servicemember] (1) is in military service or is within 90 days after termination of or release from

military service; and (2) has received notice of the action or proceeding."

Paul was actively serving at the time of the contempt hearing as well as for trial, which is why he sent his mother, maria-janet, as his POA, who had been recognized in prior proceedings. Paul could not send a letter personally as prescribed under § 521(b)(2), due to his excused illness on the initial day of trial. However, the court did ultimately receive verbal notification from Paul's Chain of Command (First Sergeant Damian) regarding his medical status and SIQ [quarters] orders' on the first day of trial, which should have satisfied the requirements of § 521(b)(2).

Evidence in the court record gave notice to the court of the special provisions under SCRA; Paul notified the court of requirements set forth by SCRA, during discretionary review of the trial courts erroneous custody modification orders from 10/20/2010-10/29-2010 based on the SCRA. (CP: 707 Ln 14-19). Therefore, the trial court could *not* have been unaware the SCRA applied in this case, and *should* have immediately stayed proceedings in compliance with the SCRA upon request from Paul via POA. (CP: 541-544, 548-586)(RP: P22 Ln 13, 22-24)(OB at P43 Ln 16-22).

2. Trial Court's Complete Denial of Cross-Examination Departed From the Accepted and Usual Course of Judicial Proceedings

The trial court primarily relied on Fleury's exhibits and Dawn's testimony entered into the record during two full days of trial when Paul was medically excused and could not contest or object. The court still proceeded with trial even after notice of Paul's excused medical absence and despite his POA's immediate request for a stay of proceedings. (CP: 693-694)(RP: P7 Ln 19-25; P8 Ln 1; P164 Ln 2-3).

During Paul's testimony, he requested the court reporter to read back Dawn's testimony or be allowed to cross-examine Dawn or to be given a transcript from previous trial days, to better allow him to respond accordingly (RP: P55 Ln 20-25; P56 Ln 1-5), the court denied Paul's request. Paul then

testified "you are not giving me fair due process I can't respond to testimony I didn't hear," the court replied "you gave up that opportunity." (RP: P61 Ln 8-25; P62 Ln 1-15; P83 Ln 6-12). Paul again testified the court wasn't giving him "fair due process/honest services" and [the court] was being bias by "giving preferential treatment to Mr. Fleury." (RP: P53 Ln 20-22; P56 Ln 8-10; P62 Ln 4-15; P63 Ln 9-11; P64 20-25; P65 Ln 1-2, 13-17). The court then forced Paul to proceed with his testimony without ever being given the opportunity to hear Dawn's testimony, cross-examine Dawn, or receiving the previous VRP to assist the court in determining the truth of the matters asserted by Respondent during Paul's excused medical absence. (RP: P27 Ln 24-25; P84 Ln 11-19; P88 Ln 21-25; P115 Ln 6-10, 13-14; P117 Ln 17-19; P133 Ln 16-24).

These exchanges between Paul and the court are what led to the court's final orders and determinations being so severely lopsided. This Appellate court should rightfully reverse due to trial court departing from the excepted and usual course of proceedings. "[W]here a witness cannot be cross-examined, the search for truth is severely impaired [and] complete denial of opportunity to cross-examine [Dawn] is impermissible." *Curry v. United States,* 658 A.2d at 199. In this instance, "the past history of the case is critical to the determination [of facts] and inquiry must be permitted [because] where questions of facts are disputed, a litigant has the right to cross-examine [adverse] witnesses" *Tyree v. Evans*, 728 D.C., A.2d 101 (1999).**(Emphasis Added)**(OB at P27 Ln 17-20; P33 Ln 27-31; P34 Ln 1-5).

The trial court's final decisions suggest being manifestly unreasonable, outside the acceptable range of choices, violating many applicable legal standards and lack rational arguments supporting the court's decision. Thus, Paul is respectfully reliant upon this Appellate Court, if nothing else, to reverse and vacate the trial court's final orders on the preceding facts.

III. JURISDICTION AND TRIAL COURT'S AUTHORITY

A. Subject Matter Jurisdiction and Personal Jurisdiction

"A reviewing court is required to consider the issue of subject matter jurisdiction even when it was not raised below in order to avoid an unwanted exercise of judicial authority." *Honomichl v State*, 333 NW 2d 797, 799 (SD 1983). Paul's then attorney, Clayton Longacre [presently disbarred for misconduct regarding clients], repeatedly refused to follow Paul's instructions and coerced Paul into signing the petition for re-instatement [under enormous stress] if he did not want Dawn to disappear and kidnap e.m.s again. Dawn's history demonstrates a repeated willingness to run away with e.m.s. multiple times since his birth. The order reinstating the case is what the court has relied upon to *presume* jurisdictional authority [to act] without any statutorily supported rational argument. (CP: 770 pt 4.2)(OB at P19 Ln 20-27).

The actions of both Longacre and the court were improper because "subject matter jurisdiction in dissolution proceedings exists **[only]** if one of the parties is a resident of Washington during the proceedings. Residence is **domicile in fact and intent to reside presently** in Washington."[4] (Emphasis added) *Marriage of Robinson*, 159 Wn. App. 162, 249 P.3d 532 (2010). Indisputable in this case and similar to *Marriage of Robinson*, neither Paul, Dawn, **nor e.m.s** had a domicile in Washington on 10/20/2010 when primary custodian was wrongfully changed. Nor did they intend to reside in Washington which is illustrated by their 6 full years of absence after the parties' Agreed Order and Parenting Plan *decree* on June 12, 2006.

Additionally, it is undeniable Longacre's unnecessary/improper filing of the re-instatement motion, his complete refusal to argue the court's lack of jurisdictional authority to [act] knowing the parties' had established domicile elsewhere more than 4 years prior, are the ultimate initiating causes of the court's improperly *presumed* jurisdictional authority [to act]. Thus,

[4] "Jurisdiction is of subject matter and of the person [both preserved], and both must concur or the judgment will be void in any case in which a court has assumed to act." *(Robinson supra* (RP: P 115 Ln 20-22)

Longacre's unnecessary/improper actions cannot and should not be held against Paul for an action that is automatically required to be corrected *without* court intervention. It bears to note here, the court was statutorily required to make its ruling *pursuant* the UCCJEA and PKPA when the court had knowledge none of the parties', especially e.m.s, were presently domiciled in Washington; that order is devoid of any such findings. (CP: 356-358, 768-771). Here, both the court and Longacre had the duty to ensure Washington did not improperly *assume* jurisdictional authority [to act] and were required to only ensure automatic correction of the court's clerical error.

Paul's grievances against Longacre are for misconduct during this case which fall under Rule 10.6 the Rules for Enforcement of Lawyer Conduct (ELC). Unbeknownst to Paul, Longacre had a long history of violating several Rules for Professional Conduct (RPC). That history of violations, includes but is not limited to RPC 1.1, 1.2(a), 1.3 etc. which led to Longacre's suspension in 2005 *See In re Discipline of Longacre*, 155 Wn.2d 723, 122 P.3d 710 (2005), his reprimanded in 2010 and eventually his disbarment in 2012. Moreover, Longacre was convicted of 19 Counts of lawyer misconduct on 11/14/2012 by the Disciplinary Board of the WSBA; the Supreme Court of Washington approved the Disciplinary Board's FFCL and recommendations for Longacre's disbarment[5]. *See In re Clayton Ernest Longacre*, Supreme Court No. 201, 132-2. Due to the foregoing facts, the trial court should *not* have held Paul responsible for Longacre's validated "unfitness to practice" and ultimately this Appellate Court similarly should *not* hold Paul ultimately responsible for Longacre's validated "unfitness to practice" and procedural failures during this case.

It was the court's duty to decline Longacre's re-instatement petition for lack of jurisdictional authority [to act], vacate the Clerk's clerical erred

[5] "Clayton Ernest Longacre is disbarred from the practice of law...cost and expenses pursuant to ELC 13.2 and restitution pursuant to ELC 13.7...will be paid by Clayton Ernest Longacre." *In re Clayton Ernest Longacre*, Supreme Court No. 201, 132-2.

dismissal order, order the return of e.m.s to Paul per the Parentage Act; then set a follow-up evidentiary hearing *pursuant* to the UCCJEA and PKPA to determine continuing jurisdiction. If the court had followed the above proper procedures, Fleury would not have been able to *judge shop* and eventually mislead the court into issuing the TRO against Paul changing primary residential custodian of e.m.s on 10/20/10 without a rational argument nor substianted evidence to alter the court's existing 2006 PP as required by Parentage Act. (CP: 768-775).

The record demonstrates that Fleury's first TRO interactions with the court, he knew he was *judge shopping* regarding Dawn's insufficient "emergency" and *misleading* the court about Dawn's CRB "abuse" claims against Paul multiple times in his attempt to gain a procedural advantage over Paul. (CP: 377 Item 9; 383, 419-420). RPC 8A(c) says- "Attorneys may not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation." RPC 8A(c) is intended to protect the public from lawyers who manifest dishonesty, fraud, deceit, or misrepresentation in all their permutations, directly or otherwise. See *In re Disciplinary Proceeding Against Greenlee,* 158 Wn.2d 259, 271 (2006). "Under RPC 8A(c) and (1), an attorney is prohibited from making misrepresentations." *Discipline of Simmerly,* 174 W n.2d 963, 982 (2012). "Misleading the court by false claims, justifies the trial court's conclusion that the actions amounted to an abuse of judicial process." See *Woodhead* v. *Discount Waterbeds, Inc,* 78 Wn. App. 125, 131 (1995). Due to Fleury's intentional malicious actions, Paul was forced to defend the court's improper TRO action with his only immediate source of help while he was still in Japan, Mr. Longacre. Fleury demonstrated his willful neglect of the RPC's with his **own** statement (Response Brief at P2 Ln 4-6) that the "re-instatement order placed e.m.s with Paul and was enforced by the military in Japan;" is absolutely untrue, lacks evidentiary support in the record, while conflicting evidence is in the record. (CP: 379-380 Items 30, 32-34)(OB at

P40 Ln 33-36).

Unquestionably outlined above, the parties' June 12, 2006 Parenting Plan designating Paul as primary residential parent, was a custody decree agreement [contract](CP: 1-2; 311-312), and could not be modified on 10/20/2010 due to the record lacking substantiated support to fulfill all the required legislative factors set forth in the Parentage Act and RCW 26.09.285. (*In re Parentage of C.M.F.*, No. 88029-8 at 13, 14)(CP: 768-775). If Paul's re-instatement order was enforced by the military as Fleury asserted, the court's 10/29/2010 designation of Dawn as primary residential parent "solely for the purposes of other statutes" could not have been done [based on an unsupported "status-quo" of e.m.s residing with her and/or an unsubstantiated "emergency"] *without* violating the statutory construction of the Parentage Act and RCW 26.09.285 because jurisdictional law required e.m.s' "status-quo" to have remained with Paul barring a supported "substantial change of e.m.s' circumstances." Here, Fleury not only lied within his Response Brief but also in several pre-trial misrepresentations facts and falls squarely in-line with many RPC 8A(c) violations. Since the court's 10/29/2010 Parenting Plan and TRO erroneously identified Dawn as primary residential parent under the pretext of an unsupported change in e.m.s' circumstances (CP: 779 pt 3.12); it is undeniable that Dawn clearly violated the parties' Original Parenting Plan, UCCJEA, PKPA, SCRA, Hague Convention, Parentage Act and finally RCW 26.09.285 by egregiously committing custodial interference between 9/10/2010 through 10/29/2010. The court's final order do not acknowledge the forgoing circumstances while at the same time completely denying Paul from examining Dawn regarding her significant interference. (CP: 379-380 pt 30, 32-34; 705). Additionally, no enforcement or investigation was conducted on Dawn's custodial interference by either the court or the military on Dawn's harm towards e.m.s.

Demonstrated here, the court violated judicial process by not ruling

pursuant to the UCCJEA, PKPA, Hague Convention and Parentage Act when the Respondent was initially seeking TRO(s). (CP: 768-787). The court's final orders suggest a substantial abuse of its discretion by remaining conspicuously silent regarding Dawn's undeniable, custodial interference in 2010. (OB at P36 Ln 1-5).

B. Uniform Child Custody Jurisdiction Enforcement Act (UCCJEA) (2001 c.65, RCW 26.27.011)

For the purposes of Washington's UCCJEA, "**jurisdiction is determined** at the time the custody petition is filed, so [the child's contacts with a state] after the proceedings commenced are not relevant. RCW 26.27.201."
In re the Custody of A.C., 137 Wn. App. 245, 255, 153 P.3d 203 (2007)
However, this is contradictory to the purpose of the term "home state" under Washington's UCCJEA and the PKPA. The term "**home state" does not include** "a state in which neither of the parents nor the child resided at the time of the [re]filing. In such circumstances, the child has no home state and the jurisdiction is decided on significant contacts, convenient forum or other grounds."

In re Parentage of A.R.K.-K., 142 Wn. App. 297, 303, 174 P.3d 160
In re the Custody of A.C., 137, Wn. App. 245, 254-55, 153 P.3d 203
In re Marriage of Hamilton, 120 Wn. App. 147, 154, 84 P.3d 259 (2004)

If a child **doesn't have a home state** as defined in the UCCJEA and PKPA, a court may assume jurisdiction only based on 1) significant connections of the child or parent with Washington AND 2) substantial evidence is available in Washington concerning the child's care, protection, training and relationships with Washington. RCW 26.27.201(1)(b) AKA the "*vacuum*" *See Holder supra.*

In re Marriage of Hamilton, 120 Wn. App. 147, 157, 84 P.3d 259 (2004)
In re Marriage of Payne, 79 Wn. App. 43, 899 P.2d 1318 (1995)

If a child **does have a home state**, (For purposes of UCCJEA Japan is a state) "[t]he UCCJEA does not permit Washington to unilaterally declare itself a

more convenient forum and wrest jurisdiction from the home state." Jurisdiction must first be declined by the home state.

In re Parentage of A.R.K.-K., 142 Wn. App. 297, 307, 174 P.3d 160 (2007)

It is indisputable that e.m.s and both parent's home state was Japan for approximately 15 months during the period when Paul's then attorney, unnecessarily/improperly petitioned the court instead of simply correcting with the clerk; the courts clerical error of dismissing the parties 2006 Original Parenting Plan and Agreed Order. Additionally, it's indisputable that e.m.s and both parents lived in Utah for 3 years ['06–'09] before even moving to Japan, totaling over 4 years of absence from Washington before "re-commencement" of this case; which relieved Washington of its jurisdictional authority [to act] barring support and/or maintenance enforcement. (CP: 768-771).

Washington has **continuing jurisdiction** to modify its parenting determinations where the child has since moved to another state *but* only if the child **retains** connections with Washington that are "more than slight," which may be established by ongoing residential time in Washington. *In re Marriage of Greenlaw,* 123 Wn.2d 593, 869 P.2d 1024, *cert. denied,* 513 U.S. 935 (1994).

For the purposes of continuing, exclusive jurisdiction *pursuant* to the UCCJEA; modification authority [to act] pertains only to support and/or maintenance enforcement once Paul, e.m.s and Dawn no longer resided in WA. *In re Marriage of Schneider,* No. 85112-3 *En Banc* (2011); RCW 26.21A. 500-.570. Here, the parties' 2006 Agreed Order *did not* order any support and jurisdiction for enforcement was non-existent.

It is well settled, the parties' child did not and could not, establish "more than slight" connections to Washington or maintain ongoing residential time in Washington after more than 4 years of absence from Washington. Instead, the child resided in both Utah and Japan immediately prior to re-commencement of this case, both of which the court should have considered as home states. For purposes of child custody *pursuant* to the UCCJEA the court initially *should*

have concluded, this state no longer had continuing, exclusive jurisdiction after Paul, Dawn and e.m.s no longer resided in Washington. *In re Ruff*, 168 Wn. App. 109, 275 P.3d 1175 (2012); RCW 26.27.201, 26.27.021(7), 26.27.211, 26.27.051. **(Emphasis Added)**. The preceding information substantiates the suggestion the court abused its discretion from the beginning by not ruling on child custody *pursuant* to UCCJEA etc. between 2010 and 2012. (CP: 10 pt 32-34; 376-383)(OB at P14 Ln 3-8).

The record is devoid of material evidence supporting the court's authority [to act] under any jurisdictional grounds to modify the parties' June 12, 2006 Agreed Order and Parenting Plan, concerning child custody, after the mandated automatic re-instatement in September 2010. The record is also completely devoid of material evidence showing whether or not all the orders *prior* to and including the trial were determined *pursuant* to UCCJEA, PKPA, SCRA, Hague Convention and the Parentage Act as the law requires. Furthermore, the trial court's analysis of having jurisdiction over Paul (CP: 707 Ln 14-19) agrees that the only jurisdictional determination [whether ordered *pursuant* to the UCCJEA, PKPA, SCRA, Hague Convention or not] did not occur until 2/28/2011. This is again consistent with the trial court remaining silent regarding the suggestion of not ruling *pursuant* to UCCJEA, PKPA, SCRA, Hague Convention and the Parentage Act. Dawn's phantom "emergency" custody modification petition of e.m.s should have properly been declined for lack jurisdictional authority [to act] AND lack of a supported rationally substantiated argument after all parties' had well ceased physical domicile in Washington as the law required. Paul's *coerced* statements in the application for re-instatement only verified home of record [a military requirement] not his domicile and therefore did *not* confer custody modification jurisdiction to Washington under the law. (RP: P112 Ln 22-25; P113 Ln 1-22). These undisputed facts, substantiate the suggestion of the trial court's final jurisdictional decision being based on untenable grounds and therefore a

manifest abuse of the court's discretion. (OB at P14 Ln 3-8).

C. Parental Kidnapping Prevention Act (PKPA)(28 U.S.C. §1738A)

To the extent of jurisdictional conflict in international cases [clearly this case is] the PKPA preempts the UCCJEA (RCW 26.27.011). Under the PKPA, home domicile jurisdiction is superior to significant connections jurisdiction. The PKPA applies only to the enforcement or modification of an existing order or when a custody action is pending; which *pursuant* to the Parentage Act this case could *no* longer be pending after Dawn failed to appeal/challenge for 4yrs.

In re Marriage of Murphy, 90 Wn. App. 488, 952 P.2d 624 (1998)
In re the Custody of A.C., 137 Wn. App. 245, 255, 153 P.3d 203 (2007)
Thompson v. Thompson, 484 U.S. 174, 181-83, 108 S. Ct. 513, 98 L. Ed. 2d 512 (1988)

Here, it is indisputable the court erroneously altered the parties' existing custody order on 10/20/2010 prior to the modification hearing on 10/29/2010, which required the court to make an absolute showing of custody modification authority [to act] *pursuant* to the PKPA in order to modify the parties' June 12, 2006 Agreed Order and Parenting Plan relating to child custody. Again, the trial court's final orders remained silent of any material evidence showing the court's modification order on either 10/20/2010 or 10/29/2010 being made *pursuant* to the PKPA and/or RCW 26.09.260/.270 as Federal and State Legislation requires.

D. Hague Convention & International Child Abduction Remedies Act (ICARA)

Paul strenuously stipulates he and e.m.s, have for 3+ years, been horrifically damaged by the court for allowing Respondent internationally abduct e.m.s from Japan, which legislation very strictly prohibits.

Paul's primary jurisdictional-authority [to act]-challenge/argument throughout this case after 9/10/2010 when the court improperly modified the existing PP and Original custody order and when Paul sought review of this case in the federal/district courts based on his Hague Convention petition

thereafter; is as follows. The trial, federal and district courts did not acknowledge "the *Rooker-Feldman* doctrine would not bar a federal district court adjudicating a Hague Convention proceeding [or] vacating a state court's custody order... [because]...federal courts [must] have the power to vacate state custody determinations and other state court orders that contravene the treaty." 239 F.3d at 1085 n. 55 (citation omitted) *Holder supra.* Furthermore, "the PKPA was enacted to discourage parental kidnapping across state lines, much like the Hague Convention seeks to deter parental kidnapping internationally." *See Thompson v. Thompson,* 484 U.S. 174, 182, 108 S.Ct. 513, 98 L.Ed.2d 512 (1988) *Holder supra.* Moreover, "the Hague Convention seeks to prevent an abducting parent from gaining any advantage in litigation..." *Holder supra.* Paul's decision to reinstate his case but also bring his Hague Convention petition in the federal/district courts in Washington did *not* mean "he [was] barred...or that he has waived his rights under the Hague Convention." *Holder supra.* Finally, "to hold that a left-behind parent is barred, in such a case, from raising a Hague Convention claim in a subsequent federal proceeding...would render the Convention an incompetent remedy for the very problem that it was ratified to address." (CP: 708-709).

Holder v. Holder, 305 F. 3d 854 - Court of Appeals, 9th Circuit 2002 305 F.3d 854 (2002)

Once again, the record is devoid of any findings of fact from the court supporting "if" the INTENT of Hague Convention, UCCJEA, PKPA, SCRA, and Parentage Act was strictly followed or not throughout this case. The record suggests not one single order, trial or otherwise, was made *pursuant* to the aforementioned Acts. In contrast, undisputed evidence/testimony from Paul and maria (CP: 1-2; 311-312)(RP: P12 Ln 1-6; P124 Ln 1-13) established the parties' agreement [contract] was valid and actionable. (OB at P23 Ln 3-11; P24 Ln 23-25). Had the trial court weighed the evidence and

testimony differently, it rationally *should* have concluded the parties' 2006 agreement [contact] existed, was controlling and actionable.

For the **many** reasons stated throughout regarding *initial* jurisdictional custody modification authority [to act], it is clear the record suggests the trial court's FFCL and Memorandum Decision (MD) lack a rational argument as to whether or not all orders were made *pursuant* to SCRA and UCCJEA and PKPA and Parentage Act or even Hague Convention at every procedural step during this case which Federally Mandated Acts and the State Legislators require. (CP: 597-609; 768-787). The trial court's orders involve a controlling question of law, "were the mandated laws both federal and state applied correctly throughout this case?" Substantial evidence suggests grounds for a difference of opinion clearly exists and an immediate review of the court's orders may materially advance the ultimate correction of the modification litigation that lacked a rational argument to the contrary. Paul respectfully leans on this Appellate court for complete and automatic reversal of the trial orders and suggests its required AND absolutely necessary. Lastly, Fleury's halfhearted jurisdictional argument attempts to blur the true issues in this case, are likewise fatally meritless and should be treated as such by this Appellate court. (Response Brief at P4).

IV. APPELLEE SHOULD NOT BE AWARED FEES, COST OR SANCTIONS

Fleury claims this appeal is frivolous and similarly requests both fees and sanctions for his defense of such. Outlined on pages 2-3 of this appeal, are nearly all of the claims in the Opening Brief which Fleury deliberately failed to refute with substantiation and therefore became verities on appeal. Paul stipulates "the court held that, where an appeal presents [at least] one arguably meritorious issue, the appeal will not be considered frivolous...a frivolous actions is one that cannot be supported by any rational argument on the law or facts." *Rhinehart v. Seattle Times*, 59 Wn. App. 332, 798 P.2d 1155 (1990). Here,

Fleury acknowledged at least one issue, albeit jurisdiction, as well as a rational argument was both presented and challenged and therefore validates Paul's case is *cannot* be frivolous. Fleury uses *Meads v. Meads* [Canada] with deliberate intentions of blurring facts and misdirecting the court's attention towards issues irrelevant to this review. Despite the irrelevance, Paul feels it is again necessary to refute Fleury's ridiculous accusation that he is somehow involved in "OPCA." The trial court did *not* acknowledge that a "child custody determination is to be based on...the willingness of each parent to foster a relationship with the other parent..." *Moor supra.* Here, the court denied cross-examination, which based on Dawn's history, would have easily revealed Dawn's "...positive attributes were outweighed by her 'cumulative efforts'...to [custodally] interfere...by her 'willingness...to deceive' in order to achieve her goal of parenting [e.m.s] without [Paul's] involvement. **(Emphasis added).** *Moor v Moor,* 75 AD3d 675, 676-677 (2010)(CP: 383; 419-420). Paul easily refutes Fleury's accusation because alienation and willingness to deceive have been well determined as criteria for determining the "fitness" of custodial parents. *T.S. v. A.V.T.* (AB Court of Queen's Bench)[6]; *Alienation– A(A.) v. A.(S.N.)* 2007Carswell BC 1591(CA)[7]; *Orszak v. Orszak* (2000) 8 RFL (5th) 350 (Ont. SCJ)[8]; *Donald v. Leyton*, 2008 Carswell Ont 1967 (Ont. SCJ)[9]**(Emphasis Added).**

The forgoing citations validate Paul did not at any stage, perpetrate vexatious litigation nor ever any involvement in "OPCA." Paul did however, solely seek to correct the multiple due process and other violations throughout this case. Paul's intention was strictly to correct the

[6] "Court awarded primary residence and decision making to the father on basis that he would not alienate daughter from other parent. Best interest of child was to have one primary parent, and for that parent not to alienate her from the other parent."

[7] "For most children, fundamental to their identity is an ability to love and accept love from each available parent." *R. Getliffe-Grant* citing *Cox v. Stephen* (2003) 47 RFL 5th 1 (CA).

[8] "Failure to provide access can be "emotional abuse" and subject to a protection application."

[9] "Part of growing trend to transfer custody if alienation, child 2.5 years and older. Also done in *Johnson v. Ross-Johnson* 2009 Carswell NS 398."

horrific improper alteration of the parties' original Parenting Plan's residential schedule with e.m.s and to prevent Dawn from further alienating e.m.s from his father. (CP: 597-609; 768-787).

The following to substantiates Paul's suggestion that the court intentionally mutilated the record [docket] (1st CP Index at P2) and further invalidates Fleury's claims of a frivolous appeal. "[A] court has the inherent power and duty to control its docket, to preserve its integrity, and to insure that the legislation administered by the court will accomplish the legislative purpose" *Matter of Nikron, Inc.*, 27 Bankr. 773, 777 (E.D. Mich. S.D.1983); a court has "general supervisory power to administer its docket and preserve the integrity of the judicial process" also quoting *U. S. v. Goodson*, 204 F.3d 508. (RP: P127 Ln 4, 6-9; P129 Ln 7-11; P144 Ln 2; P127 Ln 4, 6-9; P129 Ln 7-11). Here, the record [docket] suggests the court did *not* acknowledge the preceding law.

Fleury cites *In re Marriage of Corsetto*, 83 Wn. App. 545, (1996) as basis for seeking fees and costs. However, he misapplies that case, ignoring the following language: "we agree although the trial court did not find a finding of intransigence a review the record discloses a pattern of obstruction." In this direct instance, it is undeniable that Dawn displayed intransigence through her pattern of obstruction, multiple false allegations and withholding e.m.s from his primary custodian. Paul stipulates the matters of the *Corsetto* case are in-line with his assertions against Dawn in this case of trial court's order(s) being untenable, not only for similar reasons in *Corsetto* but also due to the court's lack of investigation regarding Dawn's multiple false allegations against Paul throughout their marriage; similarly for military's assistance in the international abduction of e.m.s. from Japan.

Fleury uses the trial orders to attempt to prove frivolousness and award fees etc. However, Fleury must show that substantial evidence supports the findings, AND that the findings necessarily imply that Paul had no rational

argument to make. The trial orders/FFCL do not stretch that far and are *without* expert testimony regarding the amount of [damages] fees etc incurred by Dawn in any outside cases where she failed to prove a response was entered. (CP: 709 Ln 12-22; P8). *In Escude ex rel. Escude v. King County Public Hosp. Dist. No.2*, 117 Wn. App. 183, 69 P.3d 895 (2003), "this court found a lack of expert testimony fatal to...plaintiff's claim for damages."

For every compounded issue raised regarding the statutory construction of the legislative intent of several federal and state mandated Acts it is clear the trial court not only erred in its findings of intransigence against Paul but even more so erred in awarding fees, sanctions, false support and maintenance calculations etc. to Dawn on a ridiculous claim of frivolity/bad faith. Paul has validated he was strictly attempting to seek the expeditious return of his son through the agencies and legislations which were enacted/ratified to prevent the very such [abduction] crimes which Dawn has thus far committed. *Holder infra.* The trial court orders *did not* find Paul's pleadings and/or testimony lacked a "factual legal basis, or rational argument;" therefore sanctions/fees under CR 11, RAP 18.9, RAP 18.7, RAP 10.2(i) or RCW 7.21.010 are meritoriously inappropriate. The standard for awarding fees etc. on appeal severely differ from that in the trial court. Respondent has not satisfied the very high standards of proof. *Streater v. White*, 26 Wn. App. 430, 434-435, 613 P.2d 187 (1980), (OB at P44 Ln 16-22).

A. paul-david's Request For Fees, Cost, and Sanctions

Paul respectfully seeks this Appellate court's assistance in recovering fees paid to Clayton Longacre [excess of $5,000] with the Lawyer's Fund for Client Protection (LFCP) for the reasons regarding his recent disbarment and for committing many identical RPC violations in this case. Those RPC violations outlined above are *the* primary egregious procedural errors that are truly a big part of the rooting causes of the trial court's wrongful alteration of the parties original Parenting Plan/Agreed Order. Paul moves this court under CR 56(a),(g) "[a party] move(s) with or without supporting affidavits for a summary

judgment in his favor upon all or any part thereof," specifically: (g)- "Affidavits Made in Bad Faith. Should it *appear*...the affidavits...are presented in bad faith...the court shall forthwith order expenses/fees...and any offending party or attorney may be adjudged guilty of contempt."CR 56 (CP: 383; 419-420)(RP: P154 Ln 12-25; P155; P156 Ln 1-4; P159 Ln 20-23; P160 Ln 11-17, 21-24; P161 Ln 11-25; P162). Similar to the validated above "bad faith;" Paul redirects this court's attention to Respondent's intentional misrepresentation TRO modification actions in 2010-2011 and respectfully requests separate and sufficient sanctions under CR 11(1),(2),(3),(4).

Additionally, "It is a fact all members of the Bar, share a common statutory obligation to never seek to mislead a judge/jury by ***any false statement of fact or law*** as mandated by RCW 2.48.210. "Fraudulent misrepresentations may be effected by half-truths calculated to deceive; and a representation literally true is actionable if used to create an impression substantially false. 37 C. J. S. 251, Fraud, § 17 b" *Ikeda v. Curtis*, 43 Wn. (2d) 449, 450 (1953). It is a fact all lawyers share a common statutory obligation to abide by their 'Professional Code of Conduct' as mandated by RCW 18.130.180(7). The 'unprofessional conduct statute' RCW 18.130.180 is applied to lawyers as the legislature states in RCW 2.48.180(6). It is suggested that members of the Bar involved herein have violated the Rules of Professional Conduct by imploring the wrong law, ignoring facts and laws, and manipulating court rules to deny Paul his substantial rights. It is undeniable here that Fleury, court officers involved, and especially Dawn; have all egregiously violated RCW 2.48.210. Further, there were many RPC's and Judicial Cannons violations during this case; and thus sanctions, fees, damages and the like should appropriately be awarded to Paul.[10]

[10] "Whoever corruptly ... influences, obstructs, or impedes or endeavors to influence, obstruct, or impede due process or the proper administration of the law... shall be fined not more than $5,000 or imprisoned not more than five years, or both." [*cf* Title 18 U.S.C. § 1505, 1512-1513].

For the reasons outlined throughout Paul's briefs, it is absolutely clear that ALL of Paul's pleadings and/or claims were honestly brought lawfully forth in good faith and with absolute merit. Finally, Paul suggests the trial court repeatedly committed plain error by relying substantially on an erroneously altered Original existing PP without fulfilling ALL statutorily required Parentage Act factors.

CONCLUSION

Lastly in conclusion, Dawn's claim that she "has been through enough and should be allowed to move on with her life...[and] has suffered throughout this matter" unquestionably demonstrates she cannot understand or comprehend the full ramifications of her willful actions which have permanently damaged ethan-michael as well as paul-david's parent-child relationship with his son.

Based on the evidence and arguments herein for Review, Paul respectfully validated there was NEVER jurisdictional authority, standing [to act] nor rational argument by Dawn for the trial court to Rule after 6/12/2007. Except Dawn should have properly appealed for custody modification based on the legislatively required factors. Additionally, Paul was substantially denied due process provisions provided in the SCRA. The trial court unquestionably abused its discretion and demonstrated significant BIAS by ordering insufficient findings with insufficient cause *without* a rational argument, to ignore the parties' only existing contractual agreement.

Declarant-paul-david retains the Right to Amend this brief without application for leave of court with my choice of law and my choice of court including additional new found evidence not ascertainable at the time of this reply brief.

So let it be written, so let it be done.

Dated this 12th day of March 2014

Autograph: :paul-david:

cc. Dawn Shoemaker by and through
Attorney Cameron Fleury
1101 Broadway, ste 500 Tacoma, WA 98402

paul-david: [shoemaker]
PSC 5000, 735 5TH St.
JBLM-McChord, near [98438]

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Corrected Certificate of Service

I certify that I served a copy of the REPLY BRIEF on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
Cameron J. Fleury, Dawn ~~Shoemaker~~ Harris c/o Cameron Fleury	☑ Mail [ ] Hand Delivery [ ] Fax (Person agreed to service by fax.) ☐ Email (Person agreed to service by email.) [ ] Left at business (With person in charge or in receptacle for deliveries.) [ ] Left at home (With person of suitable age and discretion residing there.)	1102 Broadway, Ste 500 Tacoma, WA 98402 1102 Broadway, Ste 500 Tacoma, WA 98402	3/12/2014 3/12/2014
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Date 3/12/2014 Sign here ▶

Typed or printed name Paul Shoemaker

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