

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

TABLE OF CONTENTS

Argument.....Page 4
Attorney feesPage 6
Conclusion.....Page 7
Proof of Service.....Page 8

1 **TABLE OF CASES**

2 Cases:

3 Obert v. Envtl. Research & Dev. Corp., 112 Wn.2d 323, 333, 771 P.2d 340 (1989) 4
4 State v. Bower, 64 Wn. App. 808, 810-811, 827 P.2d 308 4
5 Conner v. Universal Utils., 105 Wn.2d 168, 171, 712 P.2d 849 (1986) 4
6 State v. Card, 48 Wn. App. 781, 784-5, 741 P.2d 65 (1987) 5
7 Port of Port Angeles v. CMC Real Estate Corp., 114 Wn.2d 670, 673-4, 790 P.2d 145 (1990) . . 5

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

1 allowed a procedural due process issue to be raised for the first time on review. Washington
2 courts have allowed issues to be considered for the first time on appeal when fundamental justice
3 requires it. *State v Card*, 48 Wn App. 781, 784-5, 741 P. 2d 65 (1987) Direct appeal, rather than
4 a motion for relief from judgment under Civil Rule 60 (b) (1) is the appropriate mechanism for
5 correcting “errors of law” by the trial court as opposed to irregularities. *Port of Port Angeles v*
6 *CMC Real Estate Corp.*, 114 Wn. 2d. 670, 673-4, 790 P.2d 145 (1990)

7 There is a dearth of case law as to the appropriate evidentiary standard to use in Child
8 Relocation Act (CRA) cases. Ms. Wehr submits that the question of which evidentiary standard
9 to use in CRA cases is one of due process, is of broad public interest and is a developing area of
10 the law which should be decided by this court.

11
12
13
14
15
16
17
18
19
20
21
22
23
24

1 **ATTORNEY FEES**

2 At trial, Mr. Wehr’s attorney asked that Ms. Wehr, “...contribute to half of Guy’s
3 attorney fees. She has a free lawyer. She forced trial here...She’s threatened to take cause of
4 what would be, for any father who loves their children, one of the greatest losses that could
5 happen short of the death of your children.” RP pgs. 170-1, Vol II. In his reply brief to this
6 Court, Mr. Wehr’s attorney argues that “Kelly has had a pro bono attorney all throughout...This
7 appeal is frivolous or near frivolous...Kelly and/or her attorney should pay for Guy’s attorney
8 fees.”

9 Mr. Wehr’s attorney does not make any statutory citations for his claim for attorney
10 fees. RAP 18.1 Ms. Wehr’s attorney is a staff attorney for the Northwest Justice Project, a Legal
11 Services Corporation entity funded by both the federal government and the State of Washington.
12 Ms. Wehr was found to be income eligible for legal services. Mr. Wehr’s request should be
13 denied.

1 **CONCLUSION**

2 Ms. Wehr wanted to move to Vancouver Washington with the parties two children and
3 proposed a very open and liberal new parenting plan. Mr. Wehr simply refused to accept any
4 changes in the existing parenting plan. The trial court erred in finding that there were sufficient
5 facts to deny the move and used too low of an evidentiary standard in its decision. Ms. Wehr
6 respectfully requests that the lower court decision be reversed and the parenting plan she offered
7 be ordered.

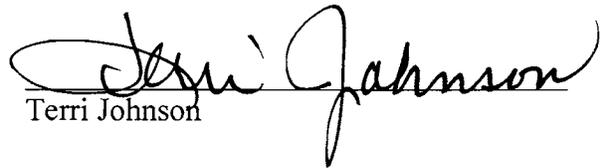
8 Respectfully submitted this 8th day of November, 2010.

9 

10 Steve Robins WSBA# 29431
11 Attorney for Appellant Ms. Kelly Wehr

1 **PROOF OF SERVICE**

2 The undersigned hereby certifies that on November 8, 2010, a copy of
3 Plaintiff/Appellant's Reply Brief was personally hand delivered to Attorney for Respondent,
4 Mark K. Baumann's office in Port Angeles, Washington 98362.

5
6 
7 Terri Johnson

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
FILED
COURT OF APPEALS
DIVISION II
10 NOV 17 PM 12:03
STATE OF WASHINGTON
BY  DEPUTY