

FILED  
Court of Appeals  
Division II  
State of Washington  
11/5/2018 11:39 AM

NO. 50159-7-II

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COURT OF APPEALS, DIVISION II  
OF THE STATE OF WASHINGTON

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ANGELA K. SCOUTTEN nka SCHREINER,

Appellant,

v.

MICHAEL J. SCOUTTEN,

Respondent.

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RESPONDENT'S SUPPLEMENTAL BRIEFING

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**JOHN A. MILLER, WSBA #5741**

john@johnmillerlegal.com  
Attorney for Respondent  
1019 Regents Blvd. Ste. 204  
Fircrest, WA 98466  
253-564-5007

## **A. Background**

On January 31, 2017, father, Michael Scoutten, filed a Motion for Contempt against mother, Angela Schreiner, for her failure to return their minor child at the conclusion of her residential time and failing to comply with decision-making provisions..”

In her appeal brief Angela Schreiner made statements and allegations relating to court orders and issues resolved well prior to the contempt issue on appeal, in an attempt to confuse the issues and get orders overturned which are not properly before this Court.

The above said, this Court has requested supplemental briefing with regard to one such issue: **whether a parent can delegate his/her parental rights and duties under a parenting plan with a power of attorney without complying with RCW 26.09.260(12).**

## **B. Argument**

The short answer is yes.

It is not disputed Mr. Scoutten left his wife with powers of attorney, including a Special Power of Attorney to make health, education and daycare decisions for his daughter during his as is customary among military families. The Power of Attorney,

however, was not the only basis for his not seeking to delegate parental authority pursuant to RCW 26.09.260(12).

The issue over whether an order delegating parental authority was required was argued before Judge Brian Tollefson on April 8, 2016. Mr. Scoutten argued no order was required nor was it needed. Judge Brian Tollefson agreed [**SEE** Order on Petitioner's Motion for Revision Regarding Delegation of Residential Time Per RCW 26.09.260(11)] attached hereto and incorporated by reference herein as **Ex. A**.

Judge Tollefson's ruling that an order delegating parental authority was not required was made long before the contempt issue on appeal came about and was never appealed.

Angela Schreiner knew exactly what she was doing when she was violating court orders when she chose not to return the child to father's residence at the conclusion of her residential time.

A parent is ***not required*** to comply with RCW 26.09.260(12).  
The statute states:

"...at the request of the military parent, the court ***may*** delegate the military parent's residential time or visitation rights, or a portion thereof, to a child's family member, ...including a stepparent... with a close and substantial relationship to the

minor child... and is in the child's best interest. " [emphasis added].

Asking the court to make a delegation is not a must and the request must come from the "military parent" not the parent who does not have custody. At the time Mr. Scoutten left his home for military duties, Ms. Schreiner continued to exercise her court-awarded visits with the child under the existing Parenting Plan.

Conflict began when Ms. Schreiner began demanding custody be transferred to her during Mr. Scoutten's absence [in direct contradiction of the 2015 Parenting Plan which included 26.09.191 factors]. When the Superior Court refused to transfer custody of the child to Ms. Schreiner, denying her motion to transfer custody, she willfully and purposefully chose to violate the parenting plan by keeping the child, thereby forcing a contempt action.

The ability to provide a power of attorney was governed by Washington's Power of Attorney Act, RCW 11.94 until January 1, 2017 when the new Uniform Power of Attorney Act went into place. There is nothing contained within the old or the new Uniform Power of Attorney Act that would eliminate Mr. Scoutten's right or limit his ability to assign Special Power of Attorney relative to his daughter's

education, daycare and medical, to his current wife, a competent adult.

The Power of Attorney signed by Mr. Scoutten and given to his wife, Monica Scoutten, was prepared and signed July 31, 2015, in anticipation of his absence. It allowed, his wife, as step-parent, to make decisions only with regard to medical, education and child care, as necessary, in the child's best interests. Allowing Monica Scoutten power of attorney to make educational and health care decisions on behalf of the minor child, when and if needed, had no effect on Ms. Schreiner's rights pursuant to the July 2015 Parenting Plan. Father had sole-decision making authority relative to the child's education, daycare, non-emergency health care. Ms. Schreiner was given no authority for decision making pertaining to the child as a result of the .191 restrictions placed on her by Judge Arend. The Power of Attorney given to Monica Scoutten specifically referenced and included as an attachment the Final Parenting Plan.

No case law or other law has been found which would prohibit or limit Mr. Scoutten from giving his wife this Special Power of Attorney.

## **E. Conclusion**

There is absolutely no evidence to support the claims made by Ms. Schreiner that Commissioner Kiesel abused her discretion when making the finding of contempt. Commissioner Kiesel reviewed the court file, including the prior rulings of Judges Arend and Tollefson, heard oral argument and used the best evidence and her discretion when coming to her findings and ruling on contempt.

Even if this Court believes there was an error made by Judge Tollefson in not requiring an order delegating parental authority, the deadline for Ms. Schreiner to appeal that order had long past by the time she filed her appeal on this contempt issue. Additionally, it does not change the fact that Ms. Schreiner was fully aware of Judge Tollefson's ruling/order and still chose to violate the Parenting Plan and withhold the child.

Father maintained consistent contact with the child during his absence and his home was the child's primary residence. Just as there was no order delegating Mr. Scoutten's residential time to another person, there was no order altering Judge Arend's July 24, 2015 Parenting Plan or the RCW 26.09.191 factors therein that would have allowed Ms. Schreiner to keep the child rather than returning her back to her primary residence.

Mr. Scoutten's wife, Monica Scoutten (step-mother) did assist in providing transportation to facilitate the mother's residential time under the parenting plan but her participation is not something that only occurs when father is out of town. Monica Scoutten is very bonded and involved in the child's life and provides transportation to/from medical appointments, school and for residential exchanges regardless of Mr. Scoutten's military duties. Although Mr. Scoutten may not have been physically present for a period of time, he did maintain a regular schedule of Skype/Face Time with his children and wife and was able to communicate when needed by phone and email in order to provide input and directives as needed. No order delegating his parental authority was ever needed.

Mr. Scoutten is requesting the appeal filed by Ms. Schreiner be dismissed in its entirety and that he be awarded attorney's fees pursuant to RAP 18.1(b). Mr. Scoutten should be provided with some relief from all the attorney's fees and costs he has been forced to incur because of not only the contemptuous behavior by Ms. Schreiner, but her continued abuse of the judicial process as well. She has continued to file appeals and create conflict even after filing the current appeal.

This Court should be aware the parties just completed a several-day trial with regard to Mr. Scoutten's relocation with his family to Wales. Judge Serko allowed the relocation and Ms. Schreiner immediately filed an appeal of that decision, again, on the basis she believes the custody of the child should be transferred back to her. There is a clear pattern of Ms. Schreiner abusing the court process. She files her own appeals and writes her own appeal briefs while Mr. Scoutten is forced to respond and incur substantial attorney's fees. The most efficient way to tame Ms. Schreiner's litigious behavior is by denying her appeal and awarding Mr. Scoutten his reasonable attorney's fees.

Respectfully Submitted  
this 5<sup>th</sup> day of November, 2018



John A. Miller  
Attorney for Respondent  
WSBA 5741

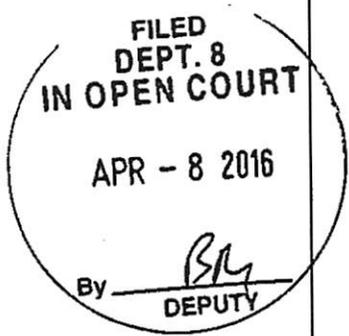
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11-3-03452-5 46688938 ORDY 04-11-16



SUPERIOR COURT OF WASHINGTON  
FOR PIERCE COUNTY

In re the Marriage of:  
ANGELA K. SCOUTTEN,  
nka ANGELA SCHREINER,  
  
Petitioner,  
  
and  
  
MICHAEL J. E. SCOUTTEN,  
  
Respondent.

No. 11-3-03452-5  
  
ORDER ON PETITIONER'S MOTION  
FOR REVISION REGARDING  
DELEGATION OF RESIDENTIAL  
TIME PER RCW 26.09.260(12)

THIS MATTER having come before the undersigned Judge of the above Court upon Motion for Revision; the Petitioner, ANGELA SCHREINER, appearing by and through her attorney, CAMERON J. FLEURY; the Respondent, Michael Scoutten, appearing by and through his attorney, JOHN MILLER; and the Court having reviewed the records and files herein, heard argument of counsel and being fully advised in the premises, now, therefore, it is hereby

**ORDERED, ADJUDGED, and DECREED** the Petitioner's Motion for Revision of Commissioner Craig Adams' March 15, 2016 ruling denying the Petitioner's Motion to transfer placement of the parties' child to the Petitioner when the Respondent is unable to care for the parties' child is hereby ~~DENIED~~ ~~GRANTED AS FOLLOWS:~~ [Signature]

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ORIGINAL

Ex A

1  
2 During times the Respondent/father is deployed, on training, or otherwise unable to  
3 perform his parenting functions; placement of the minor child, MEMPHIS SCOUTTEN, shall  
4 be with her mother, ANGELA SCHREINER, the Petitioner herein.

5 During time the child is primarily with the mother because of the Respondent being  
6 deployed/on training/etc.), a portion of his residential time shall be delegated to non-party  
7 MONICA SCOUTTEN, his wife, the child's step-mother, Ms. Monica Scoutten, shall have  
8 residential time with the child every other weekend, from Friday after school through

9 Sunday at 7:00 p.m. *The court finds RCW 26.09.260(1) applies.*

10 *2) The court finds that under 26.09.260(1) that the*  
11 *father's TDY/Deployment/training, even if for extended periods,*  
12 *does not have a material effect on his ability to perform*  
13 *his primary parenting functions.*

13 Dated: 8 April 2016

*[Signature]*  
BRIAN TOLLEFSON  
Judge  
Department 8

16 Petitioner or petitioner's attorney:  
A signature below is actual notice of this order.

Respondent or respondent's attorney:  
A signature below is actual notice of this order

17 Presented by:

Approved for Entry:  
Notice for presentation waived:

18 McGAVICK GRAVES, P.S.

19  
20 *[Signature]* 4/8/16  
21 Cameron J. Fleury, WSBA 23422  
Attorney for Petitioner

*[Signature]*  
John A. Miller, WSBA 5741  
Attorney for Respondent

22 I:\DOCS\133055\PI\dgs\Order on Revision 040816.docx

FILED  
DEPT. 8  
IN OPEN COURT  
APR - 8 2016  
*[Signature]*  
DEPUTY

**DECLARATION OF SERVICE**

I, Lennette Natucci, make the following declaration:

I am over the age of 18, a resident of Pierce County, and not a party to the above action. On OCTOBER \_\_\_, 2018, I caused to be filed/served a true and correct copy of the foregoing: COA No. 50159-7-II RESPONDENT'S SUPPLMENTAL BRIEFING by e-mail as follows:

Original e-filed with: Court of Appeals, Division II Clerk's Office 950 Broadway, Suite 300 Tacoma, WA. 98402 coa2filings@courts.wa.gov	Copy e-served:  Angela Schreiner angieschreiner@gmail.com
Copy e-served:	Via First Class Mail  Angela Schreiner 5105 Grand Loop Way #602 Tacoma, WA 98407

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

Dated this \_\_\_ day of <sup>Nov.</sup> ~~October~~, 2018 at Fircrest, WA.

  
\_\_\_\_\_  
Lennette Natucci, Paralegal

**LAW OFFICE OF JOHN A MILLER**

**November 05, 2018 - 11:39 AM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division II  
**Appellate Court Case Number:** 50159-7  
**Appellate Court Case Title:** Angela K. Scoutten, Appellant v Michael JE Scoutten, Respondent  
**Superior Court Case Number:** 11-3-03452-5

**The following documents have been uploaded:**

- 501597\_Briefs\_20181105113330D2044285\_5662.pdf  
This File Contains:  
Briefs - Respondents - Modifier: Supplemental  
*The Original File Name was Scoutten.pdf*

**A copy of the uploaded files will be sent to:**

- angiekschreiner@gmail.com

**Comments:**

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FIRCREST, WA, 98466-6037  
Phone: 253-564-5007

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