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SUPREME COURT OF THE STATE OF WASHINGTON

In Re the Marriage of

Raluca Vetrici,

Respondent,

v.

Grigore Vetrici,

Appellant.

Appeal From The Superior Court For Thurston County

REPLY BRIEF OF APPELLANT

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 ORIGINAL

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I. INTRODUCTION

The appellant Grigore's brief argued that the undisputed facts show that respondent Raluca breached her fiduciary duties under the stipulated decree of dissolution, entitling Grigore to recover his losses suffered due to the breach. Grigore also argued that Raluca stood in the position of trustee over the educational account for the children, which she must manage for their sole benefit, and that breach of that trust entitles Grigore and the children to additional equitable remedies.

As set forth more fully in the appellant Grigore's brief, the superior court has entered an order which is imposing irreparable harm on the appellant's children and the general public. The order denies enforcement of provisions of a Washington decree of dissolution entered pursuant to statutory authority to address agreements between the parties including the care of their children and the disposition of their property. The order conflicts with the basic principle that decrees are certain and final; contravenes statutory authority; harms public order by failing to denounce the British Columbia order (even as it refutes the foundation of that foreign order) which invites the relitigation of Washington's custody decrees; and fails to restore the terms of the decree. The order is

unsupported by any authority.

Under RCW 26.09.070, RCW 26.09.160, and RCW 26.18.050, the court has a non-discretionary duty to grant relief to Grigore for Raluca's flagrant violation of their decree. The stipulated decree sets out that the children reside with the father, that the former 2009 separation agreement which set out shared custody is terminated, and excludes the educational account for the children under community property from the division that all property before a dissolution court is subject to.

Raluca's responding brief does not meaningfully engage these arguments. Instead, Raluca asks the Court to ignore Grigore's arguments and affirm denial on alternative grounds – primarily procedural and lack of evidence. Raluca grasps at straws with nonsensical argument in the hope that, as in Canada, the Court will ignore the termination and her subsequent relitigation of the 2009 separation agreement and take at face value her rights to ask for custody of the children and to dissipate the children's account when she had no legal rights to do so. She mischaracterizes the issues on appeal in favor of her argument, fails to cite to controlling authority, and misapplies the law. Raluca's arguments require the Court to turn a blind eye to

undisputed evidence in the record that supports the elements of Grigore's claims. From the undisputed evidence, this Court can determine Raluca's liability for breach of her fiduciary duty under the decree as a matter of law. This Court should reverse denial of the motion to revise, grant Grigore's motion to hold Raluca in contempt for breach of the decree and her fiduciary duties, and remand for further proceedings.

II. CLARIFICATION OF RESPONDENT'S FACTS

Raluca ignores relevant statements of the dissolution court to make factual claims that have no reasonable basis in the actual, underlying evidence of the case.

THE COURT: There is nothing in the findings or the decree that discussed this educational fund.

MR. VETRICI: That's correct.

THE COURT: So there's nothing that mentions it at all, so the Court isn't dealing anything with it. I'm guessing Canada can do that.

MR. VETRICI: Okay. Thank you.

[Raluca would have the Court stop here and ignore the rest.]

THE COURT: I'm not -- nothing I'm signing has anything to do with that. Is that your understanding? It's not mentioned

in the paperwork anywhere.

MS. VETRICI: Yeah, I know. It was just – it was in my name, so I think in there I mentioned that all accounts in our names stay in our names and in our property.

THE COURT: You say personal and household items currently in your possession. That wouldn't cover a financial account.

MS. VETRICI: Okay. That's fine.

THE COURT: So is there an agreement between the parties then that the educational account – I don't know that I can put it with the children if they're minor children. Just put that the educational account for the children is not part of this action?

MS. VETRICI: Sure.

THE COURT: Okay. And this says, "See Exhibit 1." Okay. I put that in the findings that it's not part of the action.

III. ARGUMENT

A. RALUCA'S RESTATEMENT OF FACT IS DEFECTIVE AND IT OR PORTIONS THEREOF SHOULD BE STRUCK

1. 2009 separation agreement must not be reinterpreted after its termination by stipulated order

The general term res judicata encompasses claim preclusion (often itself called res judicata) and issue preclusion

also known as collateral estoppel. In the case of claim preclusion, all issues which might have been raised and determined are precluded. *9 Wash. Prac., Civil Procedure Forms* § 8.79 (3d ed.).

Raluca attempts to interpret the 2009 separation agreement, an issue that was finally resolved at dissolution in 2010 and found to be terminated by the trial court below. Since she has not cross-appealed this finding by the trial court, she must let the issue of the 2009 separation agreement rest.

The Court looks to the objective manifestations in the contract and not to the "unexpressed subjective intent of the parties" in determining intent. *Hearst Commc'ns, Inc. v. Seattle Times Co.*, 154 Wn.2d 493, 503, 115 P.3d 262 (2005).

Even if the court could properly interpret the 2009 separation agreement, Raluca's reading of "adultery" and Grigore's retention of the lion's share of the parties' assets (Brief of Respondent at 7) is inapposite. Such interpretations are subjective and not objective manifestations in the contract.

2. Raluca's page 13 is devoid of citation to the record

Under RAP 10.3(a)-(b), "Reference to the record must be included for each factual statement". Thus, if a statement does not cite the record, it must not be a factual statement and should be

disregarded, as should all statements appearing on page 13 of Brief of Respondent.

There is no opinion from the Supreme Court of Canada detailing reasons for a dismissal. In the absence of reasons, it can be assumed that a dismissal by that court was because the court had no jurisdiction. See *Deschenes v. King County*, 83 Wash.2d 714, 716, 521 P.2d 1181(1974) ("The rule is well known and universally respected that a court lacking jurisdiction of any matter may do nothing other than enter an order of dismissal." (citing 21 C.J.S. Courts § 118 (1940))).

B. RALUCA'S SEVEN ARGUMENTS ON ISSUE # 1 ARE UNFOUNDED

The same numbering is used so as to be consistent with the Brief of Respondent starting at 3..4.1 under 3.4.

1. *Grigore fully addresses the issues on appeal*

Where a party provides no argument to support its bald assertion, the court does not consider it since bald assertions fail to comply with RAP 10.3(a)-(b) requirements. *Angelo Prop. Co. v. Hafiz*, 167 Wn. App. 789; 274 P.3d 1075, review denied, 175 Wn.2d 1012, 287 P.3d 594 at note 64.

Raluca asserts that Grigore inadequately briefed nineteen assignments of error and two issues, and that those are "too

numerous to list, address, and/or understand”, and thus they should not be considered by the court. Brief of Respondent at 21.

This bald assertion is unsupported by argument. The assertion is further eroded since the responding brief is signed on page 37, waiving well over ten pages in which to support her assertion. By failing to respond, Raluca concedes the errors.

2. Raluca mischaracterizes Grigore's motion for contempt and misapplies the doctrine of waiver

Raluca argues that Grigore waived any opportunity to object to the language of their dissolution decree within a reasonable time, nor requested relief in Washington after she petitioned the Canadian courts. She further argues that Grigore consented to jurisdiction in Canada. Brief of Respondent at 21-22. (The last paragraph of 3.4.2 is not consented to, but no argument is made against it as it is not understood by the appellant; the decree's plain language does not hold that issues regarding the parties' children would be heard in Canadian courts.)

But Grigore is not objecting to any of the decree's language. As argued in his opening brief, the dissolution decree embodies a contract drafted by Raluca, and any ambiguity is construed against the drafter. Grigore seeks to hold Raluca in contempt of the decree as worded.

Any such defense of waiver or laches that Raluca now makes must have been made in the court below subject to CR 12. In the court below, Raluca limited her affirmative defense to reliance on the Canadian orders. CP 59-62. Because she did not make this objection below, Raluca is barred from arguing waiver or laches on appeal.

A responding party, as Grigore is in the Canadian litigation, does not decide whether a court takes jurisdiction to address a matter brought before it, for otherwise there would be a lot less adversity in the courts and prisons would not exist, since it is reasonable to assume that given a choice, no prisoner would ever consent to jurisdiction to be locked up. The record below shows that Grigore filed the Washington decree in Canada (CP 434-436), and Raluca asserts that Grigore has fought her claims to the top of the Canadian judicial hierarchy (CP 60). Raluca took advantage of Grigore at a time subsequent to a traumatic automobile accident where the travel required for litigation in Washington was not possible for him at that time (CP 83). Further, as stated by the superior court at the revision hearing below (RP 10-12), it was reasonable and expected for Grigore to pursue correction of orders founded on the terminated 2009 separation agreement in Canada.

As argued in the opening brief, the parties cannot waive or confer jurisdiction over child custody on a Washington court, and cannot do so in British Columbia under s. 75 of the *Family Law Act* when a prior order exists (CP 199-200), such as the parties' decree holding that the children reside with the father. And Raluca did not disclose that she had dissipated the children's account until the time of the Canadian trial (CP 46), as evidenced by Grigore's Canadian pleading in 2011 where he sought restitution of the account in the alternative that it had been dissipated (CP 276).

It is unnecessary to determine whether the elements of laches can be satisfied in this case. Since laches is an equitable defense, it cannot successfully be urged by those who withhold information which would have prompted action at an earlier time. *Shew v. Coon Bay Loafers, Inc.*, 76 Wn.2d 40, 51, 455 P.2d 359 (1969); *In re Estate of Novolich*, 7 Wn. App. 495, 502, 500 P.2d 1297 (1972). This principle is expressed by the old equity maxims: "He who seeks equity must do equity", and "he who comes into equity must come with clean hands." Raluca comes before the court with "unclean hands".

3. Raluca invoked the UCCJEA in the court below; it is not a new argument on appeal

See generally *King County v. Washington State Boundary*

Review Bd. for King County, 122 Wash.2d 648, 660, 860 P.2d 1024 (1993) (holding that when parties brief and argue an issue in the lower court, and the lower court rules on that issue, the issue is properly raised on appeal). Where parties brief and argue an issue in a lower court, and the court rules upon it, that issue is properly raised for appellate review even if not formally within the pleadings before the lower court. See, e.g., *Reichelt v. Johns-Manville Corp.*, 107 Wn.2d 761, 768, 733 P.2d 530 (1987); *Touchet Vly. Grain Growers, Inc. v. Opp & Seibold Gen. Constr., Inc.*, 119 Wn.2d 334, 347, 831 P.2d 724 (1992).

Raluca, via her counsel, invoked the UCCJEA at the revision hearing. RP 17, line 25. She drafted the findings entered by the court. CP 284, line 22. Having been argued and ruled on, the issue of the UCCJEA was preserved and is properly before this appellate court.

Raluca improperly takes the inconsistent position to then argue that the dissolution court did not have jurisdiction under the UCCJEA. Brief of Respondent at 24.

A decree of dissolution is a conclusive adjudication of everything except the jurisdictional facts upon which it is founded, and residence is a jurisdictional fact. *In re Marriage of Robinson*,

159 Wn. App. 162 (2010) upheld by the Supreme Court in *In re Marriage of Buecking*, 179 Wn.2d 438 (2013).

Raluca notes under the standard of review that the ultimate legal conclusion on a jurisdictional issue is subject to de novo review (Brief of Respondent at 17), and the Court should address the issue.

4. Raluca misapplies the invited error doctrine by erroneously arguing that Grigore set up the error at dissolution in 2010 to be argued on this appeal in 2017

The invited error doctrine prohibits a party from setting up an error at trial and then complaining of it in the appeal of the same action. *Angelo Prop. Co. v. Hafiz*, 167 Wn. App. 789; 274 P.3d 1075. The invited error doctrine, however, does not apply to subject matter jurisdiction issues. *Id.* In *Angelo*, relied on by Raluca, the court found that the invited error doctrine was not applicable.

Raluca argues erroneously that her petition, which Grigore joined, acknowledged that all issues regarding the children were the province of Canadian courts. Brief of Respondent at 23. The petition invoked the jurisdiction of the Washington court not only to dissolve the marriage, but to settle all issues regarding the children. CP 14, Relief requested. That the Canadian courts could have taken jurisdiction was certainly possible, but the parties had

not invoked the jurisdiction of the Canadian courts. Check boxes deny any other proceedings regarding the children. CP 13-14.

Raluca improperly invokes the invited error doctrine by arguing that she, along with Grigore, conferred jurisdiction on the Canadian courts and invited the Washington court into error by agreeing to waive its jurisdiction. *Angelo* notes that Washington courts have long held that parties cannot confer jurisdiction on the court by agreement between themselves. Consequently, the invited error doctrine does not apply to a trial court's error in asserting jurisdiction that it does not have nor to declining jurisdiction that it is required by statute to assert.

5. Raluca's jurisdiction argument fails to distinguish between jurisdiction to make an initial child custody determination and jurisdiction to modify a child custody order

Decrees should be construed as a whole, giving meaning and effect to each word. *Stokes v. Polley*, 145 Wn.2d 341, 37 P.3d 1211 (2001).

Although Raluca acknowledges that the decree provides that the children reside with the father in Canada (Brief of Respondent at 26), she fails to address this elephant in the room, arguing instead simply that the Washington dissolution court had no jurisdiction. This distinction is fully addressed in the opening

brief, where it is argued that the Washington dissolution court exercised its jurisdiction to make an initial child custody determination by entering the decree incorporating a residential provision that the children reside with the father. In the opening brief it is further argued that upon entry of the decree, Washington lost jurisdiction to modify the child custody provision since the children would no longer have significant ties to the state as no provision was made for residential time with the mother. The argument in the opening brief is supported by controlling authority. Since Raluca has argued not intending to modify the decree (CP 461 at 24), the provision is enforceable in Washington as part of the decree under the contempt law RCW 26.09.160. Neither this statute nor the UCCJEA excludes the jurisdiction of a Washington court to enforce its own orders.

It is the residential provision of the decree, conveniently ignored by Raluca, that provides the basis for the mandatory finding of contempt under RCW 26.09.160, and which requires the attention of the Supreme Court since there is an apparent conflict with the Court's conclusion in *In re Parentage of C.M.F.*, 179 Wn.2d 411, 314 P.3d 1109 (2013). In *C.M.F.*, which reviewed *State v. Veliz*, 176 Wn.2d 849 (2013), a case dealing with a prosecution

under the custodial interference statute, the Court concluded that an order making a residential provision for a child is a child custody order but not a parenting plan since the Legislature could not have intended it that way. Yet the Legislature later addressed *Veliz* to clarify its intent, and curatively changed RCW 9A.40.060 to make the offense provable by violation of any order making a residential provision for a child instead of a parenting plan specifically. RCW 26.09.160 contains much of the same language as RCW 9A.40.060 but still uses the language “parenting plan” even though the burden of proof is on the lower civil standard. *A fortiori*, the lower, civil standard of proof cannot impose a higher threshold to cross for a parent enforcing their child custody order by requiring that litigant to bring to court proof of a document titled “Parenting Plan” when that parent only has an order making a residential provision for a child which is not titled “Parenting Plan”. This argument is fully addressed in the opening brief.

6. The court should consider the full oral opinion of the dissolution court rather than Raluca's evasive argument rationalizing her dissipation of the children's account

In the absence of a written finding on a particular issue, an appellate court may look to the oral opinion to determine the basis for a trial court's resolution of the issue. *Goodman v. Darden*,

Doman & Stafford Assocs., 100 Wn.2d 476, 670 P.2d 648 (1983).

Raluca would have this appellate court turn a blind eye to the dissolution court's resolution of the disposition of the educational account for the children. That resolution did not end at "MR. VETRICI: Okay. Thank you." as now propounded by Raluca (Brief of Respondent at 10 and 28), but was further addressed by the commissioner presiding over the parties' dissolution as clarified under CLARIFICATION OF FACTS above. As is fully addressed in the opening brief, Raluca consented at the dissolution presentation hearing to have her agreement with Grigore, embodied by the dissolution decree, edited by that court to address the children's account and to leave it undivided as community property. Raluca does not argue why this was not an appropriate disposition of the account, nor does she address the welfare of the children for whose benefit the account was created.

Under *Stokes*, this reviewing Court must look to the decree as a whole and recognize that the account is referenced under Community Property (CP 27), that under Disposition at 3.4 of the Conclusions of Law (CP 32) all property is disposed of, and that under RCW 26.09.170(1) a property disposition may not be revoked or modified.

Raluca argues in support of the Canadian courts' jurisdiction to dispose of the children's account, but fails to support with fact or law the trial judge's findings that the Washington dissolution court did not have jurisdiction over the account (Errors 9 and 10 corresponding to Findings 6 and 7. She fails to support the judge's finding that the Canadian court awarded her the account under the decree (Finding 11 under Error 12), when the Canadian court, perhaps relying on the idea that Washington's Findings of Fact/Conclusions of Law are irrelevant since they were not put into evidence by her in that court, concluded that Washington made no order with respect to the account (CP 78 at para. 33). If all of this appears senseless, it is because the findings in dispute are senseless, contradictory, and without basis.

7. Raluca misapplies the doctrines of res judicata and collateral estoppel after having invoked the jurisdiction of the Washington dissolution court for relief

Having invoked the jurisdiction of the Washington court in 2010 to address the dissolution of her marriage and all relief regarding issues pertaining to the children, Raluca now argues that res judicata and collateral estoppel bar enforcement of the decree in favor of the British Columbia judgment founded on the 2009 separation agreement terminated at dissolution. Brief of

Respondent at 29-31.

The doctrines of res judicata and collateral estoppel are more appositely applied against Raluca's own actions. A party may not raise a jurisdictional challenge in order to circumvent the relevant standard of review or time limit for review. *In re Marriage of Kowalewski*, 182 P.3d 959, 163 Wash. 2D 542 (2008). See *Svatonsky v. Svatonsky*, 63 Wash.2d 902, 905, 389 P.2d 663 (1964) (former spouse estopped from challenging validity of divorce decree years later due to dissatisfaction with property disposition).

The trial judge found there was no Washington order for which a party could be held in contempt. Yet the judge did find that the 2009 separation agreement, which Raluca relitigated in Canada contrary to her fiduciary duty under the decree, was terminated. She fails to reconcile the conflicting conclusions of the trial court. Under *Kowalewski*, Raluca must be held to the decree since she never appealed it, and gained benefits under the decree, including the ability to remarry, waiver of responsibilities under the 2009 agreement to care for the children, and even waiver of the responsibility to visit with them. Although the decree is silent as to child support, Raluca negligently disregarded her duty of support to

her children arising from the residential provision in the decree. She further defeated the decree by obtaining the 2013 British Columbia order for residential time with the children on the basis of the 2009 separation agreement so as to justify her non-payment of child support. RCW 26.09.160 and RCW 26.18.050 require a Washington court to find contempt for a parent's interference with a residential provision for a child and nonpayment of child support, and Raluca's actions in contravention of these statutes must be deemed bad faith and she must be held in contempt on this basis.

In *Ensley v. Pitcher*, 152 Wn. App. 891 (2009), the authority relied on by Raluca, the court identified cause of action as one of the factors which the prior action and the subsequent action must have in common in order to preclude subsequent litigation. But in British Columbia, the cause of action was Raluca's enforcement of the 2009 separation agreement, while in Washington the cause of action is Grigore's enforcement of the 2010 decree of dissolution.

Raluca also relies on *Ensley* for the proposition that Washington prohibits claim splitting, but this argument does not help her case as she does not address the petition for dissolution where she stated claims for relief ancillary to dissolution, including relief regarding the children.

Raluca's argument also fails when the opposite end of her argument is considered. Washington decisions conform to the general maxim that courts of one state are not obliged to recognize a judgment of another state that is entered without jurisdiction over the subject matter or the parties. *City of Yakima v. Aubrey*, 85 Wn. App. 199, 203, 931 P.2d 927 (recognizing that "[f]ull faith and credit need not be extended to a foreign judgment if the court lacked jurisdiction to hear a case in the first place"), review denied, 132 Wn.2d 1011 (1997); *In re Estate of Stein*, 78 Wn. App. 251, 261, 896 P.2d 740 (1995) ("a decree of a sister state may be subject to collateral attack for want of jurisdiction over the subject matter of the action"), review denied, 128 Wn.2d 1014 (1996); *Restatement (Second) of Conflict of Laws § 104* (1971) ("A judgment rendered without judicial jurisdiction . . . will not be recognized or enforced in other states."). If it were otherwise, Washington parents would be forced to defend their rights in any court, anywhere, that purported to have jurisdiction over the custody of their children — no matter how blatantly lacking in jurisdiction that foreign court might be.

Grigore has already argued that the British Columbia court was precluded by s. 75 of the *Family Law Act* from addressing Raluca's claim to custody of the children. As such, full faith and

credit must not be extended to the BC judgment.

Collateral estoppel is inapplicable even by alternative arguments. The doctrine of collateral estoppel will not be applied against a party who did not have a full and fair opportunity to litigate the issue in the earlier proceeding. *14A Wash. Prac., Civil Procedure* § 35:33 (2d ed.). If her page 13 is considered, the claim of bias by the British Columbia court brought to this Court's notice by Raluca's argument vitiates Grigore's fair opportunity to have litigated the issue of the children's account. Indeed, Grigore brought to the trial court evidence of Raluca's collateral attacks on the decree in British Columbia courts (CP 381). Since those courts failed to repel the attacks as is proper in the system of common law, the opportunity to litigate cannot be seen to have been full and fair. Collateral estoppel does not bar Grigore's action in Washington.

For collateral estoppel to apply, the earlier proceeding must have ended in a judgment on the merits and application of the doctrine must not work an injustice on the party against whom it is applied. *Ullery v. Fulleton*, 162 Wash. App. 596, 256 P.3d 406 (2011). The British Columbia judgment does not address the merits of the 2009 separation agreement. The Court of Appeal for British

Columbia, while reciting multiple provisions out of the decree, ignored the provision specifically terminating the 2009 agreement (CP 72-73). If the doctrine of collateral estoppel were to be applied, not only would it work an injustice against Grigore's right to an interest in the undivided community property, but as children are involved, it would work an injustice against their right to the account which was created for their benefit. Raluca has not appealed the trial judge's finding that the account was for the children's benefit (CP 285, lines 14-15).

Ultimately, Raluca's argument fails because she did not seek in Canada to modify the decree's provision that the children reside with the father, but rather she obtained relief in the Canadian court by enforcing the 2009 separation agreement, which as found by the trial judge below – undisputed by either party – was addressed by the term at 2.7 in the decree (CP 26) deeming it null and void.

C. RALUCA MISCHARACTERIZES ISSUE # 2 – CR 11 FEES

Raluca frames Grigore's assignment of error regarding the judge's CR 11 conclusion as one where he did not have an opportunity to address the matter at a hearing as the judge exercised his discretion to deny reconsideration of the motion for

revision without hearing. Raluca recognizes the due process requirements of notice and an opportunity to be heard (Brief of Respondent at 33), but fails to identify where notice was given to Grigore of his susceptibility to CR 11, and where opportunity was given to mitigate the expense of the transgression.

Raluca also fails to support the reasonableness of the CR 11 fees awarded. As argued in the opening brief, the burden of establishing the reasonableness of fees is on the party seeking the award. As but a single example of the unreasonableness of the fees Raluca expects, the revision hearing lasted less than a half-hour (RP 25, line 3), yet Raluca's attorney charged over two hours (CP 250 at 3/4/2016), implying that drafting and entering the order took one and a half-hours (RP 27, lines 14-17). The Court is asked to find that this is a patently unreasonable assertion, since judicial economy, the superior court's hearing records and the attorney's other appearances that morning militate against it.

Raluca argues that Grigore was intransigent (Brief of Respondent at 32), and that a CR 11 sanction requires a finding that the party signing the pleading has failed to conduct a reasonable inquiry into the basis of the action (page 35). She does not recognize that the trial court did not make such findings, and

that the CR 11 decision must be reversed.

D. CR 11 SANCTIONS WARRANTED AGAINST RALUCA'S ATTORNEYS

For all of the same arguments made by Raluca's attorneys against Grigore, the Court is asked to impose sanctions against Raluca's attorneys for signing pleadings not well-grounded in fact, not warranted by existing law, and failing to conduct a reasonable inquiry into its factual or legal basis.

The Findings of Fact and Conclusions of Law adopted by the trial court were proposed by Raluca's attorneys, but not supported on appeal. The Brief of Respondent concedes Assignment of Error ("Error") 13 (that Finding of Fact 13 is wrong) by arguing that the November date of filing is different than that of December found by the judge. Brief of Respondent at 31 (at 4.1). Raluca concedes Error 14 (re: Finding 17) by relying on findings and conclusions throughout her brief whether from dissolution, trial or elsewhere. Raluca fails to address even tangentially Error 5 (re: Finding 2), failing to account for how the children were living in Canada (Finding 3) when their parents were residing in the US, and the inconsistency with the information provided by her in the petition for dissolution. Raluca fails to support the judge's Findings 10 and 19 under Errors 11 and 15, respectively.

Raluca's brief cites statute RCW 26.27.201 on home state jurisdiction, but fails to formulate any argument in regards to it. Instead, the brief cites *In re Marriage of Donboli*, 128 Wn. App. 1039 as authority, but that is a decision without a published opinion.

The brief states multiple facts unnecessary to Raluca's argument, and misrepresents the discourse in the dissolution court.

The brief defines a party's frivolous position as one where there are no debatable issues on which reasonable minds can differ. Grigore asserts that Raluca's arguments are frivolous, that her brief is devoid of merit, and that CR 11 sanctions ought to be imposed against her attorneys as a result.

On October 12, 2016, Drew Mazzeo filed in the Supreme Court a declaration that he is counsel of record for Raluca Vetrici and that he estimates his fees at \$25,000 plus costs for responding to the appeal. As these fees were incurred on Raluca by the brief, CR 11(a)(4) allows and Grigore suggests that the amount be paid out to Grigore in full or part-consideration as the case may be, for restitution of the children's account which Raluca would have done if she had had reasonable legal counsel.

IV. CONCLUSION

The trial court here erred in denying Grigore's motion for revision in a contempt case dealing with a parent's duty to not hinder the other's exercise of responsibilities set out in an order, to pay child support, and to respect the terms of the decree of dissolution. That result is inconsistent with Washington's statutes which disallow the court's exercise of discretion and impose upon the court to deem a respondent to have acted in bad faith and to hold them in contempt. The award of losses for the contempt will better uphold the public policies against forum shopping and for the certainty and finality of stipulated decrees making residential provisions for children.

This Court should reverse the trial court's denial order, remand the case to the trial court for entry of losses incurred by Grigore and restitution of the children's account. Costs on appeal against Raluca's attorney should be awarded to Grigore for restitution of the children's account.

Respectfully submitted March 1, 2017.

s/ Grigore Vetrici
Appellant, pro se

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In re: the Marriage of Raluca Vetrici, Respondent, and Grigore Vetrici, Appellant.

No. 92991-2

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