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**Court of Appeals, Div. II,
of the State of Washington**

In re Marriage of Ingersoll,
Tomi Lee Ingersoll (n/k/a Tomi Lee Winters),
Respondent,
v.
John Patrick Ingersoll,
Appellant.

Supplemental Brief of Appellant

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1. Introduction

John and Tomi Ingersoll continue to have conflicts over parenting issues after their 2016 divorce. Each has alleged contempt of the parenting plan by the other. Tomi has raised allegations of abuse against John in Alaska, leading the Alaska courts to seize jurisdiction over the children and deny John any contact with them.

John's opening brief argued that the trial court committed multiple errors and abuses of discretion, culminating in the trial court's misinterpretation of the UCCJEA and failure to take any action to defend Washington's exclusive, continuing jurisdiction. After John's brief was filed, the trial court held a "UCCJEA hearing" without notifying the parties that the court intended to consider whether Washington should relinquish jurisdiction as an inconvenient forum. At the hearing, the trial court decided to relinquish jurisdiction, without hearing from the parties and without considering the statutorily required factors.

John moved to amend this appeal. The commissioner of this Court granted the request by Ruling dated June 7, 2018. The commissioner also granted John permission to file this Supplemental Brief regarding the trial court's recent decision.

2. Assignments of Error

John's opening brief listed 16 assignments of error and three issues pertaining to those assignments of error. This supplemental brief adds the following assignments of error and issues relating to the trial court's recent orders.

Assignments of Error

17. The trial court erred in failing to provide adequate notice of the issues to be addressed in the May 17 "UCCJEA hearing."
18. The trial court erred in entering Finding of Fact 2.
19. The trial court erred in entering Finding of Fact 7.
20. The trial court erred in entering Finding of Fact 8.
21. The trial court erred in entering Finding of Fact 9.
22. The trial court erred in entering Finding of Fact 10.
23. The trial court abused its discretion in determining that Washington is an "inconvenient forum" under RCW 26.27.261.
24. The trial court abused its discretion in relinquishing jurisdiction to Alaska.

Issues Pertaining to Assignments of Error

4. Whether the trial court failed to provide adequate notice of the issues to be addressed in the May 17 "UCCJEA hearing."
5. Whether the trial court abused its discretion in determining that Washington is an "inconvenient

forum” under RCW 26.27.261 and in relinquishing jurisdiction to Alaska.

6. Whether the trial court’s findings of fact 2 and 7-10 are not supported by substantial evidence.

3. Statement of the Case

This brief relies on the Statement of the Case provided in John’s opening brief for general background. *See* Br. of App. at 5-14. The following additional facts are relevant to the issues raised by the trial court’s recent decisions.

3.1 John moved to dismiss the Alaska Child in Need of Aid proceedings.

During the OCS investigation that was initiated shortly after FMI’s return to Alaska, Tomi reported to OCS numerous prior allegations of abuse, but apparently did not tell OCS that most of those allegations had been resolved by Washington courts and CPS and determined to be unfounded. *See* CP 519-20 (John’s 2017 withholding of FMI, resolved by the August 8 contempt order; 2014 allegations of sexual abuse, which were raised in the divorce proceedings and did not result in any findings; 2013 allegations of physical abuse, which were raised in the divorce proceedings and did not result in any findings).

On October 13, Alaska OCS filed a Non-Emergency Petition for Adjudication of Children in Need of Aid in the

Alaska courts. CP 539, 661. The petition alleged a “long history of violence and mistreatment of his children and spouse,”¹ which could only be referring to the stale, unfounded allegations already resolved in Washington. CP 813; *see also* CP 539 (making reference to old allegations of domestic violence, sexual abuse, and substance abuse). Alaska juvenile court held a probable cause hearing on November 2 without notice to John. CP 557-58, 571. The court found probable cause that the children were children in need of aid, and Alaska took custody of the children, placed them with Tomi, and ordered that they have no contact with John. CP 557-58, 572, 574.

John, after obtaining counsel in Alaska, made a motion to dismiss the Alaska Child in Need of Aid (CINA) proceedings for lack of jurisdiction under the UCCJEA. CP 817-24. John argued that Washington had exclusive, continuing jurisdiction that could only be relinquished through a decision of the Washington

¹ The petition itself is not in the record. John has been denied access to the petition, *see* CP 873, and even Tomi has stated that she could not file a copy of the petition in Washington courts without first obtaining permission from Alaska courts, CP 661, which permission has apparently not been granted. This quote is a general description of the allegations in the petition, found in OCS’s response to John’s motion to dismiss in Alaska. John’s motion, the responses, and reply were provided to the trial court by the Alaska in advance of the May 17 UCCJEA hearing and were filed by the trial court together with the trial court’s May 17 order. *See* CP 796, 794-834 (the complete package of documents filed by the trial court in support of the May 17 order).

courts. CP 821-22. Tomi, OCS, and the GAL for the children each responded by arguing that the Alaska courts had emergency jurisdiction under the UCCJEA. CP 803-05 (GAL), 813 (OCS), 815-16 (Tomi). While the GAL opined that Tomi might be able to seek an inconvenient forum determination after the conclusion of this appeal, CP 802, both the GAL and OCS argued that the correct remedy was for the courts of the two states to confer as required under the UCCJEA's emergency provisions. CP 805 (GAL), 813-14 (OCS).

In reply, John argued that if the court did not dismiss for lack of jurisdiction, the Alaska court would have an obligation under the UCCJEA to communicate with the Washington court to “resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.” CP 799. The Alaska court determined that it would communicate with the Washington court. *See* CP 798.

3.2 The Washington trial court notified the parties that it would be holding a “UCCJEA hearing” without specifying what issues, if any, would be heard or decided.

The Washington trial court sent an email to John and to Tomi's Washington counsel:

Mr. Purbaugh and Mr. Ingersoll –

I received a call today from Judge Kauvar in Alaska. She was requesting a UCCJEA hearing on

this matter as Mr. Ingersoll's attorney has filed a jurisdictional motion in Alaska.

A UCCJEA hearing has been set for Thursday May 17th at 9:30 a.m. in courtroom 822. Parties will not have a speaking role but may attend the hearing as well as provide pleadings.

CP 798. The trial court did not indicate that any specific issue would be addressed or decided at the hearing. The trial court did not indicate that any order was being contemplated or what the grounds for such an order would be.

John responded the next day by email, seeking clarification of the nature of the hearing. CP 833. He did not receive any clarification from the trial court. He also attempted to seek clarification from opposing counsel, with no response. *See* CP 797.

The arguments in the Alaska motion had all pointed to the courts' obligation under the emergency provisions of the UCCJEA to communicate with each other to determine the duration of a temporary, emergency order so that a final order can be obtained in the court having exclusive, continuing jurisdiction. CP 799 (John), 805 (GAL), 813-14 (OCS); *see* RCW 26.27.231(3) and (4); Alaska Stat. 25.30.330(c) and (d). John reasonably believed this was the purpose of the hearing.

3.3 Without hearing from the parties or analyzing the statutorily required factors under the UCCJEA, the trial court relinquished jurisdiction as an “inconvenient forum.”

The morning of the hearing, the trial court connected a phone call with Judge Kauvar of the Alaska court and opened the hearing. RP, May 17, 2018, at 3. The trial court immediately raised, for the first time, the question of “inconvenient forum”:

So it’s clear, I think, that Washington has jurisdiction, as we made a custody decision. And then I guess the question is whether – whether Washington has become an inconvenient forum. I guess I would like to hear your thoughts about that.

RP, May 17, 2018, at 4.

Judge Kauvar made her case for Washington relinquishing jurisdiction to Alaska:

Well, the children have been living in Alaska since 2014. And the jurisdiction Alaska took, most recently, was in the Child in Need of Aid case, and they took it on the basis of an emergency. And that case is still proceeding. So the – Alaska believes at this time that if Washington, even though it had initial jurisdiction, would allow Alaska to have jurisdiction, Alaska is the place where the children and the mother reside and they have been residing. They have seen counselors in Alaska and are going to school in Alaska. So the information, right now, I believe, regarding the children is basically in Alaska. They have been appointed a guardian ad litem in Alaska, and the mother has an attorney in Alaska.

RP, May 17, 2018, at 4-5.

The UCCJEA lists a number of required factors that a court “shall consider” before determining that it is an inconvenient forum:

- (a) Whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child;
- (b) The length of time the child has resided outside this state;
- (c) The distance between the court in this state and the court in the state that would assume jurisdiction;
- (d) The relative financial circumstances of the parties;
- (e) Any agreement of the parties as to which state should assume jurisdiction;
- (f) The nature and location of the evidence required to resolve the pending litigation, including testimony of the child;
- (g) The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence; and
- (h) The familiarity of the court of each state with the facts and issues in the pending litigation.

RCW 26.27.261(2).

Without any analysis—or even any mention at all—of the statutorily required factors, the trial court agreed with Judge

Kauvar and announced its intention to enter an order relinquishing jurisdiction to Alaska:

I would agree with you. I don't think there's much in Washington. What we have been doing is contempt hearings for the last – I don't know how long. But I would agree that at this point in time Washington should give up jurisdiction and allow Alaska to retain jurisdiction over these children.

RP, May 17, 2018, at 5.

John's appellate counsel attempted to raise an objection, but was silenced by the trial court:

Mr. Hochhalter: May I make an objection for the record?

The Court: No. There's not going to be any record made by anybody else. We have had our hearing. I'll enter an order later today.

RP, May 17, 2018, at 6.

The trial court entered a written order that did not address the statutory factors but nevertheless concluded that Washington was an inconvenient forum under RCW 26.27.261. CP 794.

3.4 This Court permitted John to amend his appeal and file this supplemental brief.

John moved to amend this appeal to add the trial court's May 17 order because it was closely related to the UCCJEA issues already addressed in his opening brief. The Commissioner

of this Court granted John's request by ruling dated June 7, 2018. At Tomi's request, this Court granted the trial court permission to enter additional findings in support of the May 17 order. This Court granted John leave to file this supplemental brief and granted accelerated review.

Tomi requested the trial court add findings of fact to address the statutory factors for inconvenient forum. CP 835-40. John responded through a pro se filing, CP 860-63, and through counsel, CP 866-74. John argued that the proposed findings were not supported by evidence in the record. CP 867-68. He also pointed out that the trial court had failed to provide proper notice of its motion to relinquish jurisdiction. CP 863, 869.

John argued that principles of due process, generally, and CR 7 in particular, require that parties receive meaningful notice of the specific issues to be addressed in any hearing before a court makes any ruling. RP, June 22, 2018, at 7. The trial court stated, "I will say, I guess, one thing for the record. I think I've conducted at least 100 UCCJEA hearings and this is the procedure that we have always followed." RP, June 22, 2018, at 10. The trial court entered an order with the following findings of fact:

1. The children and their mother have been living in Alaska for over four years.

2. There are allegations of domestic violence regarding the father which resulted in a long term domestic violence protection order (from Alaska) being served on the father in September 2017.
3. On October 17, 2017 the Alaska Office Children Services (OCS) filed a Children in Need of Aid (CINA) petition regarding both children.
4. The distance between Tacoma, Washington and Fairbanks, Alaska presents a barrier to travel by both parties and their witnesses.
5. The parties appear to be in roughly similar present financial circumstances, both having been appointed public defenders in the Alaska CINA proceeding.
6. The parties are not in agreement regarding which state should assume jurisdiction.
7. The evidence required to resolve the pending litigation is primarily located in Alaska, including testimony of the children, their teachers, their doctors, their therapist, and a *guardian ad litem*.
8. Because Alaska has already initiated a CINA proceeding regarding current issues affecting the children, the Fairbanks, Alaska Superior Court is better able to decide those issues expeditiously.
9. While the Pierce County Superior Court is very familiar with the history of this case, it has made no child custody determination since June 2016, and the Fairbanks, Alaska Superior Court is familiar with the current facts and issues involving the children.
10. Both parties were given notice on May 9, 2018 of the May 17, 2018 hearing and the opportunity to submit pleadings.

CP 910.

4. Argument

The trial court's May 17 order relinquishing jurisdiction should be reversed. The trial court's failure to provide proper notice of the hearing violated the parties' rights of due process, as well as violating the requirements of CR 7 and the UCCJEA. The trial court also failed to consider the statutorily required factors under the UCCJEA before relinquishing jurisdiction as an "inconvenient forum." The trial court's amended findings are not supported by evidence in the record. This Court should reverse the trial court's May 17 order and remand to the trial court with instruction to communicate with the Alaska court for the purpose set forth in RCW 26.27.231: to transfer the case to Washington, where exclusive, continuing jurisdiction lies.

4.1 The trial court violated the parties' rights of due process by failing to provide notice or a meaningful opportunity to be heard prior to relinquishing jurisdiction.

"The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Matthews v. Eldridge*, 424 U.S. 319, 333, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976). A meaningful opportunity to be heard requires advance notice sufficient to inform the parties of the nature and character of the proposed judicial action, so

that the parties may intelligently prepare for the hearing. *Nisqually Delta Ass'n v. City of DuPont*, 103 Wn.2d 720, 727, 696 P.2d 1222 (1985). Procedural errors, such as lack of notice, are questions of law reviewed de novo. *Public Utility Dist. No. 2 of Grant County v. North American Foreign Trade Zone Industries, LLC*, 159 Wn.2d 555, 566, 151 P.3d 176 (2007).

Civil Rule 7 protects litigants' right to meaningful notice by requiring, "An application to the court for an order shall be by motion which ... shall be made in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought." CR 7(b)(1). There is no rule that exempts a court from providing this quality of notice when it acts on its own motion.

The trial court's email notice to the parties on May 9 utterly failed to meet these requirements. It did not set forth the relief or order sought: an order relinquishing jurisdiction to Alaska based on "inconvenient forum" under RCW 26.27.261. It did not state any grounds for the decision being contemplated.

The UCCJEA further requires that a court considering an "inconvenient forum" determination "**shall** allow the parties to submit information." RCW 26.27.261(2) (emphasis added). The statute requires that the parties "must be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made." RCW 26.27.101. The trial court did not

notify the parties that Alaska had requested an “inconvenient forum” determination. Although the Court invited the parties to submit pleadings, it gave the parties no notice of what issues those pleadings should address. When the parties learned for the first time at the hearing that an “inconvenient forum” determination was being considered, the Court refused to allow the parties to speak or otherwise address the factors the Court was required to consider.

Tomi has argued, incorrectly, that John should have been able to anticipate the “inconvenient forum” issue because it had been raised in the Alaska pleadings related to John’s motion to dismiss the Alaska proceedings. Contrary to Tomi’s assertion, the issue of “inconvenient forum” was only mentioned as an aside in the GAL’s response brief, as an option that might have been available for Tomi to pursue **after this appeal is concluded**. CP 802. But the GAL, OCS, and John all agreed that if the Alaska court did not dismiss, the proper course of action was for the Alaska court to contact the Washington court as required by the emergency provisions of the UCCJEA. CP 799 (John), 805 (GAL), 813-14 (OCS).

The emergency provisions of the UCCJEA do not contemplate an “inconvenient forum” determination. Rather, the statute provides that when a state takes emergency jurisdiction, any order entered by that state is only temporary, remaining in

effect only until an order is obtained from the state with exclusive, continuing jurisdiction (or until the temporary period expires). RCW 26.27.231(3); AS 25.30.330(c). The courts “shall immediately communicate ... to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.” RCW 26.27.231(4); AS 25.30.330(d).

This is the communication contemplated by the UCCJEA when one state takes emergency jurisdiction. It is a coordination of calendars so that the emergency state can put an appropriate time limit on its order, such that the person seeking the order can take appropriate action in the state with exclusive, continuing jurisdiction to obtain a permanent order. The trial court’s email notice to the parties did not indicate that the trial court’s “UCCJEA hearing” would be anything other than this ministerial process. The trial court’s comment that the parties would have no speaking role was consistent with this understanding of the hearing—for this ministerial action, little or no input would be required from the parties.

The trial court’s email notice is entirely inconsistent with the UCCJEA’s requirement that the parties be given the opportunity to submit information and present facts and legal arguments before a decision on jurisdiction is made. RCW 26.27.101; RCW 26.27.261(2).

The trial court failed to give the parties adequate notice and opportunity to be heard on the issue of “inconvenient forum” under the UCCJEA. This Court should reverse.

4.2 The trial court abused its discretion in failing to consider the factors required by the UCCJEA.

The UCCJEA requires, “Before determining whether it is an inconvenient forum, a court of this state shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose, the court ... shall consider all relevant factors, including: (a) Whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child; (b) The length of time the child has resided outside this state; (c) The distance between the court in this state and the court in the state that would assume jurisdiction; (d) The relative financial circumstances of the parties; (e) Any agreement of the parties as to which state should assume jurisdiction; (f) The nature and location of the evidence required to resolve the pending litigation, including testimony of the child; (g) The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence; and (h) The familiarity of the court of each state with the facts and issues in the pending litigation.” RCW 26.27.261(2).

The only factor considered by the trial court at the May 17 hearing was the length of time the children had lived in Alaska. RP, May 17, 2018, at 4. The trial court ignored the fact that during all of that time, there has been active litigation in Washington courts regarding custody and visitation of the children. The other statutory factors favor Washington as the most appropriate forum to make any child custody determination, especially where nearly all of the allegations that have been raised in Alaska have already been raised and decided here in Washington prior to entry of the current parenting plan.

The trial court abused its discretion in failing to consider the statutorily required factors before making an “inconvenient forum” determination. This Court should reverse the trial court’s May 17 and June 22 orders.

4.3 The trial court’s findings were not supported by evidence in the record, and its conclusion that Washington is an “inconvenient forum” was based on untenable grounds.

On Tomi’s motion, the trial court amended the May 17 order to include findings of fact designed to address the statutory factors. However, the most relevant findings were not supported by evidence in the record. Findings of fact must be reversed if they are not supported by substantial evidence in the record. *See In re Marriage of Chandola*, 180 Wn.2d 632, 327 P.3d

644 (2014). Substantial evidence is that which is sufficient to convince a fair-minded person of the truth of the matter asserted. *Id.* This Court should reverse all of the trial court’s findings that are not supported by substantial evidence.

This Court should also reverse any conclusions based on the unsupported findings. Conclusions based on unsupported findings are based on untenable grounds and are therefore an abuse of discretion. To the extent any of these findings constitutes a conclusion of law, they should be reversed as an abuse of discretion.

4.3.1 Finding 2 relating to domestic violence is not supported by evidence in the record.

Factor (a) is “Whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child.” RCW 26.27.261(2)(a). The trial court found that allegations of abuse have been raised in Alaska against John. While the record reflects that allegations have been raised, the record does not reflect what those allegations are. The Alaska CINA petition has not been provided to the trial court or the parties, and Tomi has not recounted the details of the allegations.

The trial court has already found, at the time of entry of final orders in this case, that neither party has a history of

domestic violence. Over the course of the dissolution proceedings, Tomi raised numerous allegations of abuse against John. Those allegations were investigated here in Washington by law enforcement, CPS, the guardian ad litem, and in the trial court. The allegations have always proven unfounded.

The materials provided to the trial court by Alaska do not indicate what allegations have been made against John in the CINA action. *See* CP 799-832. The Alaska courts and OCS have largely excluded John from their proceedings and have never informed him of the allegations against him. *E.g.*, CP 873. The only evidence in the record is that most of the allegations made in Alaska are the same allegations that Tomi has made in the past here in Washington, which have all been resolved in Washington in John's favor. CP 873.

Even assuming that the Alaska allegations include incidents alleged to have occurred after the final orders in this case, those incidents would have occurred here in Washington at John's residence. Washington CPS and the Washington courts are best able to investigate these allegations and provide any needed protection. It is significant that this factor requires this Court to consider which forum could best protect "the parties and the child," not just the child. John's rights and interests must also be protected. Alaska has already proven its unwillingness to respect John's rights of due process. Both John

and FMI can be more effectively protected by jurisdiction here in Washington.

Finding 2 does not support a conclusion that Alaska is a better forum than Washington. The evidence in the record can only support a conclusion that Washington is best able to protect the parties and the children. Factor (a) supports jurisdiction in Washington. This Court should reverse Finding 2 and the trial court's conclusions regarding "inconvenient forum."

4.3.2 Finding 7 regarding the location of evidence is not supported by evidence in the record.

Factor (f) is "The nature and location of the evidence required to resolve the pending litigation, including testimony of the child." RCW 26.27.261(2)(f). Finding 7 erroneously finds that the evidence is primarily located in Alaska.

As noted above, any possible alleged abuse by John would have occurred, if at all, here in Washington. As such, the evidence of any abuse should also be located, for the most part, here in Washington. The children's teachers, doctors, and therapist in Alaska have only second-hand, hearsay knowledge of any alleged abuse. If there are any third-party witnesses with personal knowledge of any alleged incidents, those essential witnesses would be here in Washington where the abuse is

alleged to have occurred. This factor favors jurisdiction here in Washington.

Where there are allegations of mistreatment of a child in a parent's home, the most important factor in an "inconvenient forum" determination is the location of evidence of the mistreatment. *Steven D. v. Nicole J.*, 308 P.3d 875, 880 (Alaska 2013). Just as in *Steven D.*, Tomi's new allegations (to the extent we can determine from the scant record) only relate to John's conduct in one state: Washington. Any evidence of that conduct will be primarily here in Washington. The trial court's finding that evidence is primarily in Alaska is not supported by the record.

4.3.3 Finding 8 regarding expeditious determination is not supported by evidence in the record.

Factor (g) is "The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence." RCW 26.27.261(2)(g). Finding 8 erroneously finds that Alaska is able to decide the issues expeditiously because it has initiated a CINA proceeding. However, Alaska has already failed to decide the issues expeditiously. Alaska has given credence to unfounded allegations of past conduct and has withheld the children from John for over nine months without holding a trial. Alaska OCS

has yet to interview John or make any investigation or interview of other witnesses here in Washington.

In contrast, the Washington trial court has already dealt with most, if not all, of the allegations that have been made in the Alaska proceedings. Washington can quickly and efficiently dispose of those allegations, which have already proven unfounded. The determination of any new allegations can be more expeditiously investigated here in Washington where the abuse is alleged to have occurred. Alaska OCS has failed to conduct any investigation here in Washington where the conduct is alleged to have occurred. This Court and Washington CPS could more expeditiously handle and resolve the allegations. This factor favors jurisdiction here in Washington.

4.3.4 Finding 9 regarding familiarity with the case is not supported by evidence in the record.

Factor (h) is “The familiarity of the court of each state with the facts and issues in the pending litigation.” RCW 26.27.261(2)(h). Finding 9 states that the Washington court is familiar with the history, but the Alaska court is more familiar with current facts. This finding is not supported by evidence because there is no evidence in the record of what the current facts are. The trial court was not presented with the CINA petitions. The actual allegations against John are not known. To

the extent they are known, they are old allegations with which the Washington courts—not Alaska—are familiar.

Washington courts are more familiar with the facts and issues, having already dealt with most, if not all, of the allegations being made in Alaska. The Alaska court lacks all of this background familiarity, and as a result has erroneously given credence to all of the stale, unfounded allegations in making its finding of probable cause in the CINA proceedings. Washington’s familiarity with the background history of this case is essential, and far outweighs any familiarity the Alaska court may have with any allegations of conduct occurring after this Court’s final orders in 2016. This factor favors jurisdiction here in Washington.

4.3.5 Finding 10 regarding notice is not supported by evidence in the record.

Finding 10 erroneously finds that the parties had notice of the May 17 hearing. As demonstrated above, the trial court’s email notice to the parties was insufficient. This finding is not supported by evidence in the record.

4.3.6 The trial court’s conclusion that Washington is an “inconvenient forum” is based on untenable grounds.

As demonstrated above, the most important factors favor jurisdiction here in Washington. The allegations are of conduct occurring here in Washington. Thus, Washington is best able to protect the parties and the children; evidence relating to John’s conduct in Washington is primarily here in Washington; Washington is best able to decide the issues expeditiously by sorting out those allegations that have already been determined unfounded; Washington’s familiarity with the history is much more important than any familiarity Alaska may have with more current facts. The trial court’s conclusion that Washington is an “inconvenient forum” is patently unreasonable and based on untenable grounds. This Court should reverse the trial court’s May 17 and June 22 orders and remand with instruction to communicate with Alaska to transfer the case to Washington, where exclusive, continuing jurisdiction lies.

5. Conclusion

The trial court violated John’s rights of due process by failing to provide adequate notice of the issues to be addressed in the May 17 hearing. The trial court failed to address the statutorily required factors in making its decision. When it did enter written findings, those findings were not supported by

evidence in the record. The trial court's decision was patently unreasonable and based on untenable grounds.

In addition to the relief requested in John's opening brief, this Court should reverse the trial court's May 17 and June 22 orders and remand with instruction to communicate with Alaska to transfer the case to Washington, where exclusive, continuing jurisdiction lies.

Respectfully submitted this 13th day of July, 2018.

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Certificate of Service

I certify, under penalty of perjury under the laws of the State of Washington, that on July 13, 2018, I caused the foregoing document to be filed with the Court and served on Counsel listed below by way of the Washington State Appellate Courts' Portal.

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