

FILED

JAN 12 2018

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

CASE #355578
COURT OF APPEALS, DIV III
OF THE STATE OF WASHINGTON

Melanie Dee Lott, Respondent

v.

Jeremy Rene Lott, Appellant

APPEAL FROM THE SUPERIOR COURT OF FRANKLIN COUNTY

APPELLANT'S BRIEF

Jeremy Rene Lott
Pro Se Appellant
1297 E 900 S
Pleasant Grove, UT 84062

FORM 6. BRIEF OF Court of Appeals Division 3 Case #355578

(Rule 10.3(a))

TABLE OF CONTENTS

A.	Assignments of Error	Page 1
B.	Statement of the Case	Page 1
C.	Summary of Argument	Page 2
D.	Argument	Page 3
E.	Conclusion	Page 11
F.	Appendix	Page 12

A. Assignments of Error

On July 31st, 2017 Judge Alex Ekstrom declared an order for my case that I believe was extremely unfair, ignored the facts, was based upon false statements by the petitioner, and was swayed by false assumptions about my involvement with the ex parte process.

B. Statement of the Case

With my 2 cases now under appeal that were heard on the same day, Judge Ekstrom made the order to deny my Contempt/Show Cause request without explanation and also

ordered that my Notice to Relocate be dismissed and that I pay the petitioner's attorney fees based on his assumption that I refused service. [CP #160 & #161]

The true and verified facts of this case are in direct opposition to this ruling. At no time have I ever refused service and the petitioner indeed has refused service. I have all of the documentation in place to show these facts to be true. The documents supplied by the petitioner contain false statements and I can prove this with real evidence.

C. Summary of Argument

Here are the facts that I will prove based upon my evidence.

1. The petitioner refused service when I sent her the notice of intent to move with children.
2. The petitioner hired a person to serve me documents who then lied in her affidavit.
3. I accepted service on the same day that the papers were presented to me.
4. Judge Ekstrom was extremely biased against me before he even spoke to me based on false assumptions about the ex parte process.
5. Petitioner's attorney, Jennifer LaCoste, gave false statements in court.
6. In good faith I have tried to follow every standard operating procedure according to these 2 cases.

D. Argument

In reference to fact #1, the petitioner refused service when I sent her the notice of intent to move with children. In my response to objection about moving with children and petition about changing a parenting/custody order (relocation) dated on July 27th, 2017 [CP #144] I include Attachment D which is the USPS tracking record for the certified mail that I sent to the petitioner containing my notice of relocation with children. The postman attempted to deliver the certified letter twice, on June 20th and June 23rd, both at times when Melanie was at her house because she was teaching piano lessons on those days and times. The record states that the postman left a notice because no authorized recipient was available. 2 weeks later the letter was unclaimed at the post office and returned to sender. This is indisputable evidence that the petitioner did indeed refuse the certified letter that I sent her.

In reference to fact #2, the petitioner hired a person to serve me documents who then lied in her affidavit and fact #3 that I accepted service on the same day that the papers were presented to me. Shay Quilici is the person who attempted service. In her affidavit [CP #152] she states "I went back at 8:30 pm and 10:30 pm with no answer, however I suspected that he was home due to a van in the driveway with Utah licenses plates that wasn't there before". This statement is 100% false. I have a video doorbell activated on ring or motion detection. I have attached my records for the day of July 23rd and 24th. See attachment A. Shay did not come to my house at those times and my van was definitely not in the driveway. I was several hours away at that time still en route to my home. I had spent the weekend in Bear Lake, Idaho for a family reunion and was driving back late at night. I did not get home and walk in my front door until 2:19 AM of the

24th according to my doorbell records. I unpacked and didn't get to sleep until after 3:30 am. Shay also states the following in her affidavit: "On Monday June 24th, 2017, I tried to serve Mr. Lott at 6:11 am with no response. I then came back at 7:37 am and this time Mr. Lott answered me through his digital/video doorbell. He threatened to get me escorted off the property by the police, and demanded to know why I was there. I showed him the envelope with the paperwork and told him I needed him to take the papers. He said that he was not going to answer the door to take them. I asked, "are you refusing service?" and he replied that he was not refusing service, but he was just not going to get out of bed and answer the door to take the papers" I have the full video recording of that conversation which differs greatly from Shay's account. It was a short conversation and here is the verbatim transcript from it which I have taken directly from the video recording of it. I was woken up at 6:20 am from her knocking after I had gotten only 3 hours of sleep. I was very groggy and extremely unhappy to get woken up like this. I had no idea who she was or why she was pounding on my door.

Jeremy: (just got woken up by the knocking and extremely unhappy) What the hell, lady? You knocked on my door at 6:30 this morning like 10 times, I've got it on video. I don't know who you are but you need to leave. You need to leave before I call the police and have you escorted off the property.

Shay: Are you refusing service for this paperwork?

Jeremy: No, I'm not refusing service.

Shay: ok, is there a time can I come back and give it to you?

Jeremy: yah, anytime afternoon.

Shay: ok, thank you.

Had Shay told me that she had legal papers that I needed to receive immediately, then I would have come to the door and taken the papers. Instead she offered to come back later so I agreed. Later that day at 2:59 pm according to my doorbell records a nice gentleman knocked on my door and handed me the papers. We had a pleasant conversation and I invited him in and we talked for 15 minutes. So in fact I received the papers the very same day that they were presented to me and I never refused or avoided service.

In reference to fact #4, Judge Ekstrom was extremely biased against me before he even spoke to me based on false assumptions about the ex parte process. On Thursday, July 27th, I went to the courthouse to file an ex parte order based on me not being served a response within 30 days. When I presented my papers to the domestic court clerk she told me that I did not have the correct papers to present to her. She told me what I needed to fix and then I told her that I would come back the following day with papers for that. So I came back on Friday the 28th in the morning. There was no judge present and I was told to come back in the afternoon which I did. I had my papers corrected for the ex parte order for the judge to sign if he agreed to it. I gave it to the clerk and it was denied by the judge. This was the only time that the judge looked at my ex parte request. At the hearing on July 31st I walked in the door at 8:33 am and had not been in the doors more than 3 seconds when the Judge called my name. I answered that I was present.

Here is the exact quote in the transcript [CP #162] from what Judge Ekstrom said. "Do we have the parties on number 29 the Lott matter here? Is Mr Lott present? alright, when we get to your case we're going to talk about the use and misuse of the ex parte process. So have a seat and we'll chat." I had no idea what he was talking about, but it was

obvious from his tone of voice and his condescending approach that he was very frustrated with me. I did not get a chance to respond or ask questions so I sat there in the courtroom wondering what I had done to cause the Judge's ire. Apparently the judge thought for some reason that I had submitted the ex parte order twice, that after I had submitted it once and it was denied that I came back the next day and submitted it again.

Such a thought had never entered my mind and I was still clueless when the judge asked me about it directly during the hearing. From the transcript [CP #162]:

"The court: Let me ask you a question.

Mr Lott: Sure.

The court: I understand anecdotally that on Friday when I declined to sign that for you that that wasn't the first time you had come asking for that order to be signed. Is it correct that earlier in the week that you attempted the same thing?

Mr Lott: The day previous?

The court: Yes.

Mr Lott: Yes so on Thursday I'm trying to remember exactly what happened but yeah I was there or it was Friday morning that I came in and there was no ex parte judge and so then I came in Friday afternoon.

The court: So you hadn't come the day before and been told no the Judge isn't going to sign this?

Mr Lott: Uh --

The court: And you hadn't been told you have a hearing you need to show up at your hearing with this?

Mr Lott: No I was not told that, the Judge did not look at it and I was not told that the Judge wouldn't sign it. I did not come in a second time and say you - you didn't do it the first time -- I would never impose upon a Judge like that, I mean no disrespect in any way."

Additionally, Judge Ekstrom asked for my proposal for parenting the children after I move. I had barely begun an explanation when Judge Ekstrom cut me off and made the assumption that I was trying to force Melanie to move. He berated me for what he deemed was arrogance and an attempt to control others. I was trying to explain my first parenting plan that I submitted which is for the case if Melanie decides to move to Utah and then I was going to explain the second parenting plan that I submitted which is for the case if Melanie decides not to move to Utah. However, Judge Ekstrom cut me short before I had a chance to explain that and assumed that I was only interested in somehow forcing Melanie to move with me. Had he waited 30 more seconds to hear my full explanation then it all would have made much more sense. Since both of my parenting plans were submitted to the court he should have been aware of both options that I was proposing. I do not want to force or control Melanie in any way. I want to work very peacefully with her in raising our children as co-parents. This is why I have offered to pay her moving expenses if she decides to move.

In reference to fact #5, Petitioner's attorney, Jennifer LaCoste, gave false statements in court. Here is the list of quotes from Jennifer LaCoste that she intentionally gave as false statements

1. [CP #162] Page 12 line 24 of the transcript: "All this time my client has received threat upon threat upon threat stating that he's going to move with the children"

The truth of the matter is that all of the communication between Melanie and I has been written. We have not had any verbal communication in the 6 months prior to this hearing. There is not a single word in any of the emails between us that can be understood as a threat in any way. It is not legally possible for me to move with the children without the court's consent so this statement really doesn't even make sense. Mrs. LaCoste knows this because she has read all of our emails. However, at this point in the hearing it's obvious that the judge was very much biased against me so Mrs. LaCoste is then throwing anything at the wall to see if it sticks.

2. [CP #162] Page 13 line 10: "Additionally, with regard to the herbalist, these discussions were made as you can see from the even from father's information to the court mother said I'm happy to provide you with any information what information would you like? I've already paid it for I'm not asking you to pay for it please tell me what information you would like and I'll provide it to you." The truth is just the opposite which is evident in the email between Melanie and I.

This email exchange is from January 30-31st, after the divorce is final. From me to Melanie on January 30th "I've asked you to keep me updated on the health appointments that you are taking him to, but you don't do that. Will you please keep me updated with his health appointments and your opinions?" Melanie's response on January 31st: "I have been taking him to alternative health appointments with Jan paid for solely by me. If you would like to pay for

half of these health appointments and supplements, I would be very happy to keep you apprised of all the information coming from the appointments. Let me know if that is something you would like to do and I can add this expense to Family Wizard for us to share. The other appointments he is having is for emotional work (because I am well aware of his sensitivities and emotional need and am trying to help him as much as I can). As you know, emotional work is very personal to the individual. That information is private for Bryson." This is proof of Melanie's blatant refusal to communicate with me about the children's health and directly opposite of what Mrs. LaCoste stated in court. Only if I pay for this appoint will she tell me about it. Our parenting plan allows for either parent to take a child to an alternative health practitioner and pay for it by ourselves.

Melanie has done this without my consent and is keeping the information about it from me.

3. [CP #162] Page 14 line 16 from the transcript: "Finally with regard to the expenses no receipts have been provided whatsoever. The mother receives a spreadsheet with figures and no supporting information. Mother requests the supporting information over and over and over again and never receives it.

Additionally, she attempts to prepare the spreadsheet with father and are to make it a mutually agreeable spreadsheet and father refuses. And my client detailed that in her declaration provided to the court." The truth of the matter is again exactly the opposite of what Mrs. LaCoste is stating. I've attached Attachment B to show that I created this spreadsheet of the children's expenses on August 3rd 2016 and sent Melanie a shared invite to it. I updated this spreadsheet on August 25,

September 7th, December 1st of 2016, Feb 23rd 2017, and July 8th 2017. Of course I'm going to be very interested in keeping it updated because Melanie's debt to me was continually increasing. I would send Melanie the receipts in text messages as soon as I incurred them. From the time that I started this spreadsheet to the time that we were in court with the contempt order a year later Melanie never once paid me a dime for compensation despite me continually asking her to come current with the expenses. Attachment C is an email exchange between Melanie and I on December 6th, 2016 where I ask her to look at the spreadsheet and pay her share of expenses but she refuses. Mrs. LaCoste knows these facts.

4. [CP #162] Page 15 line 3 from the transcript: "All these issues are being brought Your Honor in order to force a move father has told the children that he is moving he has threatened mother saying I will move I'll make it very expensive and difficult for you that is what he's doing. That's why I'm asking for attorney's fees in this matter Your Honor." Again, just the opposite is true. There is no email communication that supports this claim. On June 4th I sent Melanie an email offering to pay for her moving expenses if she decided to move to Utah. And Melanie's attorney fees have always been paid by her parents so she has never personally incurred any expense. I have paid for all of my legal expenses from my own savings so everything we do in court is a great cost to me and no cost to Melanie. Mrs. LaCoste knows that Melanie's parents have paid for all of her fees so this statement of hers in court is extremely disingenuous.

In reference to fact #6, In good faith I have tried to follow every standard operating procedure according to these 2 cases. I have never once said anything false in court or in any of my declarations. I have approached the request to move with the children in good faith by following the exact details of procedure as outlined in our parenting plan. The Whorley vs Whorley slip opinion was written in April 2017, 2 months before I submitted my notice to relocate with children. Had I been aware that this precedent had redefined the way that 50/50 custody moves are requested then I would have taken a different approach. From the Section in our parenting plan everything seemed so simple and cut and dried, which is why is opted to do this pro se instead of hiring an attorney. In hindsight I wish that I had hired an attorney so I could have avoided the pitfalls that I've been tripped up in and would have taken the proper approach to this move.

E. Conclusion

My request for relief from the appellate court is to change the ruling of the move with children by not having me pay for her attorney fees since that ruling was based on the assumption that I avoided service which I have proven to be a false assumption.

Additional request for relief is to reverse the ruling on the contempt order and find Melanie Lott in contempt of not paying her share of the expenses for the children, in contempt of retaining and breaking my property and never giving me the opportunity to inspect her premise as is required by law, and in contempt of not sharing the children's health records with me and to grant me attorney fees and to allow me to inspect her premise for additional belongings of mine that she may be keeping from me.

F. Appendix

Attachment A – Video doorbell logs

Attachment B – Expense spreadsheet details

Attachment C - Email exchange from 2016-12-06

January 10th, 2018

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeremy Lott", is written over a horizontal line. The signature is stylized with a large, looping initial "J".

Jeremy Lott, Appellant

Attachment A

Show

For Front Door

Select All

- 6 ☆ Front Door Motion - Jul 21, 2017, 11:01AM
- 5 ☆ Front Door Motion - Jul 21, 2017, 07:45AM *Shay knocked*
- 4 ☆ Front Door Motion - Jul 20, 2017, 08:57PM *Shay knocked*
- 3 ☆ Front Door Motion - Jul 20, 2017, 06:30PM *Shay knocked*
- 2 ☆ Front Door Missed Ring - Jul 20, 2017, 05:22PM *shay rang bell*
- 1 ☆ Front Door Missed Ring - Jul 20, 2017, 05:20PM

Show

For Front Door

Select All

- 11 ☆ Front Door Motion - Jul 24, 2017, 06:22AM
- 10 ☆ Front Door Motion - Jul 24, 2017, 06:20AM
- 9 ☆ Front Door Motion - Jul 24, 2017, 02:33AM
- 8 ☆ Front Door Motion - Jul 24, 2017, 02:19AM *I arrived home from Idaho*
- 7 ☆ Front Door Live View - Jul 23, 2017, 07:18PM
- 6 ☆ Front Door Motion - Jul 23, 2017, 07:17PM *Shay last knocked on my door*
- 5 ☆ Front Door Answered Motion - Jul 23, 2017, 07:03PM

Show

For Front Door

Select All

- 16 ☆ Front Door Motion - Jul 24, 2017, 09:54AM
- 15 ☆ Front Door Motion - Jul 24, 2017, 08:29AM
- 14 ☆ Front Door Answered Motion - Jul 24, 2017, 07:34AM *Shay and I spoke*
- 13 ☆ Front Door Answered Ring - Jul 24, 2017, 06:22AM
- 12 ☆ Front Door Motion - Jul 24, 2017, 06:20AM *Shay knocked but I was asleep*
- 11 ☆ Front Door Motion - Jul 24, 2017, 02:33AM
- 10 ☆ Front Door Motion - Jul 24, 2017, 02:19AM
- 9 ☆ Front Door Live View - Jul 23, 2017, 07:18PM
- 8 ☆ Front Door Motion - Jul 23, 2017, 07:17PM
- 7 ☆ Front Door Answered Motion - Jul 23, 2017, 07:03PM

Show

For Front Door

Select All

- 22 ☆ Front Door Motion - Jul 24, 2017, 03:26PM
- 21 ☆ Front Door Missed Ring - Jul 24, 2017, 02:59PM *Pronto Processing served me papers*
- 20 ☆ Front Door Motion - Jul 24, 2017, 01:48PM
- 19 ☆ Front Door Motion - Jul 24, 2017, 12:59PM
- 18 ☆ Front Door Missed Ring - Jul 24, 2017, 12:21PM
- 17 ☆ Front Door Missed Ring - Jul 24, 2017, 12:09PM

Attachment B

 **Kid Expenses** X

DETAILS

DETAILS ACTIVITY



Type Google Sheets

Size

0 bytes



me

Aug 4, 2017 by me

Aug 11, 2017 by me

Aug 3, 2016 with Google Sheets

Attachment C



Jeremy Lott <jlott007@gmail.com>

12/6/16



to Mellors

You probably already know this but just in case you don't have it, the website to make payments is <http://www.rsd.edu/parents/online-payments.html> and Logan's ID is 21913067



Melanie Lott <melsylott@gmail.com>

12/6/16



to me

I'm not sure I understand why you want me to pay his jazz band fees? I thought we had joint responsibility in these things. That means my half of what he currently owes would be \$32.50. I can send in a check for my half of the payment and you can send one in for your half.



Jeremy Lott <jlott007@gmail.com>

12/6/16



to Melanie

check the spreadsheet for kid expenses and then you'll know. Please get up to date on these things before you start some drama with me. We don't need drama.



Melanie Lott <melsylott@gmail.com>

12/6/16



to me

I don't want drama. I just want to pay separately for things. I didn't agree to a spreadsheet, that is just something you took charge of on your own and sent to me. I would prefer we each pay a check for half of the expense of whatever is owed rather than to owe each other. When we get the wizard program, we will be able to scan in receipts so we know exactly what was paid and what is owed. I can send you a check for the \$32.50 if you want and then you can pay it online, or I can send Logan with a check for my half to the school, whichever you prefer.



Jeremy Lott <jlott007@gmail.com>

12/6/16



to Mellors

I've paid about \$600 more than you on kid expenses. So you can write me a check for \$600. If you insist on drama like this, then let's start there. Look at the spreadsheet and am up.

Otherwise, just pay Logan's fees and move on.

CERTIFICATE OF SERVICE

I certify that I mailed a copy of the foregoing Appellant's Brief
to Jennifer LaCoste, Attorney for Melanie Dee Lott,
at 8697 W. Gage Blvd, Kennewick, WA 99336, postage prepaid, on
[date] 1/10/2018.


(Signature)

I certify (or declare) under penalty of perjury under the laws of the State of Washington
that the foregoing is true and correct:

1/10/2018 Pleasant Grove, UT
(Date and Place)


(Signature)