

RECEIVED
SUPREME COURT
STATE OF WASHINGTON
Oct 09, 2013, 2:50 pm
BY RONALD R. CARPENTER
CLERK

E CRF
RECEIVED BY E-MAIL

No. 89196-6

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

In re the Marriage of

WENDY A. MCDERMOTT
Appellant

and

JUSTIN J. MCDERMOTT
Respondent

ON REVIEW FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR SNOHOMISH COUNTY

RESPONSE TO MOTION TO STRIKE

PATRICIA NOVOTNY
Attorney for Petitioner/Appellant
3418 NE 65th Street, Suite A
Seattle, WA 98115
(206) 525-0711

 ORIGINAL

A. IDENTITY OF PETITIONER

Wendy McDermott, appellant below and mother of the child at issue in this case, responds to the respondent's motion to strike.

B. ISSUES PRESENTED BY RESPONDENT

Did the respondent raise a new issue in his answer to the petition for review when he argued against review on the same basis as he unsuccessfully argued for dismissal in the Court of Appeals?

C. RESPONSE TO MOTION TO STRIKE

In his answer to Wendy's petition for review, Justin argued the parties have resolved all parenting issues in Kansas, rendering Wendy's case in Washington moot. Answer, at 6-10. Justin lost this issue in the Court of Appeals when he moved to dismiss on this basis. Obviously, Wendy did not raise this issue in her petition, since she prevailed in the appellate court on this point. *See* RAP 13.4(d) (limiting replies to cases where the "answering party seeks review of issues not raised in the petition for review"). And, obviously, Wendy has not agreed to resolve all parenting issues in Kansas, or she would not pursue her remedy here. Thus, by raising this issue in his answer, Justin appears to have raised a new issue. Wendy's reply to it is neither a "thinly" nor thickly "veiled excuse for filing an improper reply," as Justin unfairly accuses in his Motion to Strike. Rather, Wendy addressed herself in the reply to what

appears to be Justin's indirect attempt to raise a new issue, i.e., the claims Justin made about the Kansas litigation. There is no basis for Justin's suggestion that she somehow acted in bad faith by doing so. Nor does Justin, in his motion to strike, make any effort to explain how this issue is not a new issue, previously decided adversely to him, despite that it was not mentioned in the petition for review. Wendy asks this Court to deny his motion to strike.

Dated this 9th day of October 2013.

RESPECTFULLY SUBMITTED,

/s/ Patricia Novotny

PATRICIA NOVOTNY
WSBA #13604
Attorney for Petitioner

OFFICE RECEPTIONIST, CLERK

To: Pat Novotny
Cc: Shelby Lemmel; Ken Masters; Sharon Friedrich
Subject: RE: No. 89196-6 Marriage of McDermott

Rec'd 10-9-13

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

From: Pat Novotny [<mailto:novotnylaw@comcast.net>]
Sent: Wednesday, October 09, 2013 2:41 PM
To: OFFICE RECEPTIONIST, CLERK
Cc: Shelby Lemmel; Ken Masters; Sharon Friedrich
Subject: No. 89196-6 Marriage of McDermott

Attached for filing in pdf format is the Petitioner's Response to Motion to Strike and Declaration of Service in Marriage of McDermott, No. 89196-6. The person submitting these pleadings is Patricia Novotny, WSBA No. 13604, whose email address is novotnylaw@comcast.net.