

FILED
SUPREME COURT
STATE OF WASHINGTON
2/19/2019 8:00 AM
BY SUSAN L. CARLSON
CLERK

IN THE SUPREME COURT OF
THE STATE OF WASHINGTON

In re the Marriage of:

JESSICA LEE BODGE,
Appellant,

v.

BRIAN EUGENE BODGE,

Respondent.

NO. 96682-6

APPELLANT'S REPLY TO
RESPONDENT'S ATTORNEY
FEE REQUEST

(Court of Appeals No. 76954-
5-1)

(Snohomish County Superior
Court No. 12-3-02727-9)

In his Answer to Petitioner's Petition for review, Father interjected a new issue. Namely, he seeks attorney fees for answering Petitioner's petition. This reply is limited to addressing only this new issue.

In his conclusion, Respondent requests attorney fees pursuant to RAP 18.1(j) because he was the "prevailing party." He does so by misrepresenting what RAP 18.1(j) says. Specifically, he left out the prefatory phrase that expressly limits the rule's application to only those parties responding to an unsuccessful petition for review. In its entirety, RAP 18.1(j) states:

If attorney fees and expenses are awarded to the party who prevailed in the Court of Appeals, and if a petition for review to the Supreme Court is subsequently denied, reasonable attorney fees and expenses may be awarded for the prevailing party's preparation and filing of the timely answer to the petition for review.

Respondent, by leaving out this very important prefatory phrase seems to imply that a party responding to a petition for review always receives an attorney fee award. This is incorrect. Only a party who is awarded attorney fees by the Court of Appeals can apply for attorney fees for answering a petition for review. Here, Respondent was not awarded attorney fees by the Court of Appeal. RP 18.1(j) does not apply.

Similarly, Respondent improperly seeks attorney fees from this Court based on Mother's intransigence. Asserting one's legal right to seek review is not intransigence. The Court of Appeals did not find Petitioner intransigent. Respondent has offered no evidence or argument stating how Petitioner may have been intransigence. Without evidence or argument showing the intransigence, Respondent's attorney fee request should be denied.

Signed at Edmonds, Washington on this 13th day of February
2019.

WESTERN WASHINGTON LAW
GROUP, PLLC

/s/ Dennis J. McGlothin

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Attorney for Appellant

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the below written date, I caused delivery of a true copy of this APPELLANT’S REPLY TO RESPONDENT’S ATTORNEY FEE REQUEST to the following:

Washington State Supreme Court 415 12 th Ave SW Olympia, WA 98501	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Electronic Upload
Mary Joyce McCallum Jay Carey Law Offices 420 North McLeod Ave Arlington, WA 98223	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Eservice or Email <input checked="" type="checkbox"/> Electronic Upload

DATED this 18th day of February 2019 at Edmonds, Washington.

/s/ Lindsey Matter

Lindsey Matter
Paralegal

WESTERN WASHINGTON LAW GROUP, PLLC

February 18, 2019 - 11:48 AM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 96682-6
Appellate Court Case Title: Marriage of Jessica Bodge and Brian Bodge
Superior Court Case Number: 12-3-02727-9

The following documents have been uploaded:

- 966826_Answer_Reply_20190218114725SC644571_5762.pdf
This File Contains:
Answer/Reply - Reply to Answer to Petition for Review
The Original File Name was PLDG.2019.02.18.Mothers Reply Re Attorney Fees.pdf

A copy of the uploaded files will be sent to:

- mj@jaycareylaw.com
- robert@westwalaw.com

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