

FILED

OCT 10 2012

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

NO. 309118-III

**COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON**

In re the Marriage of:

CAROL MARIE SCHNEIDER, f/k/a CAROL MARIE ALMGREN,

Respondent/Petitioner,

v.

JEFFREY JOSEPH ALMGREN,

Appellant/Respondent.

BRIEF OF RESPONDENT

Scott C. Broyles, WSBA No. 6070
Attorney for Respondent
Broyles & Laws, PLLC
901 Sixth Street
Clarkston WA 99403
(509) 758-1636

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TABLE OF AUTHORITIES

STATUTES AND RULES

RCW26.21A..... 6 and 9
RCW 26.21A.550(3)(4)..... 2, 3, 5 and 6

ISSUES

1. Was the Superior Court's Order of Remand dated May 21, 2012, consistent with the Mandate?
2. Should the Court on appeal award attorney fees and costs?

A. FACTS

Mr. Almgren filed an appeal with the Court of Appeals on the Order of Child Support entered on September 1, 2009. In Case No. 28469-7, the issues on appeal were:

- 5.1 The Court erred in extending child support for the parties adult child past the age of majority pursuant to the laws of Nebraska and the Uniform Interstate Family Support Act, RCW 26.21A.550(3)(4).
- 5.2 The Court erred in failing to modify the amount of child support as both parties are unemployed.

A copy of which is attached as Appendix 1. The Court of Appeals subsequently upheld the Trial Court in the order dated August 24, 2010, under Case No. 28469-7. Mr. Almgren appealed to the Supreme Court on September 22, 2010, under Case No. 85112-3. In his Petition Mr. Almgren designated the issues as follows:

B. ISSUES ON APPEAL

1. This is a matter of first impression for the State of Washington, dealing with the interpretation of the Uniform Interstate Family Support Act. RCW 26.21A.550(3)(4), (hereinafter known as UIFSA) which provides that the law of the State that issued the initial controlling child support order governs the duration of a child support obligation in all subsequent proceedings to modify child support orders. The original Court that had jurisdiction of the Almgren divorce was Nebraska. Because this is a matter of first impression in the State of Washington, there is no Washington Supreme Court decision in conflict. There are no other Court of Appeal decisions. The issue deals with a Uniform Act and would involve an issue of substantial public interest that should be determined by the Washington Supreme Court and not this unpublished decision by the Court of Appeals, Division III. The Court of Appeals decision is contrary to all decisions from the other states on this issue.
2. The Court of Appeals also failed to consider the record in its determination that the Father produced no verified proof that his income changed. Mr. Almgren and Ms. Schneider both lost their jobs after the motion for post secondary education was filed. Mr. Almgren testified, under oath, that his income had changed. Both parties acknowledge the income change and the trial court acknowledge the same. The trial court ultimately determined that it would use prior income information because the Court believed that both parties would become re-employed within six (6) months. The Court of Appeal, Division III, simply ignores the fact that Mr. Almgren testified under oath about his unemployment and his change of income.

The Washington State Supreme Court Opinion was entered on December 22, 2011, under Case No. 85112-3. The essence was the Supreme Court's position "We reverse and remand for further proceedings consistent with this opinion."

Mr. Stroschein made three attempts to get orders entered essentially retrying the support amounts. The third proposed Order (CP 30-32) was contrary to the earlier request of the Superior Court for an order essentially in the form finally entered. The Court entered Order on Remand (CP 37-38 05/21/2002). Mr. Almgren subsequently appealed the entry of the Order on Remand (CP 39-45) on 06/08/2012.

C. ARGUMENT

- 1. Did the Superior Court Order on Remand comply with the mandate requirements of the Supreme Court?**

Appellant in the Court of Appeals, Division III, Case No. 28469-7, filed an Amended Notice of Appeal. See attached Appendix 1 at 5.0,

Designation of Claimed Errors, Mr. Almgren had listed the following:

- 5.1 The Superior Court erred in extending child support for the parties adult child past the age of majority pursuant to the laws of Nebraska and the Uniform Interstate Family Support Act, RCW 26.21A.550(3)(4).
- 5.2 The Court erred in failing to modify the amount of child support as both parties are unemployed.

In the Petition for Review to the Supreme Court, written portions attached as Appendix 2, Page 1, Issues Presented for Review:

1. This is a matter of first impression for the State of Washington, dealing with the interpretation of the Uniform Interstate Family Support Act. RCW 26.21A.550(3)(4), (hereinafter known as UIFSA) which provides that the law of the State that issued the initial controlling child support order governs the duration of a child support obligation in all subsequent proceedings to modify child support orders. The original Court that had jurisdiction of the Almgren divorce was Nebraska. Because this is a matter of first impression in the State of Washington, there is no Washington Supreme Court decision in conflict. There are no other Court of Appeal decisions. The issue deals with a Uniform Act and would involve an issue of substantial public interest that should be determined by the Washington Supreme Court and not this unpublished decision by the Court of Appeals, Division III. The Court of Appeals decision is contrary to all decisions from the other states on this issue.
2. The Court of Appeals also failed to consider the record in its determination that the Father produced no verified proof that his income changed. Mr. Almgren and Ms. Schneider both lost their

jobs after the motion for post secondary education was filed. Mr. Almgren testified, under oath, that his income had changed. Both parties acknowledge the income change and the trial court acknowledge the same. The trial court ultimately determined that it would use prior income information because the Court believed that both parties would become re-employed within six (6) months. The Court of Appeal, Division III, simply ignores the fact that Mr. Almgren testified under oath about his unemployment and his change of income.

Mr. Stroschein presented his third draft Order dated 05/27/2012, found at CP 22-32, attempting to re-litigate all the issues appealed in both the Court of Appeals and the Supreme Court cases, and in particular the second item as to amounts and determination of the child support. All of those items are res judicata. The only items that the Supreme Court overturned from the Court Appeals opinion was the issue concerning the Uniform Interstate Family Support Act, RCW 26.21A.550(3)(4), known as UIFSA. The decision of the Supreme Court written by Justice Wiggins in the opening paragraph says as follows:

The Uniform Interstate Family Support Act (UIFSA) chapter 26.21A RCW, governs modification of child support obligations in Washington when the initial child support order was entered in a different state but one of the parties lives in Washington. The UIFSA provides that the duration of child support is governed by the laws of

the original forum state. Jeffrey Almgren and Carol Schneider divorced in Nebraska and Schneider moved to Washington with the couple's two children. We hold that the superior court erred by extending the father's child support obligation past the age of majority by granting postsecondary support for the daughter to attend college. Nebraska law would not have allowed postsecondary support in this case, and the UIFSA provides that the law of the original forum state governs the duration of child support. We reverse the Court of Appeals, which affirmed the trial court, and remand for further proceedings consistent with this opinion.

This analysis is particularly interesting in this case. Pages 17 and

18 are attached as Appendix 3. The Court said:

Because this is a matter of first impression in Washington interpreting a uniform law adopted by all 50 states, we may consider how these other states have addressed the issue. RCW 26.21A.905. Each of the cases cited above, *Scott*, 160 N.H. 354; *Marshak*, 390 N.J. Super. 387; and *Doetzl*, 31 Kan. App. 2d 331. Held that postsecondary educational support was durational under the UIFSA. **These holdings support our conclusion that the trial court's award of postsecondary educational support to Amanda modified the duration of child support established by the Nebraska order.**

It may also seem anomalous to deny postsecondary educational support for Amanda, who has lived in Washington for several years and attends a Washington state university. But there are two sides to this result. A

child who is initially allowed the potential of postsecondary educational support in Washington will be able to receive that support even after moving to another state. Every state has adopted the UIFSA in some form and the UIFSA provides that the originating state's law applies to the duration of child support. **Because the issue is durational, Washington law will apply to Washington child support orders that provide for postsecondary educational support.** If the issue were not durational, other states would be free to reject the provisions for postsecondary support under Washington law.

In any event, the legislature has resolved this policy choice by adopting the UIFSA. Our responsibility under Washington Constitution is to interpret and apply the decision of the legislature. **Accordingly, we hold that postsecondary educational support is a durational aspect of child support under the UIFSA.**

Mr. Stroschein's argument about why he was trying to re-litigate all issues is particularly interesting and appears on Pages 5-13 Verbatim Report of Proceedings, specifically Page 10, lines 19 through Page 13, line 3, copies of which are attached hereto as Appendix 4. In light of Mr. Stroschein's continued effort to litigate and re-litigate amounts of support granted in the 2009 order, and the fact that the oldest child turned 19 in December of 2009, some 6 months after the order was

entered. The Superior Court's order terminating support as of that date provides finality, all other issues being res judicata. Nothing further remains from the Supreme Court Appeal. This appeal should be dismissed. Everything else Mr. Stroschein argues is res judicata.

D. ATTORNEY FEES

This appeal has as its only intention, to substantially re-litigate all issues that are res judicata, is the definition of frivolous. Because this is a frivolous appeal, the Court has the authority to forthwith award attorney fees to Ms. Schneider, which it should do.

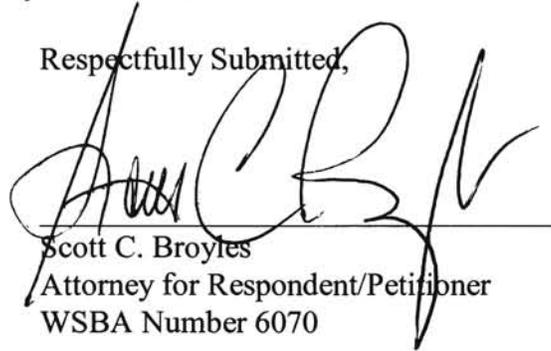
E. CONCLUSION

Despite the fact that Mr. Almgren appealed the determination of the support issues and amounts, both appeals were formally rebuffed at every level. The only issue that the Supreme Court took up was the Uniform Interstate Family Support Act, Chapter 26.21A RCW. The Court determined that the postsecondary support was in fact durational,

i.e. extending support being the age of majority, that it interfered with Nebraska's order setting support to the age of 19. The Court held specifically, "Postsecondary educational support is a durational aspect of child support under the UIFSA." That being the case, what the Supreme Court's ruling did is made whatever obligation was in effect for Mr. Almgren to pay support to Amanda terminate on her 19th birthday. The order said or did nothing to modify the obligation of Mr. Almgren to pay \$500 per month for Amanda and \$343.87 for the younger child. The Superior Court in an attempt to comply with the mandate entered an order that terminated the obligation of Mr. Almgren to pay for Amanda, at age 19, which was some six months after the entry of the original order. Because the issue was the durational issue, the Superior Court order complies with the mandate and was not an abuse of discretion by the Superior Court, which is the standard of review in this case. Therefore, Mr. Almgren's appeal should be dismissed because it was clearly a frivolous appeal, and costs and attorney fees should be awarded to Ms. Schneider.

DATED this 9th day of October, 2012.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Scott C. Broyles", written over a horizontal line. The signature is stylized and cursive.

Scott C. Broyles
Attorney for Respondent/Petitioner
WSBA Number 6070

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**SUPERIOR COURT OF WASHINGTON
COUNTY OF ASOTIN**

In re:

CAROL MARIE SCHNEIDER, f/k/a
CAROL MARIE ALMGREN,

Petitioner,

and

JEFFREY JOSEPH ALMGREN,

Respondent.

NO. 05-3-00141-0

**AMENDED NOTICE OF APPEAL
TO COURT OF APPEALS,
DIVISION III**

15 COMES NOW the Respondent, Jeffrey Joseph Almgren, by and through his attorney of
16 record, Charles M. Stroschein, and amends his *Notice of Appeal* as follows:

17 1.0 PARTY SEEKING REVIEW: Jeffrey Joseph Almgren

18 2.0 DECISION TO BE REVIEWED: *Findings of Fact and Conclusions of Law on*
19 *Petition for Modification of Child Support, the corresponding Final Order of Child Support, and the*
20 *Order Denying Motion to Reconsider* filed on August 17, 2009.

21 3.0 APPELLATE COURT: Court of Appeals, Division III

22 4.0 PARTIES:

23 4.1 Appellant/Respondent: Jeffrey Joseph Almgren
24 409 26th Avenue North
25 St. Cloud, MN 56303

26
*Amended Notice of Appeal to Court of
Appeals, Division III*

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I hereby certify on the 10th
day of October, 2009, a true
copy of the foregoing instrument
was:

- Mailed
- Faxed
- Hand delivered
- Overnight mail to:

Scott C. Broyles
901 6th Street
PO Box 208
Clarkston, WA 99403

CLARK and FEENEY

By: _____
Attorneys for Appellant/Respondent

COPY

NO. 284697 - III

SUPREME COURT
OF THE STATE OF WASHINGTON

In Re the Marriage of:

CAROL MARIE SCHNEIDER, f/k/a CAROL MARIE ALMGREN

Respondent,

v.

JEFFREY JOSEPH ALMGREN,

Petitioner/Appellant.

PETITION FOR REVIEW

Charles M. Stroschein
Clark and Feeney
The Train Station - Suite 102
13th and Main Streets
P.O. Box 285
Lewiston, Idaho 83501
(208) 743-9516
WSBA No. 34711
Attorney for Petition on Review

APPENDIX

2

IDENTITY OF PETITIONER

1. Jeffrey Almgren asks this Court to accept review of the Court of Appeal, Division III, decision regarding the appeal from the Superior Court of Asotin County, State of Washington.
2. The Petitioner requests that the Court review the decision issued by the Court of Appeals, Division III issued on August 24, 2010. No motion for reconsideration was filed. A copy of the opinion is attached as Appendix 1.

ISSUES PRESENTED FOR REVIEW

1. This is a matter of first impression for the State of Washington, dealing with the interpretation of the Uniform Interstate Family Support Act. RCW 26.21 A.550(3)(4), (hereinafter known as UIFSA) which provides that the law of the State that issued the initial controlling child support order governs the duration of a child support obligation in all subsequent proceedings to modify child support orders. The original Court that had jurisdiction of the Almgren divorce was Nebraska. Because this is a matter of first impression in the State of Washington, there is no Washington Supreme Court decision in conflict. There are no other Court of Appeal decisions. The issue deals with a Uniform Act and would involve an issue of substantial public interest that should be determined by the Washington Supreme Court and not this unpublished decision by the Court of Appeals, Division III. The Court of Appeals decision is contrary to all decisions from the other states on this issue.
2. The Court of Appeals also failed to consider the record in its determination that the Father produced no verified proof that his income changed. Mr. Almgren and Ms. Schneider both lost their jobs after the motion for post secondary education was filed. Mr. Almgren testified, under oath, that his income had changed. Both parties acknowledge the income change and the trial court acknowledge the same. The trial court ultimately determined that it would use prior income information because the Court believed that both parties would become re-employed within six (6) months. The Court of Appeal, Division III, simply ignores the fact that Mr. Almgren testified under oath about his unemployment and his change of income.

duration of child support even though all the parties and the children resided in Kansas).

Because this is a matter of first impression in Washington interpreting a uniform law adopted by all 50 states, we may consider how these other states have addressed the issue. RCW 26.21A.905. Each of the cases cited above, *Scott*, 160 N.H. 354; *Marshak*, 390 N.J. Super. 387; and *Doetzi*, 31 Kan. App. 2d 331, held that postsecondary educational support was durational under the UIFSA. These holdings support our conclusion that the trial court's award of postsecondary educational support to Amanda modified the duration of child support established by the Nebraska order.

It may seem anomalous to deny postsecondary educational support for Amanda, who has lived in Washington for several years and attends a Washington state university. But there are two sides to this result. A child who is initially allowed the potential of postsecondary educational support in Washington will be able to receive that support even after moving to another state. Every state has adopted the UIFSA in some form and the UIFSA provides that the originating state's law applies to the duration of child support. Because the issue is durational, Washington law will apply to Washington child support orders that provide for postsecondary educational support. If the issue were not durational, other states would be free to reject the provisions for postsecondary support under Washington law.

In any event, the legislature has resolved this policy choice by adopting the UIFSA. Our responsibility under the Washington Constitution is to interpret and

apply the decision of the legislature. Accordingly, we hold that postsecondary educational support is a durational aspect of child support under the UIFSA.

CONCLUSION

Under the UIFSA, a Washington court has subject matter jurisdiction to modify out-of-state child support orders but lacks the authority to do so if (1) the conditions set in RCW 26.21A.550 are not met or (2) the modification changes the duration of the support obligation inconsistently with the law of the state that issued the initial controlling order. An award of postsecondary educational support is a durational aspect of child support to which the UIFSA applies. The trial court exceeded its authority when it ordered postsecondary educational support for Amanda, and the Court of Appeals erred in affirming the trial court's order. We reverse and remand for further proceedings consistent with this opinion.

1 MR. STROSCHEIN: Right -- right -- right.

2 So, ah, let me start off with, ah -- with my order or my
3 interpretation of the opinion from the, ah, Washington
4 Supreme Court. I went back and pulled that out, and on page
5 ten --

6 THE JUDGE: -- Do -- do you have a proposed original
7 with you?

8 MR. STROSCHEIN: Ah, the Court should have a copy of
9 that. It -- it's probably --

10 THE JUDGE: -- I --

11 MR. STROSCHEIN: -- attached to my, ah, notice of
12 presentment, Your Honor.

13 THE JUDGE: Well, see, the clerks file those
14 accidentally, and so, it's now part of Court record, and if
15 I yank it out --

16 MR. STROSCHEIN: -- If I can approach, Your Honor, I
17 think I've got --

18 THE JUDGE: -- Yeah. If I yank it out, I'm in trouble.

19 MR. STROSCHEIN: There should be originals and, ah, two
20 copies with that, Your Honor.

21 THE JUDGE: There are. There are two copies for
22 conform.

23 MR. STROSCHEIN: But getting back to my interpretation
24 of what the Supreme Court did, on page ten of the opinion I
25 received from them, it says, "In this case, the success of

1 Washington child support orders modify the duration of child
2 support in two ways. First, the 2007 order changed the
3 termination of support from Nebraska age of majority, which
4 is age 19, to the Washington age of majority, age, ah, 18,
5 or when the child was no longer enrolled in high school,
6 whichever came last. In addition, the 2007 order reserved
7 the right to petition for post-secondary support past the
8 age of, ah, 18." Then on the next page the Court continued,
9 ah, "Again, the original Nebraska child support order did
10 not call for child support beyond the age of 19."

11 And then the -- the end part, ah -- the conclusion of the
12 Court indicates that, ah -- ah, the Court, ah, lacked
13 authority to, ah, change the date. One of the -- the first
14 condition -- the first provision indicates the conditions
15 set out in RCW 26.1 are -- strike that -- 26.21A.550. And
16 then the second is the modification changes the duration of
17 the support obligation inconsistently with the law of the
18 State that issued the initial controlling order, which was
19 Nebraska.

20 And so, what I did in my order was to try to go back to
21 the, ah, Court's order from 2009 and make changes that would
22 be consistent with, ah, the age of 19 as the termination
23 date. Because the -- the Supreme Court asked some
24 interesting questions during oral argument about whether or
25 not Mother actually waived her right to receive support past

1 the age of 18. But I didn't think, to be consistent, I
2 could say that, ah, we want termination for, ah, both kids
3 at 19, but somehow now we're -- because of the door that the
4 Supreme Court opened -- said, no, it should actually be 18
5 because somehow they weigh. So, I made the argument was,
6 no, it's -- it's 19, ah, because that's what the Nebraska
7 law states.

8 And so, what my order tries to do is to incorporate, ah,
9 the basic, ah, holding of what the Washington Supreme Court
10 did. So, ah, under provision 2.1, a type of proceeding, I
11 just indicate the -- this order is entered pursuant to a
12 remand from the Washington Supreme Court on the issue of
13 post-secondary education support to Amanda Almgren. And
14 then under 3.1, I note that, ah -- and this is the provision
15 children for whom support is required -- and I note, ah, the
16 two current ages as I understand both the kids, and then in
17 parenthesis I have until age 19. And then, ah, much of the
18 -- the rest of the language, until you get to 3.5, is -- is
19 just the boiler plate sort of language.

20 And then the transfer payment, I have the obligor parent
21 shall pay the following amounts per month for the following
22 children. And then, again, I have, ah, both the kids noted,
23 ah, and then I have the amount, which the \$343.87, ah, is
24 based on the Court's 2009 order. But that just really
25 reflects what the Court did with regard to the parents'

1 income from 2007, ah, because as the Court might recall, ah,
2 the Court just used that prior, ah, income information
3 because both parents had lost their jobs just shortly before
4 we had our hearing in 2009. And then, again, I have, ah,
5 Amanda's income, or the child support amount at \$343.87, ah,
6 which is based on the 2007 order because there wasn't -- I
7 mean, the 2009 order indicated her -- her child support
8 would be \$500 for the period of time.

9 Ah, and then going on to the -- the section right under
10 that, it says, "Other -- on December 24, 2009, child support
11 terminated for Amanda. Other issues regarding the remand,
12 such as reimbursement and issues regarding, ah, AJA's (sic),
13 ah, getting refunds from the university are reserved for
14 further hearing, briefing, testimony, and argument." Ah,
15 and then, ah, jump to 3.13, termination of support, until
16 the children reach the age of 19, as noted by the Washington
17 Supreme Court, I note that under 3.14, that post-secondary
18 education support doesn't apply.

19 And then under the provision, ah, regarding medical
20 insurance, 3, ah, .18, and then the subsection, that it
21 would apply to Jacob until he turns 19, which I think is
22 coming up in October, or until healthcare insurance is no
23 longer available because obviously that's a function of what
24 the law indicates. But based on Nebraska law, it wouldn't
25 be any -- it -- no sort of support could go past the age of

1 19. And then if you flip to page eight of nine under
2 3.18.2, healthcare insurance is terminated from Amanda and
3 Jacob once they turn 19, ah, years old pursuant to the
4 remand in the Washington Supreme Court decision.

5 And so, it's my belief that the, ah, order that has to be
6 entered has to go beyond, ah, what Mr. Broyles' order
7 indicates, which is simply that, ah, post, ah, high school
8 support terminates. Because I think the -- the new order
9 has to say child support ends at 19, and child support would
10 include the normal payment that, ah, a parent would make,
11 plus medical insurance and that sort of thing. So, that's
12 what I tried to do with my order is incorporate the basic --

13 THE JUDGE: -- Trying to avoid the parents having to
14 come back to court in the future.

15 MR. STROSCHEIN: Well -- right. Because, I mean, if
16 you look at what the Supreme Court said, child support ends
17 at, ah -- ah, at 19 for these kids. And so, that was my
18 belief, ah, as far as what I thought this Court could do
19 with regard to the orders, so that there wasn't any
20 confusion, as opposed to just the limited language Mr.
21 Broyles presents.

22 THE JUDGE: Do you have an extra copy of yours,
23 Attorney Broyles?

24 MR. BROYLES: Yes, and I sent you a bench copy.

25 THE JUDGE: I know you did.

1 MR. BROYLES: Okay.

2 THE JUDGE: Hey, you saw all the files I was studying
3 on Friday --

4 MR. BROYLES: -- I'm sorry --

5 THE JUDGE: -- I don't know where it got off to --

6 MR. BROYLES: -- I'm sorry, Judge.

7 THE JUDGE: I read it.

8 MR. BROYLES: Ah, I -- I do want to respond.

9 THE JUDGE: Oh, absolutely. But I was -- I was hoping
10 that during your response I could look at your proposed
11 order.

12 MR. BROYLES: Absolutely.

13 THE JUDGE: Unless you attached one to your response in
14 the Court file. It may be right here.

15 MR. BROYLES: I did in that, and I'm also going to hand
16 you up my file copy, which you could execute if you wanted
17 to.

18 THE JUDGE: Thanks.

19 MR. BROYLES: What I would tell the Court, and I know
20 that we're past the three-day-old rule, and if we need to, I
21 will get the tape from when we were here last, and the Court
22 said, I want to enter the simplest order to comply with the
23 Supreme Court --

24 THE JUDGE: -- I remember that part --

25 MR. BROYLES: -- and you -- yes. And that is the

1 order. That's what you said you wanted it to say. That's
2 what it says. Ah, I don't, ah -- I don't disagree with the
3 Washington Supreme Court. I think this kid's, ah -- when he
4 graduates and doesn't go on to college, which is going to
5 happen in the next week or ten days, then he's done because
6 the Supreme Court says, not that it shall end, but for
7 Amanda it shall end at 19, but it shall -- shall not extend
8 beyond what the initiating Court was. So, there isn't any
9 problem. Ah, the rest of that order stays in effect. About
10 two weeks from now, both of those kids will be done.

11 THE JUDGE: In effect, as I gather the disagreement
12 between the forms of the two lawyers, Attorney Stroschein is
13 kind of asking the Court to issue what amounts to an
14 advisory ruling or opinion based on the Supreme Court
15 opinion as to the younger child, so that we can guarantee
16 we're not coming back to court over similar issues in the
17 future. Sounds like, for reasons outside the record, it
18 isn't going to matter anyway, ah, if the youngest one isn't
19 college material or going on to college that will take care
20 of itself, as Attorney Broyles, ah, states.

21 I'm not allergic to the form of your, ah -- I think your
22 -- I think your, ah, legal heart was definitely in the right
23 place, but I'm reticent to sign it because I might be guilty
24 of giving an advisory opinion as to the youngest child that
25 -- on an issue that clearly the Supreme Court's already

1 ruled the -- it's -- it's the law, the case in this file.
2 So, I'm going to, ah -- I'm -- yours is already filed of
3 record. I'm going with Attorney Broyles' form over your
4 objection because it -- it does model what I asked; that we
5 have the simplest order available that complies with the
6 Supreme Court opinion.

7 MR. STROSCHEIN: The -- the only thing I would add then
8 based on Counsel's representation, and I think the Court
9 could probably interlineate this, is to indicate that the,
10 ah -- ah, youngest child's child support would terminate
11 upon graduation because he's not going to be going to
12 college. I think that solves -- I mean, that's his
13 representation. I think that solves all of our issues, Your
14 Honor.

15 MR. BROYLES: That's what the last order says. And if
16 it -- if we were going to petition for it, it had to be done
17 already.

18 THE JUDGE: All right.

19 Will you two look at the "to be presented by" and "not
20 approved as to form", "objection noted of the record" that I
21 put down there, and I need you both to sign --

22 MR. STROSCHEIN: -- I -- I think I did that the last
23 time we had an order --

24 THE JUDGE: -- I need you both --

25 MR. STROSCHEIN: -- in this case, Your Honor.

1 THE JUDGE: I need you both to sign. I'm not ignoring
2 you, I'm just not granting your, ah, last suggestion.

3 MR. STROSCHEIN: I understand, Your Honor.

4 THE JUDGE: With that, folks, got rid of two big tall
5 ones.

6 MR. BROYLES: So, we didn't -- we didn't --

7 MR. STROSCHEIN: -- We need a hearing date, Your Honor.

8 THE JUDGE: Yes.

9 MR. STROSCHEIN: And the question that I had was
10 whether or not, ah, the Court's pleasure would be presenting
11 oral testimony, taking evidence regarding the issues, or
12 just some kind of, ah, paper case --

13 THE JUDGE: -- I am not allergic to a little -- to
14 some, ah, testimony, either telephonic or -- or in person
15 live. Doesn't -- I mean, I think it would appropriate.

16 MR. BROYLES: Define a little. If it's, ah --

17 THE JUDGE: -- Half a day -- up to a half a day.

18 MR. BROYLES: I don't think it's half a days worth. I
19 think this is doable on, ah, affidavits, but set it for half
20 a day.

21 THE JUDGE: Do you want it -- do you want live
22 testimony? Who wants live testimony? It doesn't matter to
23 me.

24 MR. STROSCHEIN: I -- I -- I was thinking that would be
25 appropriate. Ah, we've got -- depositions were just taken,