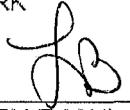


RECEIVED
SUPREME COURT
STATE OF WASHINGTON
Jun 26, 2015, 4:53 pm
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No. 90072-8

SUPREME COURT
OF THE STATE OF WASHINGTON

In re the Custody of:
MASON WADDLE,

GREG MINIUUM and LINDA
MINIUUM,

Petitioners,

and

PATTI SHMILENKO,

Respondent,

JOHN SHMILENKO,

Respondent,

PATTI SHMILENKO,

Respondent,

and

GREG and LINDA MINIUUM,

Petitioners.

MOTION TO STRIKE
UNTIMELY RESPONSE TO
FINANCIAL DECLARATION

Petitioners Greg and Linda Minium move to strike the untimely answer to their financial declaration filed by respondent John Shmilenko on June 24, 2015. The Miniums filed and served

 ORIGINAL

their financial declaration on June 15, 2015. RAP 18.1(c) requires any answer to be “filed and served within 7 days after service of the affidavit.” Mr. Shmilenko filed and served his answer on June 24, 2015, the day before argument and nine days after the Miniums filed and served their financial declaration. Mr. Shmilenko’s declaration is untimely and this Court should strike it.

The Court should also strike Mr. Shmilenko’s answer because it is not responsive to the Miniums’ financial declaration in any way whatsoever. Mr. Shmilenko does not deny that he has the financial ability to pay the Miniums’ attorney fees. Nor does Mr. Shmilenko challenge the Miniums’ description of their income and expenses. Instead, the tone and content of Mr. Shmilenko’s declaration and his claims of animosity between the Miniums and him demonstrate why this Court should reverse and remand with directions for the trial court to dismiss his petition and terminate all further litigation.

The Miniums have not “inflicted” this litigation on Mr. Shmilenko. It was solely *his* completely unnecessary petition for third party custody/*de facto* parentage, in the absence of any change of circumstances, any allegation of harm to M.W., or any

suggestion that the Miniums intended to cut off contact with M.W. that has caused the current litigation.

Further, contrary to Mr. Shmilenko's claims, the Minimums do not need or seek "financial help raising M.W." What they do not have is the financial wherewithal to defend against this completely unnecessary litigation.

The statutory (and constitutional) limitations on giving third parties access to the courts in order to interfere with decision-making by a fit custodian recognize that the very act of involving the courts in family disputes can have a divisive effect. *See Troxel v. Granville*, 530 U.S. 57, 101, 120 S. Ct. 2054, 2079, 147 L. Ed. 2d 49 (2000) (recognizing that litigation in and of itself can constitute state intervention due to the disruption on the family) (Kennedy J., *dissenting*). "The hostility generated by litigation, which leads parties to become angrier as they confront one another in repeated court appearances and forced visitation situations, *intensifies* [the] conflict. Visitation orders coercing interaction extend the conflict over the course of the child's entire childhood." Stephen A. Newman, *Grandparent Visitation Claims: Assessing the Multiple Harms of Litigation to Families and Children*, 13 B.U. Pub. Int. L.J. 21, 27 (2003) (emphasis in original).

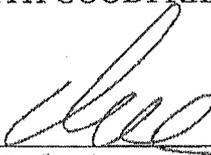
As Mr. Shmilenko's untimely, irrelevant answer to the Miniums' financial declaration demonstrates, allowing any additional litigation on remand in this case will only serve to further poison the dynamics within this family.

This Court should strike the response.

DATED this 26th day of June, 2015.

SMITH GOODFRIEND, P.S.

By:


Catherine W. Smith
WSBA No. 9542
Valerie A. Villacin
WSBA No. 34515

1619 8th Avenue North
Seattle, WA 98109-3007
(206) 624-0974

Attorneys for Petitioners

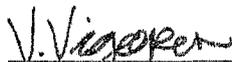
DECLARATION OF SERVICE

The undersigned declares under penalty of perjury, under the laws of the State of Washington, that the following is true and correct:

That on June 26, 2015, I arranged for service of the foregoing Motion to Strike Untimely Response to Financial Declaration, to the court and to the parties to this action as follows:

Office of Clerk Washington Supreme Court Temple of Justice P.O. Box 40929 Olympia, WA 98504-0929	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> E-Mail
Noelle McLean Noelle McLean P.S. P.O. Box 757- 415 S 3rd Avenue Kelso, WA 98626	<input type="checkbox"/> Facsimile <input type="checkbox"/> Messenger <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> E-Mail
Matthew Andersen Barry J. Dahl Walstead Mertsching PS 1700 Hudson St., Fl 3 P.O. Box 1549 Longview, WA 98632-7934	<input type="checkbox"/> Facsimile <input type="checkbox"/> Hand-Deliver <input checked="" type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> E-Mail

DATED at Seattle, Washington this 26th day of June, 2015.



Victoria K. Vigoren

OFFICE RECEPTIONIST, CLERK

To: Victoria Vigoren
Cc: Catherine Smith; Valerie Villacin; 'noelle@noellemclean.com'; 'Dana Walker'; 'dahl@walstead.com'; 'mjandersen@walstead.com'; 'Karen L Murphy'; 'Heidi Thomas'
Subject: RE: In re the Custody of Waddle, Cause No. 90072-8

Received 6/26/2015.

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Subject: In re the Custody of Waddle, Cause No. 90072-8

Attached for filing in pdf format is Petitioners' Statement of Additional Authority and Motion to Strike Untimely Response to Financial Declaration, in the *Custody of Waddle*, Cause No. 90072-8. The attorney filing these documents is Valerie A. Villacin, WSBA No. 34515, email address: valerie@washingtonappeals.com.

Victoria Vigoren
Paralegal
Smith Goodfriend, P.S.
1619 8th Avenue North
Seattle, WA 98109
(206) 624-0974