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COURT OF APPEALS
DIVISION I
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No. 66035-7-I

COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON

In re the de facto parentage of H.M.

GEORGE MORGAN, Petitioner/Appellant,

v.

MARIE MORGAN, Respondent

APPELLANT'S OPENING BRIEF

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ORIGINAL

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**IN THE COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON**

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| <i>In re the DeFacto Parentage of:</i> HUNTER. MORGAN., a minor child, GEORGE MORGAN, Appellant, and MARIE MORGAN, Respondent. | NO. 66035-7-I APPELLANTS OPENING BRIEF |
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I. INTRODUCTION

Petitioner, GEORGE MORGAN, grandfather of Hunter Morgan files appeal of the dismissal of his de facto parentage action by Snohomish County Superior Court Commissioner Arden Bedle on the basis of CR 12(b)(6), which was subsequently affirmed by Snohomish County Superior Court Judge David Kurtz, who cited res judicata as his rationale for denying the Motion for Revision, filed by the Petitioner.

II. ASSIGNMENTS OF ERROR

- A. The Commissioner erred when he entered the following order:

Petitioners here were parties to a third party custody action in 08-3-02143-4 involving child and mother. That action was dismissed at trial. Petitioners have and litigated a statutory claim. They are not as a matter of law, entitled to bring a de facto parenting action. CP 16

- B. The Commissioner erred when he entered the following order:

Corbin v. Reiman, 168 Wn.2d 528 (2010) is directly on point. This petition and all relief denied. CP 16

- C. The Revising Judge erred when it entered the following findings:

While the “de facto parent” theory is somewhat different from “third party custody, they are similar in practical terms here. And this “de facto” theory could conceivably have been raised as an alternate ground at the previous trial, but was not. CP 7

- D. The Revising Judge erred when it entered the following findings:

In any event, it seems apparent that this new cause of action amounts to an attempt to relitigate the custody issue, and to have the child returned to the Petitioner. Parties are generally only allowed “one bite of the apple”. The Petitioner presented his case to Judge Appel, and lost. Principles supporting finality and res judicata do now apply. CP 7

- E. The Revising Judge erred when it failed to address the issue of due process and the Respondent’s failure to follow court procedure when she filed her motion for dismissal/summary judgment.

III. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

- A. The Commissioner erred when he determined that George Morgan was not entitled to any further relief, essentially dismissing the

case, without proper motion and procedural due process under CR 56? (Assignments of Error A & F)

- B. Did the Commissioner err when he dismissed the case under CR 12(b), citing *Corbin v. Reiman (In re M.F.)*, when the child has no named father and the Petitioner is not the child's stepfather? (Assignment of Error B)
- C. Is the Petitioner barred from filing a de facto parentage claim when a third party custody claim was filed and dismissed and the parties are not the same and the claims are not the same? (Assignments of Error A, B, C & D)
- D. Is the common law de facto parent doctrine available to George Morgan when he wishes to continue the parent-child relationship with Hunter Morgan? (Assignment of Error B & C)

IV. STATEMENT OF THE CASE

The Petitioner, George Morgan, is Hunter Morgan's maternal grandfather. CP 14, 69. He has acted as a parent to the child, Hunter Morgan, since birth. CP 14, 69, 137. Hunter has no named legal father and no other person, other than George Morgan, who has acted as a father to Hunter Morgan. CP 14, 69, 137. Hunter's biological mother, Marie Morgan, has relied on George Morgan to help her parent Hunter

and has co-parented Hunter with George since Hunter was born. CP 14, 69, 70.

In 2009, Marie Morgan abandoned Hunter to the care of George and Emma Morgan and she took a bus to New York after she bribed her mother into giving her nearly \$2,000 or she would have Hunter turned over to foster care. CP 14, 70-72, 89. Prior to Marie leaving to New York, there were continuous concerns about the child's well-being and Marie's ability to parent Hunter. CP 14, 70. Emma Morgan found drug paraphernalia in the home that was believed to belong to Marie. CP 14, 70. During the time that Marie was in New York, George and Emma filed a third party custody claim, alleging that Marie is an unfit parent and returning Hunter to her mother would be detrimental to her. CP 14, 137.

A trial was held on the Third Party Custody claim in May of 2010. CP 14, 130, 137. The child's Guardian ad Litem testified that she believed Marie to be an unfit parent and that returning Hunter to her mother would be extremely detrimental. CP 71, 137-138. There was also testimony from the mother regarding Hunter's lack of a legal father and about George's role as a "parent" to Hunter since birth. CP

14, 137. The court, applying the very heightened standard of clear, cogent and convincing evidence, found that although it is in Hunter's best interest to remain with her grandparent's, the Petitioner's had not proven under the applicable legal standard that Marie Morgan was unfit or that it would be detrimental to Hunter's well-being to be returned to her mother, who had joined the Army and now resides in Colorado. CP 71-72, 132-134, 152-154. The Court dismissed the Third Party Custody action and held that the ruling should be effective June 18, 2010, after Hunter completes the school year. CP 130-135, 156 167-168.

After contemplating the testimony at trial and reading the new Supreme Court ruling in *In re MF*, George Morgan properly filed this de facto parentage claim. CP 15, 72, 174-180. George Morgan believes that he is a defacto/psychological parent and it is in the best interest of this child to remain in his custody. CP 176-177. It is George Morgan's position that Marie Morgan gave him permission to raise her daughter and that Hunter has the legal right and it is in her best interest to have a second parent or father named on her behalf. 72, 176-177.

When the case was filed, automatic Temporary Orders were entered, under the Snohomish County Local Court Rules, which prevented the parties from changing the residence of the child and from taking the child outside of the State of Washington. CP 172-173. Despite having been served these Orders, Marie Morgan came to Washington and on June 26, 2010, she tried to forcefully take Hunter from George Morgan. She was charged with Assault IV – DV. CP 72, 96-129. She injured George, Emma and Hunter Morgan during her attempt to carry the child forcefully to a van. CP 105-106, 112-117. George Morgan must have surgery as the result of injuries he sustained and has lost his front tooth. CP 16, 73. Emma and Hunter received contusions all over their body. CP 112-117. The hospital filed a CPS claim against the mother due to the injuries to the child. CP 15.

On July 13, 2010, the Findings of Fact and Conclusions of Law and the Decree were entered in the Third Party Custody case. CP 130, 166. Meanwhile, Marie Morgan was served with criminal orders preventing her from contacting George Morgan or anyone in his household. Emma Morgan also filed a Petitioner for a Civil Protection Order (Snohomish County case number 10-2-00987-4) on behalf of

herself and Hunter, due to the assault that occurred on June 26, 2010. CP 16, 73.

On August 3, 2010, the Respondent filed a Motion to Dismiss the case, citing “res judicata” grounds. She did not file a note for hearing, nor did she timely serve the Petitioner. CP 6, 39-40.

On August 10, 2010, Commissioner Bedle presided over the Protection Order hearing and, without hearing any argument on the merits of the Petition (i.e., the assault), dismissed the protection order, stating it was a “kidnapping” case and the Petitioner’s did not have authority to keep the child under current case law (*In re MF*), therefore no domestic violence occurred. CP 16.

The following day, both George and Marie Morgan appeared on the morning Ex Parte calendar, in front of Commissioner Brudvik, Marie Morgan presented a Writ for return of the child and George presented an Ex Parte Restraining Order preventing Marie from removing the child from the State of Washington and granting George temporary custody pending the hearing scheduled for August 11, 2010. CP 36-38, 39. Commissioner Brudvik ordered that the child shall remain in the State of Washington, but reside with the mother, pending

a hearing re-scheduled to August 12, 2010 special set in front of Commissioner Bedle. CP 37-38.

On August 12, 2010, a hearing regarding the competing motions was heard by Commissioner Bedle. CP 25. The Commissioner summarily dismissed the case by ruling that the Petitioner did not have a “right to bring a de facto parenting claim” and denied the Petition and any relief requested under the motion. CP 23. The Commissioner cited Corbin v. Reiman (In re Parentage of M.F., 168 Wn.2d 528, 228 P.3d 1270 (Wash. 2010)) as his grounds for summarily dismissing the claim, citing CR 12(b). CP 23-25. The Petitioner objected, stating he has not been given an adequate opportunity to timely respond to the 12(b) motion on the merits of the case represented 6 days before the hearing. CP 13.

On August 20, 2010, Petitioner timely filed a Motion for Revision stating that the ruling incorrect. CP 13. The motion was heard on August 31, 2010. CP 5. Judge David Kurtz heard argument from counsel for the Petitioner. CP 5, 9. The Respondent did not appear. CP 5,9.

On September 3, 2010, a written ruling was presented to counsel denying revision. CP 8. The court made the following statement in support of its decision:

While the “de facto parent” theory is somewhat different from “third party custody, they are similar in practical terms here. And this “de
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facto” theory could conceivably have been raised as an alternate ground at the previous trial, but was not. CP 7

In any event, it seems apparent that this new cause of action amounts to an attempt to relitigate the custody issue, and to have the child returned to the Petitioner. Parties are generally only allowed “one bite of the apple”. The Petitioner presented his case to Judge Appel, and lost. Principles supporting finality and res judicata do now apply. CP 7

On September 24, 2010, this appeal was timely filed. CP 1.

V. ARGUMENT

A. THE COMMISSIONER VIOLATED GEORGE MORGAN’S DUE PROCESS RIGHTS UNDER CR 12(B)(6) AND CR 56(C) WHEN HE GRANTED MARIE MORGAN’S REQUEST TO DISMISS THE CASE WITHOUT PROPER NOTICE AND WITHOUT ALLOWING GEORGE MORGAN ADEQUATE TIME TO RESPOND.

The due process clause guarantees that the State will not deprive any person of a protected liberty interest without appropriate procedural safeguards. At a bare minimum, procedural due process “requires notice and an opportunity to be heard.” Soundgarden v. Eikenberry, 123 Wash.2d 750, 768, 871 P.2d 1050 (1994); see also Watson v. Washington Preferred Life Ins. Co., 81 Wash.2d 403, 408, 502 P.2d 1016 (1972); Mitchell v. W.T. Grant Co., 416 U.S. 600, 94 S.Ct. 1895, 40 L.Ed.2d 406 (1974).

Under CR 56 (c) a Court may dismiss a claim but only after the non-moving party has been given 28-days notice and is provided with all the supporting affidavits, memoranda of law or other documentation filed or served. CR 56.

In this matter the mother only gave 6 days notice by handing the Petitioner a motion to dismiss in a hearing held one week prior to the dismissal in front of Commissioner Bedle on August 12, 2010. Under the Civil rules of procedure the Court improperly dismissed the claim because the Petitioner was not given proper notice to respond and therefore the order to dismiss was premature and manifestly unreasonable.

Even if the court were to find this to be a CR 12(b)(6) motion to dismiss for failure to state a claim, the court is supposed to again allow 28 days for notice of the hearing and use all other time restrictions allowed under CR 56 before proceeding to any hearing on dismissal. In this case, the petitioner again only received 6 days notice of the Motion to dismiss and could not have responded timely with any legal memoranda on the de facto parent claim and in fact did not file any memoranda. The court did not have the authority or the discretion

to grant the Respondent's motion without proper notice to the Petitioner under any Court rules and/or statutes available to litigants in the State of Washington. Thereby the Court improperly dismissed this action and it should be reinstated to determine its merits properly.

B. RES JUDICATA DOES NOT PRECLUDE GEORGE MORGAN FROM SEEKING A DEFACTO PARENTAGE CLAIM IN ORDER TO CONTINUE HIS PARENT-LIKE RELATIONSHIP WITH THE CHILD.

For the doctrine of res judicata and/or the companion doctrine of collateral estoppel to arise to bar the re-litigation of a prior action, there must be a "concurrence of identity" with respect to four elements in both actions: (1) subject matter; (2) cause of action; (3) persons and parties; and (4) the quality of the persons for or against whom the claim is made. Loveridge v. Fred Meyer, Inc., supra; Rains v. State, 100 Wn.2d 660, 674 P.2d 165 (1983); Seattle First Nat'l Bank v. Kawachi, 19 Wn.App. 460, 462, 576 P.2d 68, aff'd, 91 Wn.2d 223 (1978); Bordeaux v. Ingersoll Rand Co., supra; Northern Pacific Railroad v. Snohomish County, 101 Wash. 686, 172 Pac. 878 (1918).

In determining whether two causes of action are identical for purposes of applying the doctrines of res judicata and/or collateral estoppel, the court should consider the following: (1) whether the

rights or interests established in the prior judgment would be destroyed or impaired by prosecution of the second action; (2) whether substantially the same evidence is presented in the two actions; (3) whether the two suits involve infringement of the same rights; and (4) whether the two suits arise out of the same transactional nucleus of facts. Hayes v. City of Seattle, 131 Wn.2d 706, 934 P.2d 1179 (1997); Kuhlman v. Thomas, 78 Wn.App. 115, 897 P.2d 365 (1995).

Under factor one, George Morgan is not asking to disestablish Marie Morgan's role as Hunter's mother. He is merely trying to create an additional right for the child, the establishment of that he is a parent to Hunter Morgan. In essence, George Morgan is attempting to right a wrong that has been done to the child, i.e., the care and protection of a second parent. Establishing himself as Hunter's parent does not infringe upon Marie Morgan's rights as her mother. It just memorializes a situation that has been the case for Hunter's entire life, his parent-like presence and relationship that is essential to her well-being.

Under the second factor, the parties in a De Facto parentage claim would not present the same evidence as a third party custody case, since a third party custody cases require that there be evidence of

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the unfitness of the parents or that returning the child to the parents would be detrimental to the child's health and well-being. In a de facto parentage case, there is no need to present evidence of detriment to the child or fitness of the parent because the best interests prevail after a finding that the moving party is a defacto parent. The only evidence required is what pertains to the relationship between the all parties and how it developed.

In a successful third party custody case the court necessarily grants custody of the child to someone other than the parent and often places conditions on the natural parents visitation conditions. The rulings in a third-party custody case do not confer parentage. The only relief allowed is the granting a temporary right the petitioning party. It gives the legal parent an opportunity to cure the problem and possibly regain custody thus removing the legal relationship ordered under the custody action. A de facto parentage case contemplates awarding a permanent, legal status to the petitioning party not necessarily custody.

Factor three of res judicata deals with the rights of parties being infringed upon. Just as in factor one, George Morgan is not requesting any infringement of Marie Morgan's parental rights. He is requesting the right to have a relationship with the child; the same
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relationship that Marie Morgan consented to for nearly all of the child's life. This right of parentage would also give Hunter the right to support, both emotional and financial, from the man that has supported her for her entire life. Hunter is a party to this matter as well and she deserves a father.

Factor four of res judicata is whether the two suits arise out of the same transactional nucleus of facts. Again, as in factor two, the two causes of action do not require the same evidence. It is not necessary to present evidence of unfitness or detriment to the child in a de facto parentage case. It does not affect the same rights. A de facto parentage case is about the relationship with the child, not whether or not the parent is suitable. A de facto parentage case requires an inquiry into whether the natural or legal parent consented to and fostered the parent-like relationship, the petitioner and the child lived together in the same household, the petitioner assumed obligations of parenthood without expectation of financial compensation, and the petitioner has been in a parental role for a length of time sufficient to have established with the child a bonded, dependent relationship, parental in nature. See In re Parentage of L.B., 121 Wn. App. at 487. None of these are factors in a third party custody claim.

This case should not be barred on grounds of res judicata. It is a completely different claim. The parties are not the same. Emma Morgan could not have been a party to this suit. It requires different evidence than the third party custody case would not have necessarily brought to light. The two causes of action also contain two different standards of law. The third party custody case requires a showing of clear cogent and convincing evidence of detriment to the child or unfitness of the parent, while a de facto parentage cases requires the court to weigh the best interests of the child only after the party has been established as a de facto parent.

Furthermore, In re M.F. was published in April of 2010, just before the third-custody trial. The parties were not aware when they were preparing for trial that the Court would narrow and clarify the doctrine for de facto parentage. Only after the Court clarified that a de facto claim could not stand when a child has two fit parents did it appear clear that Hunter, who has no father at all, could be awarded a father through a de facto parentage claim.

C. GEORGE MORGAN IS ENTITLED TO A FINDING OF STATUS OF DE FACTO PARENT DUE TO HIS LONG TERM PARENT-LIKE RELATIONSHIP WITH HUNTER MORGAN

The Appellant seeks reversal of the Commissioner's ruling determining temporary orders for a de facto parent claim because Commissioner Bedle determined, without authority to do so, that there were no merits of the case and determined that the Petitioner cannot prevail against Marie Morgan because he had statutory relief available to him.

Washington courts have long recognized that individuals not biologically nor legally related to the children whom they 'parent' may nevertheless be considered a child's 'psychological parent.' In re Parentage of L.B., 155 Wn.2d 679, 122 P.3d 161 (Wash. 2005) See, e.g., In re Welfare of Aschauer, 93 Wn.2d 689, 697 n.5, 611 P.2d 1245 (1980); see also In re Custody of Dombrowski, 41 Wn. App. 753, 756-57, 705 P.2d 1218 (1985) (describing apparent father, whose presumption of paternity was rebutted by blood test, as, nevertheless, 'the only father {the child} has ever known').

Reason and common sense support recognizing the existence of de facto parents and according them the rights and responsibilities which attach to parents in this state. In re Parentage of L.B., 155 Wn.2d 679, 707. We adapt our common law today to fill the interstices that our current legislative enactment fails to cover in a

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manner consistent with our laws and stated legislative policy. As Justice O'Connor noted, 'the demographic changes of the past century make it difficult to speak of an average American family,' Troxel, 530 U.S. at 63 (plurality opinion). In re Parentage of L.B., 155 Wn.2d 679, 707. In this case the facts are different and obviously not contemplated by the legislature that there isn't any statutory relief for the parent in this matter, George Morgan

To establish standing as a de facto parent, the Petitioner must establish: (1) the natural or legal parent consented to and fostered the parent-like relationship, (2) the petitioner and the child lived together in the same household, (3) the petitioner assumed obligations of parenthood without expectation of financial compensation, and (4) the petitioner has been in a parental role for a length of time sufficient to have established with the child a bonded, dependent relationship, parental in nature. In re Parentage of L.B., 155 Wn.2d 679, 708.

In addition, recognition of a de facto parent is 'limited to those adults who have fully and completely undertaken a permanent, unequivocal, committed, and responsible parental role in the child's life.' C.E.W., 845 A.2d at 1152.

In In re L.B., the Supreme Court set out the standards necessary for a court to invoke common law principles. The common law must be “consistent with Washington statutory law, [and only then can a] Washington court adopt and reform the common law. In re Parentage of L.B. 155 Wn.2d 679, 688-689. In order to use common law a court can only implement common law under RCW 4.04.010 if there:

“in the absence of governing statutory provisions, the courts will endeavor to administer justice according to the promptings of reason and common sense, which are the cardinal principles of the common law.”

RCW 4.04.010; In re the Parentage of L.B., 155 Wn.2d at 688-689 citing Bernot v. Morrison, 81 Wash. 538, 544, 143 P. 104 (1914) (citing Sayward v. Carlson, 1 Wash. 29, 23 P. 830 (1890)). Absent a controlling statute, this court addressed a dispute of a minor's custody based on the "paramount and controlling consideration [of] the welfare of the child." In re the Parentage of L.B. 155 Wn.2d at 698. Washington courts have also construed this statute to permit the adaptation of the common law to address gaps in existing statutory enactments, providing that the common law may serve to 'fill interstices that legislative enactments do not cover.' In re Parentage of L.B., 155 Wn.2d 689 citing Dep't of Soc. & Health Servs. v. State

Pers. Bd., 61 Wn. App. 778, 783-84, 812 P.2d 500 (1991) (citing RCW 4.04.010), cited with approval in Clark County Pub. Util. Dist. No. 1 v. Int'l Bhd. of Elec. Workers, 150 Wn.2d 237, 245, 76 P.3d 248 (2003).

In this case, George Morgan is not seeking the same relief that he asserted in the Third Party Claim. He is seeking to be named the legal parent of Hunter Morgan. He is, in essence, asking the court to legalize the role he has played in Hunter Morgan's life as her parent. Hunter Morgan has NO named legal father. She is essentially bastardized. George Morgan is requesting that the Court grant him all the rights and responsibilities that a legal parent would have and grant Hunter Morgan the same protections, parenting and relationships she would have been afforded had her mother provided her with a legal father.

In this case, there is not statute available for George Morgan to be named the legal parent of Hunter, other than through this common law defacto parentage claim.

The facts of this case are distinguishable from the de facto parentage case that the Commissioner cited in his ruling. In re M.F., which Commissioner Bedle relied heavily is especially distinguishable in this case, as it had to do with a stepfather asserting a defacto claim against the parents of a stepchild that had two fit

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parents. The Court reasoned that the stepfather had other statutory remedies to seek visitation with the child. In this case, there is no other statutory remedy for George Morgan to establish that he is essentially Hunter “father” and get regular visitation with Hunter. In addition, George wishes to provide Hunter with a traditional two-parent, checks and balance system that would help serve and protect her as she grows into adulthood. The Court in In re M.F., voiced its desire to provide this traditional system to a child, stating “To fill this statutory gap, we created a common law method to establish parentage where, had the respondent been able to participate in *traditional family formation*, parentage would have or could have been established by statutory means. But here, the petitioner is a third-party to the two already existing parents” Hunter does not have ‘two already existing parents’.

This case is very similar to In re Parentage of L.B., 155 Wn.2d 679, where there were two lesbian women in a long-term relationship to which a child was born into that relationship through artificial insemination with a male friend. The couple held the child out for over six years as the child to both women. The Court used common law principles because the “moving mother” had no statutory remedy

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as a parent therefore they were entitled to a Common law action for De Facto status. The argument that In re L.B allows for the De Facto claim is analogous to this case because the parties in In re L.B. did not have any remedy with regard to the non-birth mother. The Court concluded that common law “can only fill the interstices that our current legislative enactment fails to cover in a manner consistent with our laws and stated legislative policy.” In re Parentage of L.B., 155 Wn.2d 679, 707.

It is clear that with the issues that have occurred with her mother, that a second parent is necessary to serve the best interest of the child. The denial of the case will result in Hunter being fatherless, when she has had the benefit of a father-like figure her entire life. Families are changing and the idea of a grandfather taking on the roll of father is not new, but the idea that George Morgan would like to memorialize that roll and be willing to accept all of the responsibilities and obligation that would entail is a novel one. If this case is not allowed to go forward, she will be robbed of that opportunity.

VI. CONCLUSION

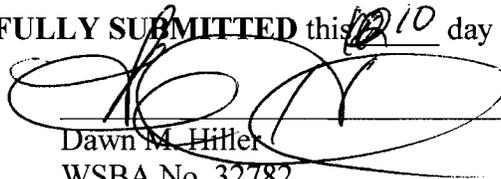
On the basis of the foregoing, George Morgan’s appeal of the rulings made by the Commissioner and the Revising Judge should be granted. First,

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the Commissioner did not have the authority to hear the case due to violations of the court rules and due process. Second, even if the Commissioner had the authority to dismiss the case, his rationale was improper as he ruled on the merits of the case without having all of the evidence in front of him. The case should not be barred on grounds of res judicata because it does not contain the same cause of action, with all of the same parties, would not require the same evidence and the same standard of law would not be applied. George Morgan is asking for completely different relief in the de facto claim and asking the Court to name him as a parent, which would provide Hunter with additional safeguards, security and support that she clearly need and is entitled to.

Finally, under Washington case law, George Morgan has no other statutory claim that could confer the relief he is seeking. He should be allowed to go forward. Fundamental to a court's exercise of its equitable powers is the "paramount and controlling consideration of the welfare of the child" and it is clear that Hunter Morgan's welfare would benefit from the continuing existence of George Morgan in her life.

RESPECTFULLY SUBMITTED this 12th day of February 2011.



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SEATTLE, WA

**IN THE COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON**

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|---|--|
| <i>In re the Parentage of:</i> HUNTER MORGAN a minor child, GEORGE MORGAN, Appellant, and MARIE MARGAN, Respondent Mother, | NO. 64124-7 I DECLARATION OF SERVICE |
|---|--|

DAWN M. HILLER, hereby declares as follows:

1. I am the Respondent counsel named herein above and make this Declaration pursuant to *RAP 5.4(b)*. I am an attorney licensed to practice law in the State of Washington. I represent GEORGE MORGAN. I have personal and testimonial knowledge of the facts set forth below and I am competent to be a witness herein.

2. On February 10, 2011, I filed the original on the Clerk of the Court, the Appellant's Opening Brief by leaving the same at 600 University Street, Seattle, as is evidenced by the "Copy Received" stamp affixed on the

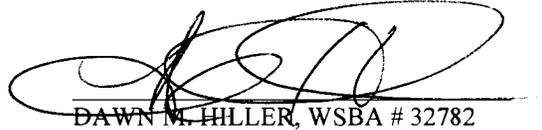
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face of Appellant's Opening Brief, true and correct copies of which are attached hereto as *Exhibit "A"*.

3. On February 10, 2011, I served a copy of Appellant's Opening Brief on MARIE MORGAN, by mailing a true and correct copy to the last known address of 152nd Movement Control Team, Fort Carson, CO 80916.

5. I declare, under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.

DATED this 10th day of February, 2011 at Lynnwood, Washington.


DAWN M. HILLER, WSBA # 32782