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NO. 66833-1-1

COURT OF APPEALS, DIVISION 1  
OF THE STATE OF WASHINGTON

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WILLARD GIBSON

APPELLANT

v.

MARIE-CLAIRE PAGH

RESPONDENT

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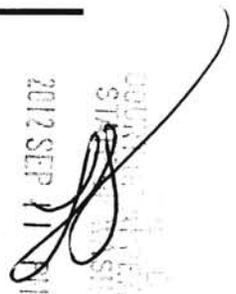
**APPELLANT'S REPLY BRIEF ON APPEAL**

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Laura Christensen Colberg, WSBA #26434  
Attorney for Appellant

**MICHAEL W. BUGNI & ASSOCIATES, PLLC**  
11300 Roosevelt Way NE, Suite 300  
Seattle, WA 98125  
Telephone: (206) 365-5500

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COURT OF APPEALS DIVISION 1  
STATION



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**I. Introduction:**

The Mother's Response brief gives the court no legal or discretionary basis to deny the Father's relief. Resting on Nevada's relinquishment without recognizing the role Judge Doerty played in that decision does not suffice. The actions of the Washington court must strictly comply with the UCCJEA and in this matter they did not. Notice requirements and recording requirements were not met. Justice was not served. The Orders should be vacated for the reasons set forth in the opening briefs and fees and terms awarded to the Father.

**II. Restatement of Facts:**

Marie-Claire alleged no harm against the child is alleged in her Petition for DVPO. CP 1-10. The Mother left the child with the Father for extended periods of time in the days leading up to her decision to keep the child from the Father. CP 210, 213, 215. Not until after Judge Doerty commented that facts as alleged by the Mother as to the child were "extremely scant" (RP 22, 3/11/2010) did the Mother subsequently create new assertions and submissions. (See, for

example, 3/15/2010 Declaration of Mother in NV action, CP 1026-1028.)

Will submitted proof that Marie-Claire was a resident of Nevada at the time of filing—a copy of the lease that did not expire until the end of February 2010. CP 1118. (Mother asserts the expiration was “almost immediately after” she filed—1/14/2010. *Brief of Resp.*, pg 30 She testified in the NV proceeding on 1/28/2010 that it expired at the end of February. CP 1015) The parties had round-trip tickets, set to return to Nevada after the holidays—further evidence of Nevada residence for purposes of jurisdiction (Mother cancelled hers). CP 215. CP 1047. It was a holiday visit. CP 1045, 1047, 1055. A “vacation.” CP 1045. (contrary to Mother’s assertion that she had “no intention to return,” *Brief of Respondent*, pg 3). The Mother asked a friend to remove “all of her and Britton’s belongings” from the Henderson, NV, home (they were not brought with the family for the holiday visit). CP 998.

The Mother was not employed in Washington until 11 days after she filed (January 14, 2010, CP 1), January 25, 2010. CP 933.

After seeing his son the last time, the Father attempted to

reestablish contact but was refused by the Mother—she perceived those efforts as “threats” (he said he would involve authorities like CPS if needed). CP 129. CP 932. CP 1053.

The Mother return to Nevada just 51 days after the decision was issued (4/15/2011, CP 749-771 to 4/7/2011, CP 933), not “several months” (*Brief of Respondent, pg 25*). The Mother did not testify at trial in January 2011 (not January 2010, *Resp. Brief, pg 31*) about her engagement to a Nevada resident and plans to relocate there. This came one year after filing the Petition (not one-and-a-half years).

Procedurally, Will was served with the WA action in NV on 1/29/2010. CP 865-866. His response was due 60 days later. **RCW 4.28.180**<sup>1</sup>. The UCCJEA communication with NV began on 3/12/2010. CP 987. His Response was filed 3/29/2010. CP 142-144.

Judge Doerty asserted that jurisdiction (in WA) “has been established” on March 11, 2010, *before* any UCCJEA conference with NV took place. RP 21 (3/11/2010). (No basis for finding of emergency.

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<sup>1</sup> **Personal service out-of-state.**

Personal service of summons or other process may be made upon any party outside the state. . . . The summons upon the party out of the state shall contain the same and be served in like manner as personal summons within the state, except it shall require the party to appear and answer within **sixty days** after such personal service out of the state.

He notes facts are “unrebutted” because of no responsive Declaration from Father—i.e., by default. Id. Not “temporary.” No expiration date. Seven days later, 3/18/2010, after the first UCCJEA contact on 3/12/2010, Nevada confirms that Nevada is the child’s home state. CP 990-993.) This was 41 days after out-of-state service. The Father’s Response was not due for 60 days, or 3/30/2010. **RCW 4.28.180.** Judge Doerty relied on the fact that “the Father did not rebut” the Mother’s submissions. RP 21 (3/11/2010).

The Washington Order on 3/12/2010 assigned both cases to Judge Doerty. CP 141. This Order did *not* consolidate the cases, as stated by the Mother, *Brief of Respondent*, pg 5. The Order on June 1, 2010, consolidated the cases. CP 189.

Contrary to the Mother’s assertion that he was “continuously” represented (*Brief of Respondent*, pg 8, 9), Will was without counsel in the Washington actions between 4/27/2010 and 5/17/2010 [Docket 18, 19] and from 10/28/2010 to 12/2/2010. CP [Docket 48, 55]

There is no appearance by the Father without objecting to Washington’s jurisdiction. CP 142-144, CP 58, 77

There is nothing in the trial record supporting the following

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assertions in the Mother's Response brief on appeal:

- That she grew up in Washington state. *Resp. Brief, pg* (First asserted in CR 60 Motion, CP 931.)
- The date, location or circumstances of child's conception. *Resp. Brief, pg* ("In Washington" asserted for the first time in CR 60 Motion, CP 931.)
- Financial dependence on the Father's mother. *Resp. Brief, pg* 3 (NV pleadings provided for CR 60 motion—CP 1015.)
- Any relationship or interaction between the child and the Mother's siblings. *Resp. Brief, pg* 3. But, see CP 211 (none of Mother's family members came to see child in NV).
- Proximity of Mother's Edmonds address (claimed residence) to King County. *Resp. Brief, pg* 3.
- Father's consent to jurisdiction. CP 142-144, CP 58, 77 (He did not appear at any WA court proceeding.) *Resp. Brief, pg* 27.
- That Judge Doerty received any briefing on jurisdictional issues before either conference with Nevada (3/12/2010, 4/7/2010). *Resp. Brief, pg* 26-27.
- Record of paternity affidavit on file in Washington record.

(The Father does not dispute paternity, but it is not correct to find that any such record was filed in Washington.) *Resp. Brief*, pg 28.

### **III. LEGAL ARGUMENT**

#### **3.1 Washington record is silent on process leading up to jurisdictional decision being made and factual basis for same.**

The crux of the Mother's position and argument justifying Washington's assertion of jurisdiction is that "Nevada declined jurisdiction." The Father is not disputing this fact. His appeal is based on the Washington record and the propriety of what happened before, during and after that determination was made by Nevada on 4/7/2010, as well as the initial determination of jurisdiction made by Washington in the Ex Parte hearing on 1/14/2010 and 3/11/2010, before Nevada affirmed Nevada as the child's home state.

The Mother argues as if the Washington court had nothing to do with Nevada's decision, as if Nevada made that determination in a vacuum. See, for example, *Brief of Respondent*, pg 34. That's about

all that can be discerned from the Washington court record in this regard, because there is no record of the UCCJEA conference(s) that took place. Judge Doerty, without having any briefing before him—either from Washington counsel or from Nevada counsel—apparently participated in a conversation (or two) with the Nevada court despite the fact that he was missing this information. The first conference (3/12/10) took place before the time period had passed for the Father to file a Response in Washington State (due 3/30/10). Father’s Washington counsel wasn’t notified of the UCCJEA conference—he asked for one after the fact!

Even if the Nevada judge felt he or she was fully briefed, there is no record of what was discussed between the judges, nor the extent of Judge Doerty’s knowledge or understanding of the issues or facts in dispute. Yet he contributed to that determination. The Nevada court did not act without input from Judge Doerty, and his involvement was premature, at best, without anything before him (if it was) other than the Mother’s incomplete and misleading (if not outright false) assertions regarding jurisdiction. What we know about what happened in Nevada was not known or available to Judge Doerty—

there is no record whatsoever in the Washington action except what was supplemented by the Mother's counsel in responding to the Father's CR 60 Motion before Judge Fleck—*after* the trial decisions were made.

The statutes cited—the UCCJEA as adopted by both Washington and Nevada—clearly set forth an open, reviewable process which was not followed. There is no record to support on what factual bases the court(s) found Nevada to be an inconvenient forum or what other considerations went into the decision to decline jurisdiction. Because Judge Doerty was a participant, he, too, on behalf of the justice system in Washington, was responsible for making sure the required record was made. It wasn't.

**3.2 A UCCJEA conference that occurs without both judges being fully informed and briefed from both sides should not be considered valid.**

The Mother wants the court to defer to Nevada and rely on that judge's decision-making, claiming that the Father had counsel in Nevada who fully briefed the Nevada judge. That may be the case, but it does not eliminate the problem from the Washington side of the UCCJEA conference—Judge Doerty had no briefing from Washington

counsel for either party, nor access to the briefing submitted in Nevada. He didn't even have the Father's Response (which was not yet due). It is reasonable to assume that if counsel is to be given notice of an upcoming UCCJEA conference, that with that notice comes the opportunity to present information to be considered. The Father's Washington counsel was given no such notice or opportunity to present information analyzing the issues based on Washington law. The parties' counsel in Nevada had no obligation nor authority to submit pleadings in Washington (there is no evidence in the record, nor assertion that either NV counsel were licensed to practice in WA). That left Judge Doerty to either rely on the one-sided pleadings in the Washington file—from the Mother only—or some kind of second-hand summary from the Nevada judge of what that judge had been briefed on—but without a record, there is no way to determine what was discussed, assumed, relied upon or otherwise behind the decision for Nevada to decline jurisdiction. For all we know, Judge Doerty may have simply said, "I'll take this one off your hands if you like" or simply relied on the child's presence in this state, which is not sufficient under RCW 26.27.201(1)(b)(i).

### **3.3 Strict compliance with UCCJEA is not an option.**

The Response brief cited *Ruff v Knickerbocker*<sup>2</sup> a case that was decided on May 8, 2012, two weeks before the Father's opening brief was submitted (5/22/12). This decision out of Division Three finds that the court has no discretion whatsoever in following the procedural requirements in RCW 26.27—even in a situation where *both* parties sought jurisdiction in Washington and *stipulated* to a dismissal by Montana, the court where a temporary residential order had been made years before. Without subject matter jurisdiction, the orders entered in Washington were void. And subject matter jurisdiction was not up to the parties' consent nor waiver—citing *Wampler*,<sup>3</sup> the case cited in the Father's opening brief, which the Mother in her Response says does not apply to UCCJEA cases—*Brief of Respondent, pg 30*, but rather to a dissolution (thus the Mother's analysis is rebutted by the authority she cites). Nor were the parties required to first appeal in Montana the order that relinquished jurisdiction to Washington (the conclusion the Mother here proposes).

### **3.4 Subject matter cannot be acquired by consent.** The

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<sup>2</sup> 168 Wash. App. 109, 275 P.3d 1175 (2012)

<sup>3</sup> 25 Wash.2d 258, 267, 170 P.2d 316 (1946), cited at 168 Wash. App., 116.

Mother asserts that the Father appeared and/or consented to jurisdiction. (She acknowledges elsewhere in her brief that he never appeared at any Washington court proceeding. *Brief of Respondent*, page .) He did neither and there is no evidence to support these findings.

### **3.5 Proposed Orders do not constitute evidence.**

The Mother relies entirely on drafted proposed final orders submitted by Father’s counsel for the assertion that the Father “consented” to jurisdiction (*Brief of Respondent*, pg 10)—but this is not “evidence” any more than something stated in a brief is “evidence.” Assertions by counsel are not evidence. ***Bravo v. Dolsen Cos.***,<sup>4</sup> (unsworn allegation of fact in appellate brief falls outside materials that court can consider),. Legal memoranda and the arguments of counsel are not admissible in evidence. See, e.g., ***Strandberg v. Northern Pac. Ry Co.***,<sup>5</sup> (argument of counsel is not evidence); ***Jones v. Hogan***,<sup>6</sup> (same); ***Watts v. U.S.***,<sup>7</sup> (“Legal memorandum and argument are not evidence and cannot, by

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<sup>4</sup> 71 Wn.App. 769, 777, 862 P.2d 623 (1993)

<sup>5</sup> 59 Wn.2d 259, 265, 367 P.2d 137 (1961) *reversed on other grounds*, 125 Wn.2d 745,888 P.2d 147 (1995)

<sup>6</sup> 56 Wn.2d 23,31,351 P.2d 153 (1960)

themselves, create a factual dispute sufficient to defeat summary judgment where no dispute otherwise exists."'). Opening statements are not evidence. **State v. Howard**.<sup>8</sup> An attorney's brief is not a testimonial document. See **Meadows v. Grant's Auto Brokers, Inc.**<sup>9</sup>. The Mother cites no authority for her assertion/reliance to the contrary.

The record shows the Father opposed jurisdiction from the start and continued to oppose it. Furthermore, subject matter jurisdiction cannot be obtained by consent—as set forth in the Father's opening brief and above in **Ruff**. Even if he had consented, the court in Washington had no grounds to find that the child's home state was here or that any other basis for jurisdiction existed—until Nevada declined, the process for which did not comply with the UCCJEA, as set forth above. So this argument, too, circles back.

### **3.6 Jurisdiction "established" for Washington purposes based on information presented in Ex Parte by the Mother.**

This is all the Judge Doerty had to inform him going in to the UCCJEA conference(s). Even before that conference, on 3/11/2010, he

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<sup>7</sup> 703 F.2d 346, 353 (9th Cir. 1983)

<sup>8</sup> 52 Wn. App. 12,24, 756 P.2d 1324 (1988)

<sup>9</sup> 71 Wn.2d 874, 880, 431 P.2d 216 (1967)

stated, summarily, that “jurisdiction has been established . . .” in Washington. He did not rely upon Nevada’s decision to decline jurisdiction in favor of Washington in allowing the case to go forward in Washington. No, he relied on the incomplete, misleading and inaccurate information in the Mother’s initial submissions (because there was nothing else before him), before the Father’s Response was even due. (The Mother’s word—“tricked”—would apply to what she filed in Washington, the only basis for this initial determination, but establishing a framework in Judge Doerty’s mind to inform subsequent UCCJEA discussions.) He said nothing about Nevada being the home state, nor did he mention the convenience of either forum. He didn’t wait for Nevada to decline. These determinations, coming before there was any communication from or with Nevada courts, could not have rested or relied upon what Nevada did or did not do—but only on what the Mother had said. A week later, on 3/18/2010, Nevada asserted (properly) that it has jurisdiction as the home state (“habitual residence”) of the child. Washington should have dismissed at that point.

### **3.7 No basis for “emergency” jurisdiction.**

The Mother assumed physical control over the child on January 4, 2010, when the Father had left the State of Washington for Nevada. Although it was intended to be a short trip, and the Father did return promptly as planned, the Mother did not seek immediate relief. She simply withheld the child from the Father. The Father returned to Nevada to commence legal proceedings there—the child’s home state. The Mother filed in Washington, requesting a DVPO (under a 2005 cause number), but listing no harm to the child. There was no emergency basis for jurisdiction over the child (the basis Judge Doerty referenced on 3/11/2010), who had been in Washington a few weeks before filing. A court lacking jurisdiction of any matter may do nothing other than enter an order of dismissal. **RCW 26.27.231(1)** allows Washington to assert jurisdiction if the child is present here and if it is necessary to protect the child because the child is subjected to or threatened with abuse. That wasn’t the case, even in the Mother’s own words.

The **Ruff** court offered this analysis: Where “abuse” and “emergency” are not defined, the court assigns those words their normal use/meaning. In applying the UCCJA, predecessor to the

UCCJEA, the court in *Greenlaw*<sup>10</sup> held “that assumption of emergency jurisdiction under the UCCJA is to be undertaken only in extraordinary circumstances; such as where a child would be placed in imminent danger if jurisdiction were not exercised.”<sup>11</sup> Within days, before service, before the return hearing, the child’s home state of Nevada had asserted jurisdiction over the child. The Father had returned to Nevada. The Father was not in the Mother’s vicinity. There was no emergency or imminent danger to the child. Nor is there basis upon which to find “abuse.” The Mother waited nine days from the Father’s departure to initiate legal action. That’s not what someone in imminent danger does. The Mother conceded that she sought the DVPO because “he was threatening me with having the marshal come and pick Britton up and having CPS, and I needed Britton to be safe.” CP 1053. There is nothing in the record to suggest emergency when “emergency jurisdiction” was found by Judge Doerty on 3/11/2010. (And the Ex Parte Order on 1/14/2010 was based on the incomplete information the Mother submitted with her Petition—no recitation of residential history.)

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<sup>10</sup> 67 Wash. App. 755, 762, 840 P.2d 223 (1992), *rev’d on other grounds*, 123 Wash.2d 593, 869 P.2d 1024 (1994), cited in 168 Wash. App. 109, 120.

The same was alleged in *Ruff* and rejected as a basis upon which to find an “emergency” (the mother’s request for the Washington court to exercise emergency jurisdiction was “so child’s residence remains stable pending the hearing” . . . the mother was afraid that the father would take the child without permission and had tried to take the child from the daycare; the court said, “Of course, the conduct and circumstances are troubling. But we cannot conclude that they amount to “abuse.”). There is no difference in the Mother’s motive in the case at hand.

(Similarly, under the Parental Kidnapping Prevention Act, the PKPA, **28 U.S. §1738A**, the only basis for Washington to have asserted jurisdiction was to show “mistreatment” or “abuse.” **§1738A(c)(2)(C)**.<sup>12</sup> All other requirements point to Nevada.)

If jurisdiction is based on emergency, it is temporary only, and must state the duration/period that would allow the proper court to

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<sup>11</sup> 67 Wash. App. At 762, 840 P.2d 223.

<sup>12</sup> (C) the child is physically present in such State and (i) the child has been abandoned, or (ii) it is necessary in an emergency to protect the child because the child, a sibling, or parent of the child has been subjected to or threatened with mistreatment or abuse;

enter an order. **RCW 26.27.231(3)**.<sup>13</sup> Washington did not defer to Nevada (the child's home state), because the Mother did not disclose that information. The court 3/11/2010 did not state a limit (expiration date) to its assertion of temporary emergency jurisdiction—the only available basis for same. Washington thus did not have jurisdiction consistent with the UCCJEA. Its only option was to dismiss (which it did not do) or set a time period by which to obtain an order in the child's home state (it did not do this either).

The Mother's recitation of *charges* or *allegations* against the Father does not mean he committed those offenses. His criminal history involves an *Alford* plea, for which he satisfied the probationary requirements. CP 198, 200. The Mother does not deny taking steps to remove at least one of the DVPOs she sought against the Father, which further undermines the weight to be given her testimony. CP 71-76

### **3.8 Strict compliance requirement invalidates final orders**

The cases cited and the outcome in *Ruff* dictate a different result

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<sup>13</sup> . . . any order issued by a court of this state under this section must specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under RCW 26.27.201 through 26.27.221. The order issued in this state remains in effect until an order is obtained from the other state within the period specified or the period expires.

here. Where the UCCJEA has not been strictly complied with, the Washington appellate court has vacated even final orders, even where another state (i.e., Montana) has declined jurisdiction on the basis of inconvenient forum—and even where the parties mutually sought to change jurisdiction to Washington. Even under those facts, the **Ruff** court held that the UCCJEA’s procedures are mandatory and must be followed.<sup>14</sup> It affirmed that review is not a matter of abuse of discretion—but that the uniform body of rules that is the UCCJEA must be followed “as is,” or be fixed by the legislature. **Id.**

The UCCJEA requires that conferences between courts be recorded. Incredibly, Respondent asserts: “There is no requirement in either statute that the communication be recorded or transcribed.”

*Brief of Respondent, pg 27.* This is the exact opposite of what **RCW**

**26.27.101** says:

(4) Except as otherwise provided in subsection (3) of this section, a record must be made of a communication under this section. The parties must be informed promptly of the communication and granted access to the record.

(5) For the purposes of this section, "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

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<sup>14</sup> 168 Wash. App. 109, at 124.

This language could not be clearer—yes, indeed, a recording that can be transcribed and “perceived” is what is intended, and required. Not just the outcome or the decision, but the communication itself (thus the basis for the outcome/decision) must be accessible to the parties. There is no other way to comply with this provision but to record the communication in some fashion (i.e., electronically if not by a “live” court reporter) that can be later transcribed so the parties can review it and understand it and/or seek further review of that outcome/determination.

If the facts and circumstances in *Ruff* did not meet the statutory requirements of strict compliance and orders were vacated as a result (even when both parties sought relief in the same jurisdiction), it would be entirely inconsistent for this failure to follow the RCW to pass muster and allow any Washington orders to stand.

**3.9 Judge Doerty was not the assigned judge for custody matters until the UCCJEA process commenced from Nevada.**

The custody action in Washington was assigned to Judge Fox. Yet Judge Doerty was the one to engage in the UCCJEA contact that occurred on March 12, 2010, the same day that he signed an Order

assigning both cases to himself (this was *not* an Order consolidating the cases—that did not happen until June 2010). Here is a visual outline to aid the court in aligning the actions in both jurisdictions:

DATE	WASHINGTON	NEVADA
1/14/2010	DVPO Petition filed by Mother under 05 cause number <b>CP 1-22</b>	
1/19/2010		Father files custody action in NV <b>CP 823</b>
1/20/2010		Father's motion to establish jurisdiction in NV <b>CP 995-1009</b>
1/26/2010	Mother files custody action in WA; Judge Fox is assigned case <b>CP 112-123</b>	
1/28/2010		Mother signs Declaration in NV action <b>CP 1010-1016</b>
1/29/2010	Mother's WA actions served on Father in NV <b>CP 865-866</b>	First hearing in NV on custody action
2/8/2010		Mother files opposition in NV, asks NV to relinquish <b>CP 1018</b>
3/11/2010	DVPO Hearing/Doerty: "I think jurisdiction has been established" ("emergency"—but no expiration date) <b>RP 21 3/11/2010</b>	
3/12/2010	Order assigning both DVPO and custody cases to Judge Doerty (NOT consolidated) <b>CP 141</b>	UCCJEA confc in minute entry: "Nevada will assume jurisdiction" <b>CP 987</b>
3/15/2010		Date of Declaration by Mother <b>CP 1026-1028</b>
3/18/2010	[no record/docket in WA]	Hearing: "Jurisdiction remains in NV at this time" <b>CP 990-993</b>
3/25/2010		Mother asks NV again to relinquish jurisdiction <b>CP 1018-1022</b>
3/29/2010	Father's Response to Petition	

	filed CP 142-144.	
3/31/2010	Father's WA counsel requests UCCJEA hearing CP 147-151	
4/1/2010		Order in NV from 3/18/10 hearing CP 990-993
4/6/2010		Briefing filed to oppose Mother's request that NV relinquish jurisdiction
4/7/2010	[no record/docket in WA]	Minute entry re declining jurisdiction based on inconvenient forum (without prejudice) CP 1031
4/9/2010	Date for which hearing on UCCJEA request was noted [didn't happen] CP 145	
6/1/2010	Date DVPO and custody matter were consolidated CP 190-191	

**3.10 Mother does not dispute that the 99-year DVPO was contrary to law.**

Having offered no opposition to the error claimed by the Father, the DVPO should be vacated as invalid when entered.

**3.11 Attorney fees should be awarded to the Father.**

The *Ruff* court also addressed the issue of attorney's fees:

While there is no Washington case law directly addressing the award of fees in this context (jurisdiction), a Virginia court, in *Tyszcenko v Donatelli*,<sup>15</sup> concluded that when the issue is only jurisdiction, fees are proper when the party seeking to invoke jurisdiction has engaged in "unjustifiable conduct."<sup>16</sup>

<sup>15</sup>53 Va. App. 209, 215-21, 670 S.E. 2d 49 (2008)

<sup>16</sup> 168 Wash. App. 109, 122.

This court should find that the Mother, in seeking to invoke jurisdiction in Washington, engaged in “unjustifiable conduct.” The Mother’s actions—withholding the child from the Father, incompletely and inaccurately representing her situation and residence to the court, failing to disclose the child’s historical residence in Nevada, acting nine days after the Father had left the state—were unjustifiable given her residency in Nevada and access to courts there, the Father should be awarded all attorney’s fees in this matter, from commencement in Washington through conclusion of appeal.

Fees to the Father are also authorized under RCW 4.28.185(5).<sup>17</sup>

**3.12 Mother’s request for fees was not briefed, so must be denied.**

The Mother dedicated no portion of her brief to analysis of her cursory request for fees (one-line request in conclusion paragraph). RAP 18.1(b) requires more than a bald request for attorney’s fees on appeal. ***Bay v Jensen***.<sup>18</sup> Mother’s request for fees should be denied.

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<sup>17</sup> (5) In the event the defendant is personally served outside the state on causes of action enumerated in this section, and prevails in the action, there may be taxed and allowed to the defendant as part of the costs of defending the action a reasonable amount to be fixed by the court as attorneys’ fees.

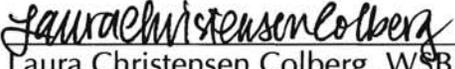
<sup>18</sup> 147 Wn.App. 641 (2008)

#### IV. CONCLUSION

The Mother is unable to do anything more than hide behind the Nevada determination to decline jurisdiction, but wants the court to turn a blind eye to the errors and omissions in process leading up to that determination—a process that required input and involvement from Judge Doerty in Washington, despite the fact that he was uninformed, misinformed, and the Father's position and factual rebuttal to the Mother was not yet available to him. This, coupled with the misleading and fraudulent assertions by the Mother which were only cursorily mention in Response, always pointing back to what Nevada did instead of what the Mother failed to disclose, created an alarming set of circumstance and procedural errors that have left the Father out of his son's life for more than two years. These Orders should be vacated for lack of subject matter jurisdiction for failure to strictly comply with the UCCJEA—from the beginning. Now that all parties and the child have returned to Nevada, that is the appropriate forum for ensuring a full and complete hearing from all sides as to the well-being of this child. Attorney's fees to the Father are appropriate.

RESPECTFULLY SUBMITTED this 10 day of September, 2012.

MICHAEL W. BUGNI & ASSOCIATES

  
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Laura Christensen Colberg, WSBA  
#26434  
Attorney for Appellant/Father

CERTIFICATE OF SERVICE

I hereby certify that on the 10 day of September, 2012, the original of the foregoing document was transmitted for filing to the Court of Appeals, Division I, by US Mail:

Via US Mail:

Clerk of Court  
Court of Appeals, Division 1  
600 University Street  
Seattle, WA 98101

Attorneys for Petitioner via US Mail:

Mark Rising  
1001 Fourth Avenue, Suite 4200  
Seattle, WA 98154



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Dona Harris