

NO. 68357-8

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

In Re: the Marriage of:
DANIEL MCMINN

Petitioner,

v.

LORI MCMINN,

APPELLANT

FILED
COURT OF APPEALS DIV I
STATE OF WASHINGTON
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OPENING BRIEF OF APPELLANT

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A. INTRODUCTION

This case involves the attempt of the Mother to register an Indiana Order of Child Support in Washington, pursuant to RCW 26.21A.500, for purposes of child support enforcement. The Father objected to the registration and enforcement of the Indiana Order of Child Support alleging he had paid his child support obligation in full.

The issue before the lower Court was straightforward: Did the Father prove payment of his child support obligation in full?

The decision of the lower Court is less straightforward. The lower Court denied registration of the Indiana Order of Child Support ruling that the Mother's claims for unpaid child support were time barred from registration and that, pursuant to Washington law, the child was determined to be emancipated at the age of eighteen.

B. ASSIGNMENTS OF ERROR.

1. The Court's finding that the statute of limitations barred the registration of the Indiana Order of Support is in error.
2. The Court's finding that duty of support was terminated by the Child's emancipation is in error.

3. The Court failed to register the Indiana Order of Support and enter Judgment for the sum of the unpaid child support.

4. The Court erred in dismissing the registration of the Indiana Order of Support pending a determination of the unpaid child support in Indiana.

5. The lower Court Clerk, by mistake or oversight, failed to mail a copy of the Order of the Court Commissioner until five days after the Order was signed. The lower Court denied the Mother's Motion for Revision as untimely despite the fact the Order was not timely provided and a Motion for Revision was filed five days after actual receipt of the Order.

C. STATEMENT OF THE CASE.

During their marriage the Mother and Father had one child, Aaron P. McMinn (Hereinafter referred to as "Child.") The Child was born on November 18, 1997. CP 151 Mother and Father were divorced in Indiana. As part of their divorce proceeding, on February 12, 1997, the Marion County Superior Court for Indiana entered an Order for Child Custody, Support, Visitation and Property Settlement Agreement (Hereinafter referred to as "Order of Support.") CP 151-161

Pursuant to the Indiana Order of Support, the Father was required to pay the Mother child support in the sum of \$96.92 per week until their son is married, emancipated or turns 21 years of age. CP 154 **In addition** to child support, the Indiana Order of Support required the Father to pay **all** of the child's post secondary education expenses. CP 155

Shortly after the Indiana divorce was finalized, the Father moved to, and currently resides in, Snohomish County Washington.

D. COURSE OF PROCEEDINGS

The Father did not pay all of his Indiana child support obligations. In accordance with RCW 26.21A.500, on November 7, 2011 the Mother filed the Indiana Order of Support in the Snohomish County Superior Court for purposes of support enforcement. CP 148-150 The Mother submitted an Affidavit of Indebtedness to support her claim. CP 169-170

The Father opposed the registration of the Order of Support in Snohomish County contending he paid, in full, his child support obligation. CP 79-131. The Reply Declaration of the Father made extensive reference to the payment of post secondary education and provided a limited number of copies of checks showing partial payment of his child support obligation.

Full or partial payment is one of the limited defenses the Father may assert in opposition to the registration of the Indiana Child Support Order in Washington. RCW 26.21A.530(1)(f).

In the first hearing on December 12, 2011 contesting registration of the Indiana Order of Child Support, Court Commissioner Waggoner questioned the sum of the Mother's claim for unpaid child support and instructed the parties to submit supplemental pleadings and evidence.

On December 16, 2011 the Father submitted his Supplemental Declaration re: Child Support. CP 71-78. This Declaration did not provide proof of payment of all of his child support obligation.

On December 30, 2011, the Mother submitted her Supplemental Declaration setting forth, in detail, her claim for unpaid child support. CP 33-70.

After taking the matter under advisement, on January 26, 2012 Court Commissioner Waggoner denied registration of the Indian Order of Support as time barred and the child was emancipated. CP 30-32 The Order on Motion to Strike was filed on January 27, 2012. On January 31, 2012, the Order on Motion to Strike was mailed to counsel for the parties by the Snohomish County Superior Court Clerk. CP 25-29

The Order on Motion to Strike was received on Friday, February 3, 2012 by counsel for the Mother. CP 136-143

On February 8, 2012, the Mother filed a Motion for Revision of Court Commissioner Ruling. CP 15-24

The Father objected to the filing of the Motion for Revision as untimely. CP 12-14 On February 17, 2012, Superior Court Judge Lucas entered an Order Striking the Motion for Revision as untimely. CP 8

E. ARGUMENT

1. Standard of Review.

Statutory construction and application are reviewed de novo. Schneider v. Almgren, 85112-3, (WASC) December 2011.

Issues of Constitutional Law are reviewed de novo. Willoughby v. Department of Labor and Industries of the State of Washington, 147 Wn.2d 725 (2002).

2. Background Uniform Interstate Family Support Act.

Every state in the Union as adopted the Uniform Interstate Family Support Act (UIFSA.) A brief history of UIFSA is set forth in Schneider v. Almgren, 122211 WASC 85112-3, December 22, 2011.

Prior to the development of the UIFSA, when parties in a child support action lived in different states, each state could issue its own child support orders. *Id.* This potential for competing child support orders, with varying terms and duration depending on the issuing jurisdiction, resulted in a proliferation of litigation. Unif. Interstate Family Support Act (2008) § 611, 9 pt. 1B U.L.A. cmt. at 139 (Supp. 2011). The UIFSA addressed this "chaos" by establishing a "one-order" system for child support orders by providing that one state would have continuing exclusive jurisdiction over the order. *Id.* at 139-40. The UIFSA enforces the one-order system in a variety of ways, including registration of out-of-state child support orders for either enforcement, modification, or both. *See* Kemper, *supra*, § 2; *see also* RCW 26.21A.500-A.515 (enforcement); RCW 26.21A.550-A.570 (modification).

The State of Washington adopted UIFSA under title 26.21A.

UIFSA requires that the issuing state for an Order of Child Support governs the application of the statute of limitations for child support debts, the nature, extent, amount, and duration of child support debts and the computation and payment of arrearages and interest on the arrearages.

RCW 26.21A.515(1)(a) & (b)

“A court's primary duty in interpreting any statute is to discern and implement the intent of the legislature. A court will look to the statute's plain language. If the statute is unambiguous, the inquiry ends. A statute is

unambiguous when it is not susceptible to two or more reasonable interpretations.” Boeing Employees Credit Union v. Russ and Suzanne Burns, 031912 WACA 66420-4-1.

RCW 26.21A.500, et. seq., as argued below, is plain and unambiguous in its application.

3. Assignment of Error: The Statute of Limitations Does Not Bar the Mother’s Registration of the Indiana Order of Support in Washington.

RCW 26.21A.530 sets forth eight recognized grounds to object to registration of a child support Order. After the Mother filed for registration the Indiana Order of Support in Washington pursuant to RCW 26.21A.500, the Father contested registration pursuant to RCW 26.21A.530(1)(f) alleging payment in full of his child support obligation. CP 79-131 &144-145.

The “issue” of the statute of limitations was not plead by the Father as a defense to his child support obligation. The lower Court took it upon itself to create an issue regarding the statute of limitations.

Even if the statute of limitations had been raised as a defense, it was not applicable or a viable defense to registering the Indiana Order of Child Support in Washington. RCW 26.21A.515 provides in pertinent part:

RCW 26.21A.515. Choice of law

(1) Except as otherwise provided in subsection (4) of this section, **the law of the issuing state governs:**

(2) In a proceeding for arrears under a registered support order, the **statute of limitation of this state or of the issuing state, whichever is longer, applies.** (Emphasis Added)

The initial controlling Order of Child Support is that of Indiana. RCW 26.21A.500, 510 & 515. The only application of Washington law on the issue of the statute of limitations takes place if the statute of limitations in Washington is longer than that of Indiana. RCW 26.21A.515(2)

Court Commissioner Waggoner ruled, without factual or legal authority, that the claims for past due child support are barred by the statute of limitations. There is nothing in the record which supports this ruling by Commissioner Waggoner.

Indiana law tolls the statute of limitations when the respondent is not a resident of Indiana. Indiana Code 34-11-4-1, **Tolling of time while nonresident** provides:

The time during which the defendant is a nonresident of the state is not computed in any of the periods of limitation except during such time as the defendant by law maintains in Indiana an agent for service of process or other person who, under the laws of Indiana, may be served with process as agent for the defendant.

Daniel McMinn never claimed that he is a resident of Indiana so as to begin the running of the statute of limitations for his child support debt.

The statute of limitations for a child support debt is not tolled per Indiana law.

If the Court looks to Washington law, the past due support obligation is likewise not barred by the statute of limitations.

The parties' child, Daniel McMinn, was born November 18, 1989. CP 151 He turned eighteen years of age in November of 2007. The Washington Statute of Limitations for child support obligations is codified in RCW 4.16.020. Per RCW 4.16.020, the past due child support debt for this case is valid and fully enforceable for ten years past the Child's 18th birthday, or November of 2017.

The ruling of Commissioner Waggoner that the child support debt is barred by the Statute of Limitations is legally and factually in error.

4. Assignment of Error: The Parties Child Was Not Emancipated and the Court's Finding of Emancipation per Washington Law was in Error.

The Indiana Order of Support required the payment of child support until the child's 21st birthday. CP 154, paragraph 5 The Indiana Order of Support required, in addition to the payment of child support, that the Father pay 100% of the child's post secondary education expenses. CP 155, paragraph 8

The Mother submitted a detailed list of unpaid child support due and owing up and until the child's 21st birthday. CP 33-70

The Father claimed that, because the child's post secondary expenses were paid by a trust established by his grandmother, he did not owe any child support after the child's 18th birthday. CP 144-145 and 79-131. This argument was a "red herring" because the issue of child support is separate and independent from the issue of post secondary educational expenses.

Mother submitted detailed briefing pointing out to the Court that the Indiana Order of Child Support required the payment of both child

support and post secondary education, and that any payment of post secondary education for the Father was immaterial to his duty to pay child support pursuant to the Indiana Order of Child Support.

On January 26, 2012 Commissioner Waggoner ruled that the parties' child was emancipated on his 18th birthday. CP 30-32 The Washington statutory provision relied upon by Commissioner Waggoner for this decision was RCW 26.21A.530(e) which provides in pertinent part:

26.21A.530

Contest of registration or enforcement.

(1) A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses: . . .

(e) There is a defense under the law of this state to the remedy sought; . . .

This was not a finding of emancipation under Indiana law but the lower Court decided emancipation under Washington law utilizing a “catch all” provision of RCW 26.21A.530. The finding of emancipation by Commissioner Waggoner directly contradicts the statutory mandate of RCW 26.21A.515(1)(a) which requires Washington to utilize the law of issuing state, Indiana, to determine the nature, extent, amount and duration

of support. (Commissioner Waggoner correctly found that “There are no orders out of Indiana modifying child support or emancipating the child’s prior to age 21.” CP 31, paragraph 9)

The Order of Support from Indiana provides for the payment of child support until the child’s 21st birthday (CP 154, paragraph 5.) AND the payment of post secondary educational expenses by Daniel McMinn. CP 155, paragraph 8. Indiana is one of two states in the Union in which child support is generally paid until the child’s 21st birthday. Indiana Code 31-16-6-6 This provision of Indiana law was known to the lower Court.

The Order of Support requires payment of child support “Subject to further order of the Court,” CP 154 Unless a Court Order was entered by the Indiana Court, emancipation for Indiana Child Support Order occurs at when the child is twenty-one years of age.

Commissioner Waggoner improperly attempted to apply the substantive law of Washington to override the controlling law of Indiana with regards to the duration of a support obligation and the Indiana Order of Child Support which requires child support payments, in addition to post secondary expenses, until the child’s 21st birthday.

5. Assignment of Error: The Trial Court’s Modification of the Substantive Terms of the Indiana Order of Child Support violates the Full Faith and Credit Clause, Article Five, Section I of the United States Constitution.

Article IV, Section 1 of the *United States Constitution* provides:

Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

“If the foreign court had jurisdiction of the parties and of the subject matter, and the foreign judgment is therefore valid where it was rendered, a court of this state must give full faith and credit to the foreign judgment and regard the issues thereby adjudged to be precluded in a Washington proceeding. U.S. Const. art. 4, § 1; *In re Rankin*, 76 Wash.2d 533, 535, 458 P.2d 176 (1969); *Williams v. Steamship Mut. Underwriting Ass’n*, 45 Wash.2d 209, 213, 273 P.2d 803 (1954).”

The Full Faith and Credit Clause of the United States Constitution, as it applies to registering and enforcing an out of state Child Support Order, is codified in RCW 26.21A.500, et. seq. Per RCW 26.21A.510(3) “Except as otherwise provided in this article, **a tribunal of this state shall recognize and enforce, but may not modify**, a registered order if the issuing tribunal had jurisdiction. (Emphasis added.)” No exceptions exist

which would allow the lower Court to modify the Indiana Order of Child Support. As previously cited, RCW 26.21A.515 requires the Washington Court to determine the nature, extent, amount and duration of support based upon the Order of the issuing state, in this case Indiana.

The Indiana Order of Child Support controls the nature, extent, amount and duration of child support. The Order of Support, paragraph 5, states that “Subject to further **order** of the Court. . . . “ child support is to be paid until the child’s 21st birthday. The provision in the Indiana Order of Support is consistent with Indiana law which requires the payment of child support until the child’s 21st birthday. Indiana Code 31-16-6-6. Emancipation is listed as an exception to the payment of support until the child’s 21st birthday, but such an exception, per paragraph 5 and the laws of Indiana, requires a Court Order establishing emancipation.

Commissioner Waggoner attempted to step into the shoes of the Indiana Court and unilaterally and retroactively modifying the support obligation of Daniel McMinn based on Washington Law. Ruling the parties’ child was emancipated at 18, Commissioner Waggoner held “a defense under the laws of this state exists (emancipation) This ruling demonstrates a fundamental lack of understanding of Full Faith and

Credit, and the difference between substantive and procedural law. This ruling is directly contradicted by the plain language of RCW 26.21A.510 and .515 which requires our Court to recognize, but not modify, a sister state Order. The Court Commissioner's ruling declaring emancipation and terminating the support obligation from 18-21 is a mistake in fact and law.

6. Assignment of Error: The Mother is Not Required to Adjudicate Issues of Unpaid Support in Indiana.

RCW 26.21A.500 was specifically enacted so as to allow the registration and enforcement of sister state support orders in Washington. RCW 26.21A.500 does not require the parties to return to the sister state to secure a judgment as a condition of enforcement of the support Order in Washington. As part of the registration process, RCW 26.21A.505(1)(c), the registering party is required to submit a certified statement as to any arrearages.

RCW 26.21A.510(2) specifically provides that a register order issued in another state is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state. Nowhere does the Registration and Enforcement of Support Order is it required that the Order from another state be reduced to judgment. Such a position would mean that in cases in which there was an ongoing child

support obligation, the obligee parent would be forced to return to the issuing state for a judgment for each missed child support payment.

RCW 26.21A.525 provides the mechanism to contest the amount of the arrearages pursuant to RCW 26.21A.530. This mechanism allows for off sets and credits for child support payments prior to entry of a judgment.

As part of that same Order requiring the Mother to move the Indiana Court for a sum certain, Commissioner Waggoner stated that the dismissal of the registration was without prejudice. The only support the Mother seeks was set forth in her Notice of Registration, CP 148-168 as amended by her Supplemental Declaration, CP 33-70 with interest calculations thereon at the Indiana statutory interest rate. Commissioner Waggoner determined as a matter of law that the claims for unpaid child support were barred by the statute of limitations and emancipation. The alleged dismissal without prejudice is meaningless because the Court has already determined that the Mother's right to unpaid support is barred by the statute of limitations and emancipation. This portion of the ruling of Commissioner Waggoner makes no sense in light of her other Orders in this case.

7. Assignment of Error: In accordance with RCW 26.21A.500, et seq. the Mother is entitled to have her Indiana State Order of Support Registered in Washington.

To contest registration of the Indiana Order of Support, in this case claiming the child support was paid in full, the Father had the burden of proof to prove payment. RCW 26.21A.530(1). The Father's declaration, filed as part of the initial Motion to Strike Registration, did not prove payment of his child support obligation in full. CP 79-131

Commissioner Waggoner requested additional information and briefing concerning the child support debt and payments. The Father submitted a follow up declaration, yet again failed to prove payment in full of his child support debt. CP 71-78

The Mother submitted a detailed declaration setting forth the payments received from the Father and the missed payments. CP 33-70

The Father did not meet his burden of proof to prove payment in full of his child support obligation. Instead of proving payment of his child support debt, the Father alleges that because the child's post secondary support was paid by a third party and the child went away to college, he had no child support obligation. Indiana law contemplates a

parent continuing to pay child support while the child is in college.

Indiana Code 31-16-6-6 Additionally, in accordance with the Order of Child Support and Indiana Law, a Court Order terminating the Father's duty of child support was necessary to terminate his duty of support.

Despite a lack of proof of payment from the Father as he was required to produce per RCW 26.21A.530(1), Commissioner Waggoner refused to accept the Mother's first Declaration of Arrearages (CP 169-186) and ordered additional briefing and evidence. When the Father again failed to provide proof of payment in full of his child support obligation, and the Mother provided detailed records showing unpaid child support, Commissioner Waggoner ruled that the Mother could not register the Indiana Order of Child Support alleging the claim was barred by emancipation and the statute of limitations.

8. Assignment of Error: The Trial Court Improperly denied the Mother's Motion for Revision of Court Commissioner's Ruling as untimely.

On January 26, 2012 Court Commissioner Waggoner entered an Order on Motion to Strike Registration. CP 30-32. Neither the parties nor counsel were present when the Order was entered.

The Order on Motion to Strike was filed the next day, or January 27, 2012. It was not until January 31, 2012 that the Snohomish County Superior Court Clerk mailed the Order on Motion to Strike Registration to the attorneys for the parties. CP 25-29 The envelope from the Snohomish County Superior Court was received by the Mother's attorney on February 3, 2012.

The Motion for Revision was served and filed on February 8, 2012, or three days after the ten days allowed for filing of a Motion for Revision. CP 15-24

The Father objected to the Motion for Revision as untimely. CP 12-14 On February 17, 2012, Judge Lucas of the Snohomish County Superior Court dismissed the Mother's Motion for Revision as untimely. CP 8 Judge Lucas, aware that the Order was mailed and not received by the attorney for the Mother on February 3, 2012, ruled that "Five days notice is enough." CP 8

The Father and the Court relied upon the case of Robertson v. Roberston, 113 Wn.App. 711 (2002) which held that the Court does not have the authority to expand upon the ten days allowed for filing a Motion for Revision pursuant to RCW 2.24.050.

It is unclear from the holding in Roberston, supra, but it appears that at the time of the Order in issue in Roberston, it was issued while the parties were present in Court.

The Mother believes that the holding in Roberston is in error in that it does not take into account the situations in which the Court takes a matter under advisement and issues its decision at a late date unknown to the parties. Actual notice of a decision may be delayed, as in this case, when the decision is mailed.

The strict ten day time limit to file a Motion for Revision from the date of entry of an Order of a Commissioner, when the Order is held an extra day after signing and held several days before mailing, can result in denial of procedural due process.

Article I § 3 of the Washington Constitution guarantees a party the right to fair and adequate notice before any right, in this case that of the right to file a Motion for Revision, may be denied. The case law on the issue of procedural due process is very clear about the need for notice and an opportunity to be heard.

The constitutional guaranty of due process of law in its essence requires notice and an opportunity to be heard. The United States Supreme Court in *Mullane v. Central Hanover Bank & Trust Co.* described that due process as: [N]otice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. The notice must be of such nature as reasonably to convey the required information, and it must afford a reasonable time for those interested to make their appearance. *State v. Rogers*, 127 Wn.2d 270, 275, 898 P.2d 294 (Wash. 1995)

“Procedural due process requires notice that is "reasonably calculated under the circumstances to apprise affected parties of the pending action and to afford them an opportunity to present their objections.”“ *Bass Partnership v. King County*, 79 Wn.App. 276, 282, 902 P.2d 668 (Wash.App. Div. 1 1995)

“Notice: Due process requires notice that is "reasonably calculated, under all the circumstances," to apprise the parties of the pendency of the action and enable them to present a defense” *Pease Hill v. County of Spokane*, 62 Wash.App. 800, 806, 816 P.2d 37 (1991)

9. Mother is entitled to the award of her attorneys' fees.

In accordance with RAP 18.1 the Mother is entitled to the award of her attorneys' fees and requests same.

The registration and enforcement of a foreign Order of Support includes the authority of this Court to award attorneys' fees to the obligee parent. RCW 26.21A.515, of the **Washington Uniform Interstate**

Family Support Act, provides in pertinent part:

26.21A.515. Choice of law

...

(3) A responding tribunal of this state shall apply the procedures and remedies of this state to enforce current support and collect arrears and interest due on a support order of another state registered in this state.

The procedures and remedies available in Washington to enforce a support order includes the award of attorneys' fees and costs. RCW

26.18.160 provides:

26.18.160 Costs.

In any action to enforce a support or maintenance order under this chapter, the prevailing party is entitled to a recovery of costs, including an award for reasonable attorney fees. An obligor may not be considered a prevailing party under this section unless the obligee has acted in bad faith in connection with the proceeding in question.

As a result of being forced to maintain this action the petitioner is entitled to the award of her costs and attorneys fees. Marriage of Capetillo, 85 Wn.App. 311 (1997).

F. CONCLUSION.

The legal issue in this case is a simple one: Did the Father prove payment in full of his child support obligation? Despite clear and compelling law supporting the registration of the Mother's claim for unpaid child support and the failure of the Father to prove payment of his entire child support debt, the lower Court erroneously ruled that the statute of limitations barred the Mother's claim and barred the Mother's claim by emancipating the parties' Child pursuant to Washington law.

This matter should be remanded to the Trial Court with instructions to Register the Indiana Order of Support and for a Judgment as set forth in the Mother's Declaration CP 33-70 plus such other reasonable attorneys' fees as she would have been entitled to.

To return the matter for reconsideration would constitute an unnecessary expense of time and effort on the part of both sides. The problem that presents itself in this case, lack of timely notice of entry of an Order, will likely repeat itself at a later date and different case.

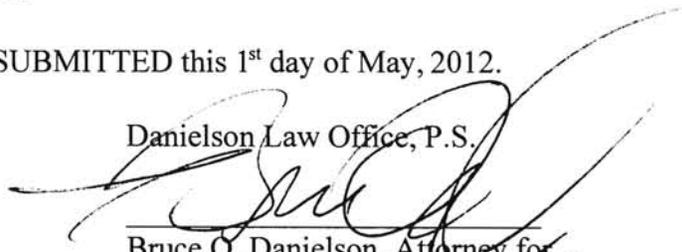
Increasingly, Court's are taking matters under advisement and issuing an Order without counsel present. Not all Court's issue Orders electronically and, at present in Snohomish County, Orders are mailed. Civil Rule 6(e) provides three days are to be added to the presumed period when service is by mail.

It is respectfully suggested that the holding in Robertson v. Roberston, 113 Wn.App. 711 (2002), so far as it is inconsistent with the duty of fair and adequate notice, the time to file a Motion for Revision should be determined to begin to run ten days after receipt of the Order in issue. If the Order is mailed, pursuant to CR 6, three days should be added to the prescribe period of time to file a Motion for Revision.

Mother requests that this Court award her attorneys for being forced to maintain this appeal.

RESPECTFULLY SUBMITTED this 1st day of May, 2012.

Danielson Law Office, P.S.



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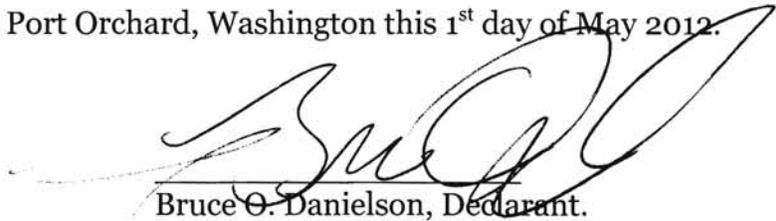
CERTIFICATE OF SERVICE BY MAIL

Bruce O. Danielson, hereby declares and states as follows:

That on May 1, 2012, I deposited into the United States Mail, postage prepaid a package addressed to: Carolyn J. Balkema, Landrum and Balkema, 9100 Roosevelt Way NE, Seattle, WA 98115, which envelope contained a copy of the foregoing Opening Brief of Appellant.

I SWEAR UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

Signed at Port Orchard, Washington this 1st day of May 2012.

A handwritten signature in black ink, appearing to read 'Bruce O. Danielson', is written over a horizontal line. The signature is stylized and cursive.

Bruce O. Danielson, Declarant.

**APPENDIX WITH COPIES OF CITED CONSTITUTIONAL
AND STATUTORY AUTHORITY**

CONSTITUTIONAL PROVISIONS.

Article IV United States Constitution

Article I. § 3 of the Washington Constitution

STATUTES.

Washington Statutes

RCW 2.24.050

RCW 4.16.020

RCW 26.18.160

RCW 26.21A.500

RCW 26.21A.505

RCW 26.21A.510

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RCW 26.21A.530

Indiana Statutes

Indiana Code 34-11-4-1

Indiana Code 31-16-6-6

CIVIL RULES

CR 6

UNITED STATES CONSTITUTION

Article. IV. Article. IV.

Section. 1.

Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

APPENDIX

Washington State Constitution

PREAMBLE

We, the people of the State of Washington, grateful to the Supreme Ruler of the Universe for our liberties, do ordain this constitution.

ARTICLE I

DECLARATION OF RIGHTS

SECTION 3 PERSONAL RIGHTS. No person shall be deprived of life, liberty, or property, without due process of law.

APPENDIX

RCW 2.24.050
Revision by court.

All of the acts and proceedings of court commissioners hereunder shall be subject to revision by the superior court. Any party in interest may have such revision upon demand made by written motion, filed with the clerk of the superior court, within ten days after the entry of any order or judgment of the court commissioner. Such revision shall be upon the records of the case, and the findings of fact and conclusions of law entered by the court commissioner, and unless a demand for revision is made within ten days from the entry of the order or judgment of the court commissioner, the orders and judgments shall be and become the orders and judgments of the superior court, and appellate review thereof may be sought in the same fashion as review of like orders and judgments entered by the judge.

APPENDIX

RCW 4.16.020

Actions to be commenced within ten years — Exception.

The period prescribed for the commencement of actions shall be as follows:

Within ten years:

(1) For actions for the recovery of real property, or for the recovery of the possession thereof; and no action shall be maintained for such recovery unless it appears that the plaintiff, his or her ancestor, predecessor or grantor was seized or possessed of the premises in question within ten years before the commencement of the action.

(2) For an action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, or of any territory or possession of the United States outside the boundaries thereof, or of any extraterritorial court of the United States, unless the period is extended under RCW 6.17.020 or a similar provision in another jurisdiction.

(3) Of the eighteenth birthday of the youngest child named in the order for whom support is ordered for an action to collect past due child support that has accrued under an order entered after July 23, 1989, by any of the above-named courts or that has accrued under an administrative order as defined in RCW 74.20A.020(6), which is issued after July 23, 1989.

RCW 26.18.160

Costs.

In any action to enforce a support or maintenance order under this chapter, the prevailing party is entitled to a recovery of costs, including an award for reasonable attorney fees. An obligor may not be considered a prevailing party under this section unless the obligee has acted in bad faith in connection with the proceeding in question.

RCW 26.21A.500

Registration of order for enforcement.

A support order or income-withholding order issued by a tribunal of another state may be registered in this state for enforcement.

APPENDIX

RCW 26.21A.505

Procedure to register order for enforcement.

(1) A support order or income-withholding order of another state may be registered in this state by sending the following records and information to the appropriate tribunal in this state:

(a) A letter of transmittal to the tribunal requesting registration and enforcement;

(b) Two copies, including one certified copy, of the order to be registered, including any modification of the order;

(c) A sworn statement by the person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage;

(d) The name of the obligor and, if known:

(i) The obligor's address and social security number;

(ii) The name and address of the obligor's employer and any other source of income of the obligor; and

(iii) A description and the location of property of the obligor in this state not exempt from execution; and

(e) Except as otherwise provided in RCW 26.21A.255, the name and address of the obligee and, if applicable, the person to whom support payments are to be remitted.

(2) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one copy of the documents and information, regardless of their form.

(3) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.

APPENDIX

(4) If two or more orders are in effect, the person requesting registration shall:

(a) Furnish to the tribunal a copy of every support order asserted to be in effect in addition to the documents specified in this section;

(b) Specify the order alleged to be the controlling order, if any; and

(c) Specify the amount of consolidated arrears, if any.

(5) A request for a determination of which is the controlling order may be filed separately or with a request for registration and enforcement or for registration and modification. The person requesting registration shall give notice of the request to each party whose rights may be affected by the determination.

RCW 26.21A.510

Effect of registration for enforcement.

(1) A support order or income-withholding order issued in another state is registered when the order is filed in the registering tribunal of this state.

(2) A registered order issued in another state is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

(3) Except as otherwise provided in this article, a tribunal of this state shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction.

RCW 26.21A.515

Choice of law.

(1) Except as otherwise provided in subsection (4) of this section, the law of the issuing state governs:

(a) The nature, extent, amount, and duration of current payments under a registered support order;

(b) The computation and payment of arrearages and accrual of interest on the arrearages under the registered support order; and

(c) The existence and satisfaction of other obligations under the registered support order.

(2) In a proceeding for arrears under a registered support order, the statute of limitation of this state or of the issuing state, whichever is longer, applies.

(3) A responding tribunal of this state shall apply the procedures and remedies of this state to enforce current support and collect arrears and interest due on a support order of another state registered in this state.

(4) After a tribunal of this or another state determines which is the controlling order and issues an order consolidating arrears, if any, a tribunal of this state shall prospectively apply the law of the state issuing the registered controlling order, including its law on interest on arrears, on current and future support, and on consolidated arrears.

RCW 26.21A.525

Procedure to contest validity or enforcement of registered order.

(1) A nonregistering party seeking to contest the validity or enforcement of a registered order in this state shall request a hearing within twenty days after notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to RCW 26.21A.530.

(2) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

(3) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.

RCW 26.21A.530

Contest of registration or enforcement.

(1) A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(a) The issuing tribunal lacked personal jurisdiction over the contesting party;

(b) The order was obtained by fraud;

(c) The order has been vacated, suspended, or modified by a later order;

(d) The issuing tribunal has stayed the order pending appeal;

(e) There is a defense under the law of this state to the remedy sought;

(f) Full or partial payment has been made;

(g) The statute of limitation under RCW 26.21A.515 precludes enforcement of some or all of the alleged arrearages; or

(h) The alleged controlling order is not the controlling order.

(2) If a party presents evidence establishing a full or partial defense under subsection (1) of this section, a tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this state.

(3) If the contesting party does not establish a defense under subsection (1) of this section to the validity or enforcement of the order, the registering tribunal shall issue an order confirming the order.

APPENDIX

Indiana Statutes

Title 34. CIVIL LAW AND PROCEDURE

Article 11. LIMITATION OF ACTIONS

**Chapter 4. TOLLING OF STATUTE OF LIMITATIONS:
NONRESIDENT DEFENDANT**

§ 34-11-4-1. Tolling of time while nonresident

The time during which the defendant is a nonresident of the state is not computed in any of the periods of limitation except during such time as the defendant by law maintains in Indiana an agent for service of process or other person who, under the laws of Indiana, may be served with process as agent for the defendant.

Indiana Statutes

Title 31. FAMILY LAW AND JUVENILE LAW

**Article 16. FAMILY LAW: SUPPORT OF CHILDREN AND
OTHER DEPENDENTS**

Chapter 6. CHILD SUPPORT ORDERS

**§ 31-16-6-6. *[Effective Until 7/1/2012]* Termination or modification of
child support; emancipation of child**

(a) The duty to support a child under this chapter ceases when the child becomes twenty-one (21) years of age unless any of the following conditions occurs:

(1) The child is emancipated before becoming twenty-one (21) years of age. In this case the child support, except for the educational needs outlined in section 2(a)(1) of this chapter, terminates at the time of emancipation, although an order for educational needs may continue in effect until further order of the court.

(2) The child is incapacitated. In this case the child support continues during the incapacity or until further order of the court.

(3) The child:

(A) is at least eighteen (18) years of age;

(B) has not attended a secondary school or postsecondary educational institution for the prior four (4) months and is not enrolled in a secondary school or postsecondary educational institution; and

C) is or is capable of supporting himself or herself through employment.

In this case the child support terminates upon the court's finding that the conditions prescribed in this subdivision exist. However, if the court finds that the conditions set forth in clauses (A) through (C) are met but that the child is only partially supporting or is capable of only partially supporting himself or herself, the court may order that support be modified instead of terminated.

(b) For purposes of determining if a child is emancipated under subsection (a)(1), if the court finds that the child:

(1) is on active duty in the United States armed services;

(2) has married; or

(3) is not under the care or control of:

(A) either parent; or

(B) an individual or agency approved by the court; the court shall find the child emancipated and terminate the child support

**WASHINGTON RULES
WASHINGTON SUPERIOR COURT CIVIL RULES
Part II. COMMENCEMENT OF ACTION**

Rule 6. TIME

(e) Additional Time After Service by Mail. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, 3 days shall be added to the prescribed period.

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