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SUPREME COURT
STATE OF WASHINGTON
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COA# 31574-III

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No. 89468-0

SUPREME COURT
OF THE
STATE OF WASHINGTON

DANIEL BARRETT, JR.,
CARRIE BARRETT,

Respondents.

Vs.

DANIEL BARRETT, SR.

Appellant,

ANSWER TO PETITION FOR REVIEW
AND RESPONDENTS' PETITION FOR REVIEW OF VACATION
OF AWARD OF FEES

Richard T. Cole, WSBA#5072
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 ORIGINAL

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I. IDENTITY OF RESPONDENTS

The identity of the Respondents is Daniel Barrett, Jr. and Carrie Barrett, husband and wife. Daniel Barrett, Jr. is the son of Daniel Barrett, Sr.

Richard T. Cole, attorney for Daniel Barrett, Jr. and Carrie Barrett identified his bar number and address on the front page of this answer files said Answer on behalf of the Respondents Daniel Barrett, Jr. and Carrie Barrett, husband and wife.

II. COURT OF APPEALS DECISION

The decision of the Washington State Court of Appeals Division III for which the Petitioner requests review and from which Respondent requests review is entitled Order Denying Motion to Modify Commissioner's Ruling in Cause No. 31574-6-III as dated July 16, 2013, said Order vacated award of Respondents' fees as sanctions. A copy of both rulings are attached as Appendix A and B to Petitioner's Petition for Review.

III. RESPONSE TO ISSUES PRESENTED FOR REVIEW

a. Was the Court proper in vacating Respondent's attorney's fees awarded by the Commissioner's ruling and modified by the Order Modifying Commissioner's Ruling of September 16, 2013.

b. Should this Court accept the Petition for Review?

IV. STATEMENT OF THE CASE

The history of his matter is well documented in Division III Court of Appeals Decision 25303-1-III as well as all of the subsequent appeals filed by the Petitioner who refuses to accept the decisions of the Washington Appellate Courts in regards to his legal matters. The original matter was started in September of 2005 when the Respondents Daniel Jr. and Carrie Barrett filed a Petition for Third Party Nonparental Custody over Dan Jr's minor siblings. In the initial hearings, the Petitioner Mr. Barrett, Sr. challenged the court's jurisdiction to hear the matter arguing that there was an Order in Pierce County which preempted the Kittitas County Superior Court's jurisdiction. The Court denied his challenge.

The matter proceeded to trial and a subsequent appeal in 25303-1-III where the Petitioner appealed numerous issues in the case but DID NOT APPEAL THE JURISDICTIONAL ISSUES RAISED BY HIM IN THE INTIAL PROCEEDINGS BEFORE THE COURT. An award of attorney's fees was granted to the Respondents in that case.

That case remanded portions of the case for review in regards to the income of the other parent Carmelita Barrett and a hearing was held where Petitioner Dan Barrett, Sr. failed to appear, the court took testimony and entered an amended Order in the case. That Order was appealed by the Petitioner Dan Barrett, Sr. and resulted in appeal 29045-0-III where Mr. Barrett raised for the first time the jurisdictional issue which is again the basis of this Petition for Review to the Supreme Court. The Court of Appeals in 29045-0-III ruled pursuant to the case of *Seattle v. McCready*, 131 Wn2d 266, 271, 931 P2d 156 (1997) that the failure of the Petitioner Mr. Barrett Sr. to raise the jurisdictional issue in his first appeal resulted in a waiver of that issue which became the law of the case and foreclosed any

subsequent appeals regarding the issue. Respondents Dan Barret, Jr. and Carrie Barrett were again awarded additional fees as a result of the second appeal.

Mr. Barrett, Sr. then Petitioned this Court to accept review which was remanded to the Court of Appeals and resulted in Cause No. 31574-6-III wherein Commissioner Joyce J. McCowan on July 16, 2013 ruled on Respondent's Motion on the Merits to Dismiss and awarded further attorney's fees to Dan Jr. and Carrie Barrett as a result of the multiple and frivolous appeals filed by Dan Barrett, Sr. in this matter.

Subsequently the Petitioner requested a review of the Commissioner's ruling dismissing the matter and awarding fees, which was addressed by Judge Kevin M. Korsmo, Chief Judge of Division III of the Court of Appeals who modified the Commissioner's ruling by vacating the award of attorney's fees to Respondents Dan Jr. and Carrie Barrett. That ruling was issued on September 16, 2013.

Subsequent thereto, Petitioner Dan Barrett, Sr., consistent with all previous experiences with the Washington Appellant Court system refused to accept the decision rendered by Chief Judge Korsmo in his Order Denying Motion to Modify Commissioner's Ruling and again (second time) has petitioned to the Supreme Court of the State of Washington to again hear this case. This court should be aware that this is the second Petition for Review made in 31574-6-III and this is again another imposition on the resources of Dan Barrett, Jr. and Carrie Barrett in regards to the necessity to respond to the continual flood of frivolous and irresponsible legal petitions which Dan Barrett, Sr. has filed in this matter.

V. REVIEW OF VACATION OF RESPONDENTS' FEES

Respondents respectfully request review of the Chief Judge's decision to deny attorney's fees to them as contained in the Order of September 16, 2013 and ask that that award of attorney's fees be reinstated and in addition request attorney's fees for the necessity of responding to this now second Petition for Review to the Supreme Court arising out of the same set of facts and circumstances previously remanded by this Court to the Court of Appeals and ruled on by the Court of Appeals.

V. CONCLUSION

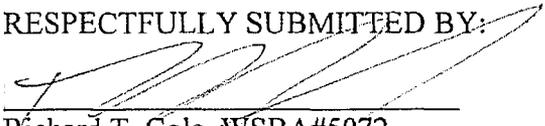
This must stop! The Petitioner has exhausted all review and remedies available to him and yet continues to seek review and reversal of the decision which has now become the law of the case in at least two different appeals and has been reviewed by not only this court, but the Court of Appeals Division III on numerous occasions. The award of attorney's fees granted by the Commissioner in her ruling of July 16, 2013 should be reinstated and additional fees should be awarded to the Respondents for the necessity of having to again answer to a Petition for Review filed by Petitioner Dan Barrett, Sr., the latest on October 16, 2013. The award of fees should not only cover the original fees ordered by the Commissioner McCown on July 16, 2013 but should also include actual time and expenses for Respondents' attorney in this Answer, and should also include terms in the form of a punitive nature for the continual abuse of the legal system by Petitioner Dan Barrett, Sr. These fees are authorized under RAP 18.1 (j).

Additional terms should be imposed upon Petitioner Dan Barrett, Sr. pursuant to RAP 18.9 and it is submitted that the Petitioner has filed frivolous appeals and he refuses to accept the ruling of this Court in regards to loss of his ability to challenge the issue of jurisdiction.

It is further requested that this Court issue an Order which prevents any further review of this matter by Petitioner Daniel Barrett, Sr.

DATED this ^{2nd} 2 day of December, 2013.

RESPECTFULLY SUBMITTED BY:


Richard T. Cole, WSBA#5072
Attorney for Respondents

COA# 31574-III

No. _____

SUPREME COURT
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DANIEL BARRETT, JR.,
CARRIE BARRETT,

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Vs.

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Appellant,

CERTIFICATE OF MAILING OF
ANSWER TO PETITION FOR REVIEW
AND RESPONDENTS' PETITION FOR
REVIEW OF VACATION OF AWARD OF FEES

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Lisa M. Hentges hereby certifies that on the 2 day of December, 2013, she emailed a copy of the Answer to Petition for Review and Certificate of Service to the Washington State Supreme Court for immediate filing:

supreme@courts.wa.gov

and mailed a copy via USPS of the Answer to Petition for Review and Respondents' Petition for Review of Vacation of Award of Fees and Certificate of Service to the following:

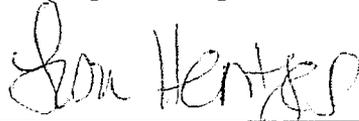
Mr. Daniel Barrett, Sr.
P.O. Box 361
South Prairie, WA 98385

Daniel and Carrie Barrett, Jr.
5321 Edgewood Dr. E
Edgewood, WA 98372

Carmelita Escarcega
PMB 2409
P.O. Box 257
Olympia, WA 98507

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. RCW 9A 72.085.

SIGNED in Ellensburg, Washington on this 2 day of December, 2013.



Lisa M. Hentges, Legal Assistant to Richard T. Cole

OFFICE RECEPTIONIST, CLERK

From: Lisa Hentges <lisa@colelaw.net>
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I am sending the Answer to Petition for Review and Respondents' Petition for Review of Vacation of Award of Fees along with the Certificate of Mailing for filing.

Lisa M. Hentges
Legal Assistant to Richard T. Cole
(509) 925-1900

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