

FILED
MAR 30 2018
Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

CN: 201703018170

SN: 179

PC: 7

SUPERIOR COURT OF WASHINGTON
COUNTY OF SPOKANE

In re the Marriage of:	)	No. 17-3-01817-0
SIRINYA SURINA,	)	
	)	RESPONDENT AARON MICHAEL
Petitioner,	)	SURINA'S OBJECTION TO
and	)	PETITIONER'S MOTION TO
	)	CONTINUE TRIAL DATE AND TO
AARON MICHAEL SURINA,	)	MOTION FOR CR 35
	)	PSYCHOLOGICAL EXAMINATION
Respondent.	)	

COMES NOW the Respondent by and through his attorney, Richard K. Kuck, RICHARD K. KUCK, PLLC, and respectfully responds to the Petitioner's Motions to Extend Discovery Cutoff, to Continue the Trial Date and for CR 35 Psychological Examination as follows:

1. Stipulation to Extend the Discovery Cutoff. In the event that the Court denies the Petitioner's Motion to Continue the Trial Date, the Respondent stipulates to the entry of an Order to extend the Discovery Cutoff to 45 days before the trial date which would be Friday, April 6, 2018 or to a date even closer to the date of trial which preserves the parties' interest in being prepared for trial and to be set by the Court in its discretion.

2. Objection to Continuance of the Trial Date as a Function of Discovery Status. The Respondent respectfully acknowledges that discovery is not yet complete in this case, but with that fact in mind, the Respondent respectfully objects to the Petitioner's Motion to Continue the Trial Date

RESPONDENT AARON MICHAEL SURINA'S
OBJECTION TO PETITIONER'S MOTION TO
CONTINUE TRIAL DATE AND TO MOTION FOR
CR 35 PSYCHOLOGICAL EXAMINATION - 1

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1 as a function of the status of discovery. The Respondent respectfully asserts that the case can be made
2 ready for trial from a discovery standpoint, by the trial date, by adjusting the discovery cutoff date to a
3 reasonable date closer to trial.

4 An issue with more relevance with respect to the continuance of the trial date is the question
5 of the preparation of a report by a Guardian Ad Litem which was ordered in this case on February 16,
6 2018, but which, as a matter of financial impossibility, has not commenced. A review of the financial
7 documents previously filed in this case, including the financial declaration filed by the Respondent on
8 March 15, 2018, a true and correct copy of which is attached as "Exhibit 1" to this filing, is
9 illustrative of the challenges presented to the parties by their financial situation in this case. The
10 Respondent is the sole member of the family earning an income and from that he must support the
11 Petitioner and his children, pay the mortgage on the residence in which the Petitioner resides, make
12 the payment on the community automobile and provide living expenses for himself separate and apart
13 from those paid for the support of his family. Those ordered financial responsibilities must be paid
14 regardless of monthly variations in his income.

15 The Respondent concedes that the continuation of the trial of this matter would be of
16 assistance in assembling the financial resources necessary to retain a Guardian Ad Litem and fund the
17 resulting investigation and report, or for the Respondent to move the Court for an order permitting the
18 management of the assets and obligations of the parties in a manner which could provide funds for the
19 payment of the fees of a Guardian Ad Litem consistently with the needs of the Petitioner, the
20 Respondent and their family.

21 3. Objection to CR 35 Examination. The Respondent respectfully objects to the entry of an
22 Order compelling him to undergo a parent-child assessment including the Adolescent Parenting
23 Inventory, with Caitlin M. Soriano, which order would require that the Respondent pay 81% of the
24 unknown costs of that examination within thirty (30) days. The Respondent respectfully asserts that
25 the more beneficial use of the limited potentially available funds of the parties would be to direct the
26 funds at retaining a Guardian Ad Litem, coupled with an order by the Court that if the GAL believed

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RESPONDENT AARON MICHAEL SURINA'S
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CR 35 PSYCHOLOGICAL EXAMINATION - 2

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1 that a CR 35 examination would be of assistance to the GAL to request that either or both of the
2 parties submit to a reasoned CR 35 examination in the furtherance of the GAL's investigation.

3 The grounds asserted by the Petitioner for the entry of an order compelling the Respondent to
4 submit to a privately paid CR 35 Examination relate to two (2) incidents: 1) an incident involving the
5 exchange of the parties' children on February 21, 2018 at which time the Respondent observed that
6 his older son exhibited a 'black eye' (*Exhibit A filed in support of Petitioner's Motion*) which resulted
7 in the Petitioner alerting law enforcement as to the child's condition. In accordance with the present
8 temporary order regarding custody, the Respondent was required to return the children to the
9 Petitioner by 7:00 p.m. that evening. Also, pursuant to a present no contact order the Respondent
10 believed he was prohibited from contacting the Petitioner to ask about then nature of the obvious and
11 actual injury to the child which render much more reasonable the Respondent's decision to alert
12 authorities; and 2) a motion for Protective Order filed against a third person which was denied by the
13 District Court.

14 The Petitioner has not provided to this Court any of the documents or testimony considered by
15 the District Court in denying the Respondent's Motion, but rather asks that this Court consider the
16 fact that the District Court denied the Respondents's motion and comments made by that Court to
17 infer some basis for ordering that the Respondent submit to what would obviously be an intrusive and
18 expensive evaluation. The Respondent was Pro-se at that hearing, whether the result would have been
19 the same had the Petitioner been represented is unknowable.

20 The Respondent further respectfully asserts that the Declaration of Sirinya Surina filed in
21 support of the Petitioner's motion for a CR 35 Examination should not be relied upon with respect to
22 the Petitioner's Motion. First, a commonly accepted fact in this case is that the Petitioner has a very
23 limited ability to understand and speak the English language, and it should be accepted that the
24 Petitioner did not read and understand the Declaration which she signed without the assistance of a
25 translator, which assistance is not reflected in the Declaration. Secondly, the Declaration contains
26 testimony which is either obvious hearsay, or at least, states matters of which the Petitioner had no

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28 **RESPONDENT AARON MICHAEL SURINA'S
OBJECTION TO PETITIONER'S MOTION TO
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CR 35 PSYCHOLOGICAL EXAMINATION - 3**

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1 personal knowledge, including the entirety of Paragraph 4 from lines 4 through the first word of line
2 11, and overstates the colloquy between Judge Walker and Mr Surina at the time of the February 1,
3 2018 District Court hearing recited in Exhibit B to the Petitioner's Motion, which speaks for itself.

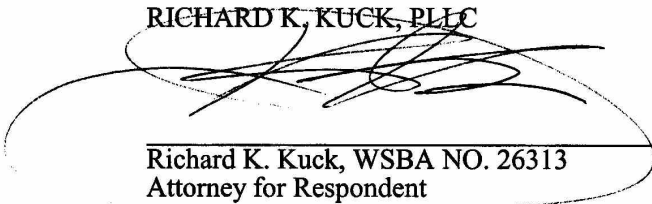
4 Both the Petitioner and Respondent are covered by health insurance. Should the Court deem it
5 appropriate to compel the Respondent to submit to a CR 35 Examination, the Court should enter its
6 Order continuing the trial date and require that the parties collaborate to determine an evaluator whose
7 expenses would be covered by available health insurance to the greatest possible extent.

8 The Respondent is not able to suggest evaluators at the time of this filing, but is hopeful that it
9 will be known whether Ms. Sorino's fees would be covered by the available health insurance or
10 whether another evaluator should be considered by the Petitioner or by the Court for that reason.

11 In summary, the Respondent does not believe that the Petitioner has shown good cause to
12 support her motion for a court-ordered CR 35 Examination of the Respondent by Caitlin Soriano.

13 DATED this 30th day of March 2018.

14 RICHARD K. KUCK, PLLC

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16 Richard K. Kuck, WSBA NO. 26313
17 Attorney for Respondent
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27 RESPONDENT AARON MICHAEL SURINA'S
28 OBJECTION TO PETITIONER'S MOTION TO
CONTINUE TRIAL DATE AND TO MOTION FOR
CR 35 PSYCHOLOGICAL EXAMINATION - 4

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Superior Court of Washington
For Spokane County

SIRINYA Surina
Petitioner/Plaintiff,
vs. Aaron Surina
Respondent/Defendant.

No. 17-3-01817-0

Motion and Declaration For Waiver of
Civil Filing Fees and Surcharges
(MTAF)

Type of Action

- | | |
|---|--|
| ☒ Dissolution/Legal Separation 3/14 | ☐ Third Party Custody |
| ☐ Petition to Establish Residential Schedule | ☐ Petition to Establish Paternity |
| ☐ Civil Harassment Petition | ☒ Modification of Parenting Plan Petition 3/27 |
| ☐ Waiver of Facilitator Surcharge | ☒ Modification of Child Support Petition 3/6 |
| ☒ Other Civil Action | |

* WAIVE PRIVATE PARTY PAY FOR G.A.L. *
I. MOTION

- 1.1 I am the ☐ petitioner/plaintiff ☒ respondent/defendant in this action.
- 1.2 I am asking for a waiver of ☒ all ☐ some filing fees and surcharges.

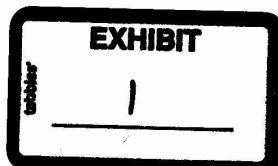
II. BASIS FOR MOTION

- 2.1. GR 34 allows the court to waive "filing fees or surcharges the payment of which is a condition precedent to a litigant's ability to secure access to judicial relief" for a person who is indigent. As outlined below, I am indigent.

Dated: 3/15/18

[Signature]
Signature of Requesting Party

Aaron Surina
Print or Type Name



III. DECLARATION

I declare that,

3.1 I cannot afford to meet my necessary household living expenses and pay the filing fees and surcharges imposed by the court. Please see the attached Financial Statement, which I incorporate as part of this declaration.

3.2 In addition to the information in the financial statement I would like the court to consider the following:

paystubs for 1 month attached --

Current maintenance obligation = 3,026.00

Current child support obligation = 1,464.00

Leftover leaves me below federal poverty guideline up to date on child support!!

3.3 If you live with another adult, you must disclose their monthly income. \$ _____ per month.

3.4 The other party to this case ☒ does ☐ does not have income. If the other party does have income, I believe that income is \$ 4500 approx per month. + EBT

☐ (Check if applies.) I filed this motion by mail. I enclosed a self-addressed stamped envelope with the motion so that I can receive a copy of the order once it is signed.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) Spokane, (state) WA on (date) 3/15/18


Signature

Aaron Surina
Print or Type Name

Case Name: SURINA DISSOLUTION Case Number: 17-3-01817-0

Financial Statement (Attachment)			
1. My name is: <u>Aaron Surina</u>			
2. ☐ I provide support to people who live with me: How many?		Age(s):	
3. My Monthly Income:		6. My Monthly Household Expenses:	
Employed ☒ Unemployed ☐		Rent/Mortgage: \$ <u>1600</u>	
Employer's Name: <u>PROVIDENCE</u>		Food/Household Supplies: \$ <u>Hungary</u>	
Gross pay per month (salary or hourly pay): \$ <u>7200 *</u>		Utilities: \$ <u>500</u>	
Take home pay per month: \$ <u>900.00</u>		Transportation: \$ <u>425</u>	
4. Other Sources of Income Per Month in my Household:		Ordered Maintenance actually paid: \$ <u>3026</u>	
Source:	\$	Ordered Child Support actually paid: \$ <u>1464</u>	
Source:	\$	Clothing: \$	
Source:	\$	Child Care: \$	
Source:	\$	Education Expenses: \$ <u>400</u>	
Sub-Total: \$		Insurance (car, health): \$ <u>526</u>	
☐ I receive food stamps.		Medical Expenses: \$	
Total Income, lines 3 (take home pay) and 4: \$ <u>900.00</u>		Sub-Total: \$ <u>7,841</u>	
5. My Household Assets:		7. My Other Monthly Household Expenses:	
Cash on hand:	\$ <u>200</u>		
Checking Account Balance:	\$ <u>4</u>		
Savings Account Balance:	\$ <u>2.00</u>		
Auto #1 (Value less loan):	\$ <u>7,000</u>		
Auto #2 (Value less loan):	\$	Sub-Total: \$	
Home (Value less mortgage):	\$ <u>50,000</u>	8. My Other Debts with Monthly Payments:	
Other:	\$	<u>BoFA LEARN FEE</u> \$ <u>150</u> /mo	
Other:	\$	<u>MAGIS</u> \$ <u>150</u> /mo	
Other:	\$	<u>Discover</u> \$ <u>150</u> /mo	
Other:	\$		
Other:	\$	Sub-Total: \$	
Total Household Assets: \$ <u>57,202.00</u>	Total Household Expenses and Debts, lines 6, 7, and 8: \$ <u>8,291.00</u>		
Date:		Signature:	