

CN: 201703018170

SN: 383

PC: 26

FILED

JUN 22 2020

Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

Superior Court of Washington, County of Spokane

In re:

Petitioner/s *(person/s who started this case)*:

SIRINYA SURINA

And Respondent/s *(other party/parties)*:

AARON SURINA

No. 17-3-01817-0

Declaration of
(name): SIRINYA SURINA
(DCLR)

Declaration of: SIRINYA SURINA

- 1.** I am 35 years old and I am the: Petitioner
- 2.** I declare: The QDRO order **Exhibit A** signed by Judge Price signed on Dec 20th 2019 contained errors that caused Fidelity to reject it. Fidelity replied with specific directions on how to correct the errors, see **Exhibit B**
- 3..** I presented the corrected and proposed 6 page QDRO with Fidelity's Track # 536806944 to Aaron Surina about 9a Sunday 06/21/2020 he refused to accept it or even look at it. Aaron emailed me a copy of his proposed order June 19th @ 10:44pm
- 4.** It appears the Aaron Surina stipulated to the new order in his reply email to the court June 10th 2020 @ 9:26 am see **Exhibit C**
- 5.** In regards to Aaron's proposed order with Track # 63986694 it contains the following errors.

A. He added a previously litigated case #19-3-00129 which he appealed and was

sanctioned for filing a frivolous appeal, Case #36696-1-III see **Exhibit D**

B. Pg 2 line 14 he stated the date of divorce as 10/18/2019 should be 12/20/2019

C. pg 5 line 14 he opted out of electronic correspondence.

Summary,

Because of the highly edited errors I would ask the court to disregard Aaron's proposed

QDRO motion with a track # 63986694 and approve my proposed order with

Fidelity # Track No: 352720650

I am acting Pro Se in this matter because I can no longer afford to pay an attorney

I declare under penalty of perjury under the laws of the state of Washington that
the facts I have provided on this form (and any attachments) are true. I have attached
14 pages.

Signed at (city and state): Spokane WA Date: 6/22/20
Smm Siringa Surina
Sign here Print name

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Sirinya Surina
227 E 22nd Ave
Spokane, WA 99203

Spokane County Superior Court

In Re the Marriage of:

Sirinya Surina,	)	Case No.: 17-3-01817-0
	)	
Petitioner,	)	QUALIFIED DOMESTIC RELATIONS
	)	ORDER
and	)	
	)	
Aaron Surina,	)	
	)	
Respondent	)	

QUALIFIED DOMESTIC RELATIONS ORDER

WHEREAS, this Court has jurisdiction over the parties and the subject matter of this
Order; and

WHEREAS, the parties and the Court intend that this Order shall be a Qualified Domestic
Relations Order (hereinafter referred to as a "QDRO") as defined in Section 206(d)(3)
of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") and
Section 414(p) of the Internal Revenue Code of 1986, as amended; and,

WHEREAS, pursuant to the referenced statutes, the Plan Administrator shall make
a determination of the qualified status of this Order; and

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Qualified Domestic Relations Order

WHEREAS, following approval by the Plan Administrator, this Order shall constitute a Qualified Domestic Relations Order; and

WHEREAS, the parties have stipulated that the Court enter this Order;

NOW, THEREFORE, pursuant to this state's Domestic Relations Laws, IT IS HEREBY ORDERED BY THE COURT as follows:

1. As used in this Order, the following terms shall apply:

(a). "Participant" shall mean Aaron Surina, whose current address is 8314 N. Uplands Dr, Hayden, ID 83835.

(b). "Alternate Payee" shall mean Sirinya Surina, whose current address is 227 E 22nd Ave, Spokane, WA 99203.

(c). "Plan" shall mean Multiple Employer 401(k) Plan.

2. The Order relates to marital property rights

3. The date of marriage was 12/29/2011.

4. The date of legal separation or divorce is 12/20/2019.

5. The Alternate Payee is the former spouse of the Participant.

6. With respect to marital property, alimony or spousal support awards, the Participant and the Alternate Payee are/were considered married for federal income tax purposes.

7. This Order is to be reviewed only as it relates to plans on Fidelity's QDRO Review Service.

8. The "Valuation Date" shall be 12/20/2019.

9. The Alternate Payee's interest in the Plan shall be \$16,595.88 of the Participant's total vested account balance under the Plan as of the Valuation Date.

10. The Alternate Payee's award is not entitled to earnings (defined as gains, losses, dividends and interest) from the Valuation Date to the date that the award is segregated from the Participant's account. From and after the Date of Segregation, the Alternate

Payee's award shall be held in an account under the Plan and shall be entitled to all earnings attributable to the investments therein.

11. In the event there is an outstanding loan balance as of the Valuation Date, the loan balance will not be included for purposes of calculating the total vested account balance to be divided. In the event the Plan does not allow loans, this language will be disregarded.

12. The Alternate Payee's award will be transferred proportionately from all contribution sources as of the Valuation Date and all standard plan investment options in which the Participant's account is invested as of the Date of Segregation. Under the Plan, BrokerageLink is not considered to be a standard plan investment option. If there are insufficient funds in the standard plan investment options to satisfy the Alternate Payee's award, the liquidation of the Participant's BrokerageLink account will be effectuated using a last in, first out methodology until sufficient assets have been obtained to satisfy the Alternate Payee's award.

13. The Alternate Payee will be permitted to initiate a distribution of the award as soon as administratively feasible following the qualification of this Order and segregation of the Alternate Payee's award, unless otherwise prohibited by the Plan's rules and administrative procedures. The Alternate Payee may select from the distribution options available to Alternate Payees at the time he/she elects to receive a distribution. The distribution must be made in accordance with the administrative procedures established for the Plan.

14. In the event of the Alternate Payee's death after the qualification of this Order, either prior to or subsequent to the segregation of assets for the Alternate Payee, the Alternate Payee's award will be distributed pursuant to the administrative procedures established for the Plan. To the extent allowed by the Plan, all beneficiary designations will be made

after qualification of the Order and segregation of the award into a separate account for the Alternate Payee pursuant to the administrative procedures established for the Plan.

15. Neither Party shall accept any benefits from the Plan which are the property of the other Party. In the event that the Plan Administrator inadvertently pays to the Participant any benefits that are assigned to the Alternate Payee pursuant to the terms of this Order, the Participant shall forthwith return such benefits to the Plan. In the event that the Plan Administrator inadvertently pays to the Alternate Payee any benefits that are not assigned to the Alternate Payee pursuant to the terms of this Order, the Alternate Payee shall forthwith return such benefits to the Plan.

16. For purposes of Sections 402 and 72 of the Internal Revenue Code, any Alternate Payee who is the spouse or former spouse of the Participant will be treated as the distributee of any distributions or payments made to the Alternate Payee under the terms of this Order, and as such, will be required to pay the appropriate federal and/or state income taxes on such distribution. If the Alternate Payee is a child or other dependent of the Participant, the Participant will be responsible for any federal and/or state income taxes on any such distribution.

17. The parties to this Order intend that it comply with the applicable provisions of ERISA and the Internal Revenue Code. Nothing in this Order shall require the Plan or the Plan Administrator to: (a) pay any benefits not permitted under ERISA or the Internal Revenue Code; (b) provide any type or form of benefit or any option not provided under the Plan; (c) provide increased benefits (determined on the basis of actuarial value) under the Plan; (d) pay benefits to the Alternate Payee which are required to be paid to another alternate payee under another order previously determined to be a QDRO; or (e) pay benefits to the Alternate Payee in the form of a qualified joint and survivor annuity for the lives of the Alternate Payee and his or her subsequent spouse.

1 18. The Court shall retain jurisdiction with respect to this Order to the extent required to
2 maintain its qualified status and the original intent of the parties as stipulated herein.

3 19. The one-time fee for review of the domestic relations order will be deducted 50%
4 from the Participant's account and 50% from the Alternate Payee's account. The fee will
5 be deducted from the investment options in the applicable account(s) according to the
6 Plan-level fee method in effect as of the date the fee is deducted. If the Order is
7 determined to be non-qualified following the first review, the review fee will be deducted
8 from the Participant's account. If applicable, the Participant will be reimbursed from the
9 Alternate Payee's account following qualification of a subsequent Amended Order. Such
10 fee adjustment will be a current transaction as of the date of the reimbursement.

11 20. The name of the prior qualified Order was Qualified Domestic Relations Order.

12 21. The current Order is intended to supersede the prior Qualified Domestic Relations
13 Order dated 12/20/2019.

14 22. The Parties consent to receive electronic communications concerning the status of the
15 Order. Each Party must individually submit their own email address under separate cover.
16 To accept electronic communications, each Party will be required to create a username
17 and password to access the Voltage Secure Message Center. A link to the Voltage Secure
18 Message Center will be provided via email. Once logged into the Voltage Secure Message
19 Center, the Parties will be able to view correspondence sent by the Fidelity QDRO
20 Administration Group. The Parties may request paper versions of correspondence. The
21 Parties may withdraw their consent to receive electronic communications at any time by
22 notifying the QDRO Administration Group in writing via fax or regular mail using the
23 contact information provided in the Plan's QDRO Approval Guidelines and Procedures.
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Alternate Payee:

Sirinya Surina

227 E 22nd Ave

Spokane, WA 99203

Dated: _____

Participant:

Aaron Surina

8314 N. Uplands Dr

Hayden, ID 83835

Judge Of the Court: _____

Track No: 352720650

EXHIBIT A

FILED

DEC 20 2019

Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

CN: 201703018170

SN: 339

PC: 4

SUPERIOR COURT OF WASHINGTON
COUNTY OF SPOKANE

In re the Marriage of:

SIRINYA SURINA

Petitioner,

And

AARON MICHAEL SURINA

Respondent.

No. 17-3-01817-0

STIPULATED QUALIFIED
DOMESTIC RELATIONS ORDER

WHEREAS this Court has jurisdiction over Petitioner and Respondent and the subject matter of this Order pursuant to RCW 26.09 relating to marital property rights; and

WHEREAS Petitioner, Respondent and the Court intend that this Order shall be a Qualified Domestic Relations Order (hereinafter referred to as a "QDRO") as defined in Section 206(d)(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") and Section 414(p) of the Internal Revenue Code of 1986, as amended (the "Code"); and,

WHEREAS Petitioner and Respondent have stipulated that the Court enter this Order.

In re the Marriage of Surina
Qualified Domestic Relations Order
Page 1 of 4

KEITH A. GLANZER, P.S.
2024 W. Northwest Blvd.
Spokane, WA 99205
Telephone: 509-326-4526
Facsimile: 509-324-0405

1 NOW, THEREFORE, IT IS HEREBY ORDERED BY THE COURT as follows:

2 1. As used in this Order, the following terms shall apply:

- 3 a. Participant shall mean Aaron Michael Surina
4 Whose current address is ~~5062 W 52nd Street~~ **PO Box 30123**
5 Spokane, WA 99201 **99223**
6 b. Alternate Payee shall mean Sirinya Polarij Surina
7 Whose current address is 227 E. 22nd
8 Spokane, WA 99203 *MEP*

9 Please see Participant's and the Alternate Payee's date of birth and social security number on the attached
10 QDRO Information Sheet.

- 11 c. Plan shall mean: Providence Health & Services 403(b) Value Plan and
12 Providence Health & Services 401(k) Plan

13 d. Plan sponsor shall mean: Providence Health & Services

14 e. This Order is to be reviewed only as it relates to plans on Fidelity's QDRO Review Service.

15 2. The Alternate Payee is the **Former Spouse**.

16 3. This Order relates to **Marital Property Rights**.

17 4. The Participant and the Alternate Payee were considered married for federal income tax purposes.

18 5. The Participant and the Alternate Payee's **Marital History**:

19 Date of Marriage: December 29, 2011
20 Date of Separation: August 14, 2017
21 Date of Divorce: December 20, 2019

22 6. The **Valuation Date** for the purposes of calculating the Alternate Payee's award shall mean
23 September 30, 2017.

24 7. The Alternate Payee's interest in the Plan shall be \$16,595.88 of the Participant's total
25 vested account balance under the Plan as of the Valuation Date stated above.

8. The Alternate Payee's award **IS NOT entitled** to earnings (defined as gains losses, dividends
and interest) from the Valuation Date to the date that the award is segregated from the
Participant's account.

- 1 9. In the event that there is an outstanding loan balance as of the Valuation Date the outstanding
2 loan balance **WILL NOT** be included for purposes of calculating the total vested account
3 balance to be divided
- 4 10. To the extent allowed by the Plan, the Alternate Payee may initiate a distribution of the award
5 as soon as administratively feasible following the qualification of the Order and segregation of
6 the Alternate Payee's award. The distribution must be made in accordance with the
7 administrative procedures established for the Plan
- 8 11. The Alternate Payee's award will be transferred proportionally from all standard plan
9 investment options in which the Participant's account is invested as of the Date of Segregation.
- 10 12. The allocation of the tax cost basis to the Alternate Payee will be calculated based on the
11 contribution sources in the Participant's account(s) as of the Valuation Date. Pursuant to Section
12 72(m)(10) of the Code, the tax cost basis of the investment options in the Participant's account(s)
13 must be transferred to the Alternate Payee proportionately from all contribution sources.
- 14 13. In the event of the Alternate Payee's death after the qualification of this Order, either prior to
15 or subsequent to the segregation of assets for the Alternate Payee, the Alternate Payee's
16 award will be distributed pursuant to the administrative procedures established for the Plan.
17 To the extent allowed by the Plan, all beneficiary designations will be made after the
18 qualification of the Order and segregation of the award into a separate account for the
19 Alternate Payee pursuant to the administrative procedures established for the Plan.
- 20 14. Neither Party shall accept any benefits from the Plan which are the property of the other Party.
21 In the event that the Plan sponsor inadvertently pay to the Participant any benefits that are
22 assigned to the Alternate Payee pursuant to the terms of this Order the Participant shall
23 forthwith return such benefits to the Plan. In the event that the Plan sponsor inadvertently pays
24 to the Alternate Payee any benefits that are not assigned to the Alternate Payee pursuant to the
25 terms of this Order, the Alternate Payee shall forthwith return such benefits to the Plan.
15. For purposes of Sections 402 and 72 of the Code, an Alternate Payee who is the spouse or
former spouse of the Participant will be treated as the distributee of any distributions or payments
made to the Alternate Payee under the terms of this Order, and as such, will be required to pay
the appropriate federal and/or state income taxes on such distribution. If the Alternate Payee is
a child or other dependent of the Participant, the Participant will be responsible for any federal
and/or state income taxes on any such distribution.

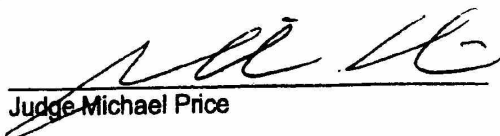
1 16. Electronic Communication:

2 The Parties consent to receive electronic communications concerning the status of the Order.
3 Each Party must individually submit their own email address under separate cover. The
4 electronic communications, each Party will be required to create a username and password to
5 access the Voltage Secure Message Center. A link to the Voltage Secure Message Center will
6 be provided via email. Once logged into the Voltage Secure Message Center, the Parties will
7 be able to view correspondence sent by the Fidelity QDR) Administration Group in writing via
8 fax or regular mail using the contact information provided in the Plan's QDRO Approval
9 Guidelines and Procedures.

10 17. Order Review Fees:

11 The Participant is responsible for the one-time fee for review of the domestic relations order.
12 The fee will be deducted from the Participants account following the first review of the Order.
13 The fee will be deducted from the investment options in the applicable account(s) according to
14 the plan-level fee method in effect as of the date the fee is deducted.

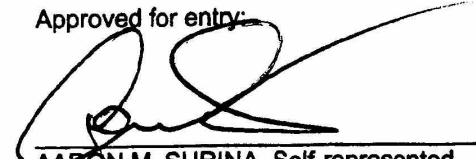
15 DATED this 20 of December 2019

16 
17 Judge Michael Price

18 Presented by:

19 
20 KEITH A. GLANZER, WSBA No. 20424
21 Attorney for Petitioner, Alternate Payee

22 Approved for entry:

23 
24 AARON M. SURINA, Self-represented
25 Respondent, Plan Participant

I CERTIFY THIS DOCUMENT IS A TRUE
AND CORRECT COPY OF THE ORIGINAL ON FILE
AND OF RECORD IN MY OFFICE.
ATTEST

MAR 20 2020

TIMOTHY W. FITZGERALD, COUNTY CLERK
COUNTY OF SPOKANE, STATE OF WASHINGTON

BY: *A McBride* DEPUTY



April 29, 2020

Sirinya Polarj Surina
227 E. 22nd
Spokane, WA 99203

RE: QDRO in connection with Aaron M. Surina ("Participant")
Sirinya Polarj Surina ("Alternate Payee")
Multiple Employer 401(k) Plan ("Plan")
Providence Health & Services 403(b) Value Plan ("Plan")
Fidelity Reference Number: W433737-30MAR20

Dear Party:

The Stipulated Qualified Domestic Relations Order ("Order") dated 12/20/2019 and submitted for review is **not qualified**.

Please refer to the following page for a detailed explanation of the reasons for non-qualification.

As the Order is not qualified, the Plan cannot comply with its terms. To be considered a Qualified Domestic Relations Order, the Order must be modified to eliminate the noted on the following page.

Please be advised that you can create an amended order online and obtain QDRO information by accessing Fidelity's QDRO Center at <http://qd.ro.fidelity.com>. The website has been customized to ensure that the requirements of the specific plan, ERISA and the Internal Revenue Code are met. Moreover, orders generated through this website receive expedited processing.

An original or copy of an amended Order that contains a "Filed" stamp or a "Certified Copy" stamp or a "True Copy" stamp from the Clerk of Courts in addition to the judge's signature should be sent to Fidelity at the address listed in the QDRO Approval Guidelines and Procedures ("QDRO Guidelines").

Please be advised that copies of this letter have been sent to the parties to this matter and their legal representatives, if applicable.

If you have any questions regarding the qualification procedures or need additional information, please call at or send a facsimile to (877) 665-4284.

Sincerely,

Fidelity Reference Number: W433737-30MAR20

AMENDING YOUR ORDER

Reasons for Non-Qualification	Required Action
Incorrect Plan Name Paragraph 1.c of the Order identifies one of the Plans to which the Order applies as the "Providence Health Services 401(k) Plan." Please be advised that this is not a valid plan name. According to our records, the Participant is a member of the <u>Multiple Employer 401(k) Plan</u>.	Please amend Paragraph 1.c to state the correct name of the Plan, accordingly.
Award Unclear Paragraph 1.c of the Order identifies the Plans to which the Order applies as the "Providence Health & Services 403(b) Value Plan and the Providence Health Services 401(k) Plan." Paragraph 7 of the Order states, "The Alternate Payee's interest in the Plan shall be \$16,595.88 of the Participant's total vested account balance under the Plan as of the Valuation Date stated above." Please be advised that the Order is unclear with respect to the Alternate Payee's award. Is it the Parties' intent to award the Alternate Payee \$16,595.88 from the Providence Health & Services 403(b) Value Plan and an additional \$16,595.88 from the Multiple Employer 401(k) Plan for a total benefit of \$31,191.76? Or is the intent that the Alternate Payee receives only a total amount of <u>\$16,595.88</u> to be allocated between the two named Plans? Further, pursuant to the Plan's QDRO Guidelines, if the Order does reference more than one of the Plans as indicated above, then each individual Plan named in the Order must qualify under the appropriate Guidelines for the Order to be considered qualified. <u>For this reason, the Parties may find it preferable to enter a separate Order for each Plan from which benefits are sought to be assigned to the Alternate Payee.</u>	Please refer to the Plan's QDRO Guidelines and amend the Order to clearly state the specific benefits being assigned to the Alternate Payee from each of the named Plans. Please note that per the Plan's QDRO Guidelines, the Parties can obtain the Participant's account information from Fidelity by submitting a properly served subpoena or with a signed and notarized authorization from the Participant allowing such disclosure.
Insufficient Benefit Paragraph 6 of the Order identifies the Valuation Date as 09/30/2017. Paragraph 7 of the Order states, "The Alternate Payee's interest in the Plan shall be \$16,595.88 of the Participant's total vested account balance under the Plan as of the Valuation Date stated above." Please be advised that according to Fidelity records, the Participant's total vested account balance in the Fidelity Reference Number: W433737-30MAR20	Please amend the Order to state a <u>Valuation Date on which there is a sufficient vested account balance in the Participant's Plan account to fund the Alternate Payee's award or an award that can be satisfied from the available balance as of the Valuation Date, in accordance with the Parties' intent.</u> Please note that the Parties can obtain the Participant's account information from Fidelity by submitting a properly served Subpoena or with a signed, notarized authorization

QDRO.Fidelity.com • QDRO.Fidelity.com • QDRO.Fidelity.com • QDRO.Fidelity.com •
QDRO.Fidelity.com • QDRO.Fidelity.com

Providence Health & Services 403(b) Value Plan and the Multiple Employer 401(k) Plan as of the Valuation Date (09/30/2017) is **insufficient** to fund the Alternate Payee's award as currently stated in the Order.

from the Participant, authorizing such disclosure

For clarification purposes, please make note of the following issues:

- Due to the extensive nature of revisions required to this Order, the Parties should consider creating an amended Order online and obtain QDRO information by accessing Fidelity's QDRO Center at <https://qdro.fidelity.com>. The website has been customized to ensure that the requirements of the specific Plan, ERISA and the Internal Revenue Code are met. Moreover, Orders generated through this website receive expedited processing.
- Please be advised, multiple addresses were provided for the above Party. Accordingly, correspondence has been sent to multiple addresses regarding this matter. If the Party's current address on record is no longer accurate, please update this information by contacting the Plan's Benefit Service Center or by accessing Fidelity Net Benefits at <http://netbenefits.fidelity.com>.

What Happens Next

The Order must be amended to address the deficiencies noted above. Once the Order is amended, you must either mail it to the address provided in the Plan's QDRO Guidelines or fax it to (877) 665-4284.

Disbursement Restriction Information:

Please be advised that the disbursement restriction placed on the Participant's Plan will remain in place pursuant to the QDRO Guidelines. During this period, the Participant will be unable to However, if currently eligible, the Participant will remain eligible to direct the investment of future contributions and existing balances.

In accordance with Department of Labor Field Assistance Bulletin 2003-3, the parties to the Order are hereby reminded that for defined contribution domestic relations orders, a fee for the review to determine whether the domestic relations order is a Qualified Domestic Relations Order is assessed to the Participant and/or the Alternate Payee.

In accordance with the Plan's QDRO Approval Guidelines and Procedures, the applicable fee will initially be assessed to the Participant's account. Following qualification of an amended Order, a fee adjustment will be processed so that the fee will have been taken % from the participant's account and % from the alternate payee's account, unless the subsequently qualified Order states otherwise.

**PLEASE NOTE: NO FURTHER ACTION WILL BE TAKEN ON
THIS MATTER UNTIL AN AMENDED ORDER IS RECEIVED**

Fidelity Reference Number: W433737-30MAR20

QDRO.Fidelity.com • QDRO.Fidelity.com • QDRO.Fidelity.com • QDRO.Fidelity.com •
QDRO.Fidelity.com • QDRO.Fidelity.com

Exhibit C

From: **Shaw, Johnny B.** <JSHAW@spokanecounty.org>
Date: Wed, Jun 17, 2020, 2:50 PM
Subject: QDRO, 17-3-01817-0
To: reply@surina.org <reply@surina.org>, Sirinya Polarij
<sirinyaandrew@gmail.com>, aaron@surina.org <aaron@surina.org>

Counsel/Parties,

Judge Fennessy's docket will be conducted remotely or in strict adherence to social distancing as mandated by the Governor and the Washington State Supreme Court. If you plan on appearing remotely, whether by video or phone, the instructions are included below. If you plan on appearing in person, please let me know so that I have an accurate count on how many people will be in the courtroom.

This link will be used for all future hearings, so feel free to save the link and forward it to any parties who plan on appearing for the hearing.

Topic: Judge Fennessy's Docket

Time: This is a recurring meeting Meet anytime

Join Zoom Meeting

<https://zoom.us/j/97944988084?pwd=TIZEN0haWXEvcG96Y3lMQ1ZPQkgyUT09>

Meeting ID: 979 4498 8084

Password: 803282

One tap mobile

+12532158782,,97944988084#,,1#,803282# US (Tacoma)(To include Spokane)

Dial by your location [+1 253 215 8782](tel:+12532158782) US (Tacoma)(To include Spokane)

Meeting ID: 979 4498 8084 Password: 803282

Find your local number: <https://zoom.us/u/aT2YXGcmR>

Very Respectfully,

Johnny B. Shaw, Judicial Assistant to

Timothy B. Fennessy

Spokane County Superior Court Judge

Department 11

jshaw@spokanecounty.org

509-477-6373

PLEASE NOTE: The Spokane County Local Rules have been updated as of **6/28/19**. Please make sure you review these updates on spokanecounty.org prior to noting a matter for hearing. Please note some forms have been updated as well.

NOTICE: All e-mail sent to this address will be received by the Spokane County e-mail system and may be subject to public disclosure under GR 31.1. It may also be archived and reviewed.

From: Aaron Surina [mailto:aaron@surina.org]

Sent: Wednesday, June 10, 2020 9:26 AM

To: Shaw, Johnny B. <JSHAW@spokanecounty.org>; Sirinya Polanj <sirinyaandrew@gmail.com>

Subject: Fwd: Message from "RNP0026739BD46C"

Forgot about this in support of legible final orders.

Thank you,

Aaron Surina

E:Aaron.Surina@providence.org | M:707.200.4372 | D:509.474.2222

Respect · Compassion · Justice · Excellence · Stewardship

FILED
MAY 14, 2020
In the Office of the Clerk of Court
WA State Court of Appeals, Division III

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

AARON SURINA,	)	No. 36696-1-III
	)	
Appellant,	)	
	)	
v.	)	UNPUBLISHED OPINION
	)	
SIRINYA POLARJ (SURINA),	)	
	)	
Respondent.	)	

LAWRENCE-BERREY, J. — Aaron Surina appeals after the trial court dismissed his action to register a Thailand child custody order and imposed CR 11 sanctions against him. We affirm the trial court and impose sanctions against Mr. Surina for a frivolous appeal.

FACTS

In August 2017, one of the parties commenced a dissolution action against the other in Spokane County Superior Court. The trial court entered a temporary child support order and a temporary parenting plan. Mr. Surina litigated issues of child abuse and spousal abuse in that action. He never challenged the court's jurisdiction. At some point, the court set a trial date of June 10, 2019.

No. 36696-1-III
Surina v. Polarj

Around March 2018, Mr. Surina traveled to Thailand and filed an action for dissolution and child custody. The Thailand court entered a default judgment against Sirinya Polarj and gave Mr. Surina custody of the parties' children. Mr. Surina returned to Washington and commenced this action to register the Thailand child custody order.

On February 5, 2019, Ms. Polarj moved to dismiss the newly filed action. In her declaration, Ms. Polarj stated she and her children are American citizens and she had no notice from the Thailand court of the action. Ms. Polarj argued the Spokane County Superior Court had exclusive jurisdiction over the dissolution and child placement proceedings. She also requested sanctions against Mr. Surina under CR 11 for filing a frivolous action.

Mr. Surina responded by asserting Ms. Polarj had notice of the Thailand proceedings, Thailand laws are superior to any other laws, and he filed the Thailand action to prevent an international abduction of his children. As evidence Ms. Polarj received notice, Mr. Surina attached a June 6, 2018 e-mail from a Thailand attorney. In that e-mail, the attorney wrote:

Dear [Mr. Surina],

The officer told me that they ask your ex-wife to come on 19 June. I could not confirm that she will come to the Juvenile Division or not.

No. 36696-1-III
Surina v. Polarj

But I will check with the officer again after 19 June that she come or no and I will tell you.

Clerk's Papers (CP) at 17.

The trial court found that Ms. Polarj met her burden to show the Thailand court did not have jurisdiction, and she did not receive proper legal notice before the Thailand order was issued. The trial court, therefore, granted Ms. Polarj's motion to dismiss this action.

The trial court also entered the following findings with respect to Ms. Polarj's request for CR 11 sanctions:

1. Aaron Surina's allegations asserted in the Thailand divorce and Custody pleadings, including but not limited to child abuse and spousal abuse, were litigated in the Spokane County Superior Court, Case No. 17-3-01817-0.^[1]
2. The Thailand custody order was obtained without formal legal notice to Respondent, Sirinya [Polarj].
3. Mr. Surina cites no legal authority supporting his assertion that Thailand's orders supersede the Washington State Superior [Court] Orders that were in effect when he traveled to Thailand to obtain the orders.
4. There is no basis to enforce the Thailand orders. The filing of this notice is a frivolous and vexatious action . . . without basis in law or fact and solely for the purpose of harassing the Respondent.

¹ Mr. Surina devotes much of his briefing in an attempt to relitigate issues of abuse. These issues were already litigated, are not in front of us, and we will not consider them.

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CP at 107 (third alteration in original). Based on these findings, the trial court granted Ms. Polarj's request for CR 11 sanctions.

Mr. Surina timely appealed both orders.

ANALYSIS

DISMISSAL OF THE THAILAND CHILD CUSTODY ORDER

Mr. Surina contends the trial court erred by dismissing his action to register the Thailand child custody order. We disagree.²

A party can register an out-of-state child custody order in the State of Washington under RCW 26.27.441. The other party can contest the entry of the out-of-state custody order. RCW 26.27.441(4). If this occurs, the trial court holds a hearing and must confirm the registered determination unless the party contesting it demonstrates that:

- (a) The issuing court did not have jurisdiction under Article 2;
- (b) The child custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under Article 2; or
- (c) The person contesting registration was entitled to notice, but notice was not given in accordance with the standards of RCW 26.27.081, in the proceedings before the court that issued the determination for which registration is sought.

² Mr. Surina has not assigned error to the trial court's findings of fact; therefore, they are verities on appeal. *State v. Homan*, 181 Wn.2d 102, 106, 330 P.3d 182 (2014).

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RCW 26.27.441(4). A challenger need only prove one of the above defenses to block registration of an out-of-state custody order. Ms. Polarj asserted subsections (a) and (c) as defenses. Because we conclude below that the Thailand court did not have jurisdiction, we do not reach the question of whether there was adequate notice.

RCW 26.27.211(1) provides, in relevant part:

[A] court of this state that has made a child custody determination consistent with RCW 26.27.201 or 26.27.221 has exclusive, continuing jurisdiction over the determination until:

(a) A court of this state determines that neither the child, the child's parents, and any person acting as a parent do not have a significant connection with this state and that substantial evidence is no longer available in this state concerning the child's care, protection, training, and personal relationships; or

(b) A court of this state or a court of another state determines that the child, the child's parents, and any person acting as a parent do not presently reside in this state.

Here, the trial court made an initial child custody determination pursuant to RCW 26.27.201. There is no evidence the trial court lost jurisdiction, as provided in RCW 26.27.211(1)(a) or (b). Therefore, Ms. Polarj established the trial court had exclusive and continuing jurisdiction over the parties' dissolution action, and the Thailand court was without jurisdiction to enter its child custody order. We conclude the trial court did not err by dismissing Mr. Surina's action to register the Thailand order.

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CR 11 SANCTIONS

Mr. Surina contends the trial court erred when it imposed CR 11 sanctions against him. We disagree.

CR 11 sanctions aim to prevent baseless filings, filings made for improper purposes, and abuses of the judicial system. *Biggs v. Vail*, 124 Wn.2d 193, 197, 876 P.2d 448 (1994). If a party engages in the aforementioned conduct, the trial court can impose an appropriate sanction, including a reasonable attorney fee. CR 11(a).

We review a trial court's decision to impose CR 11 sanctions for an abuse of discretion. *Skimming v. Boxer*, 119 Wn. App. 748, 754, 82 P.3d 707 (2004). "An abuse of discretion occurs only when the decision of the court is 'manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons.'" *State v. McCormick*, 166 Wn.2d 689, 706, 213 P.3d 32 (2009) (quoting *State ex rel. Carroll v. Junker*, 79 Wn.2d 12, 26, 482 P.2d 775 (1971)).

The trial court did not abuse its discretion by imposing CR 11 sanctions against Mr. Surina. The record amply supports the trial court's findings that Mr. Surina did not provide proper notice of the Thailand action to Ms. Polarj, Mr. Surina provided no legal authority for his argument the Thailand order superseded the Washington temporary orders, and there was no legal basis to enforce the Thailand order. Mr. Surina's filing of

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this action was factually and legally baseless. We conclude the trial court did not err by imposing CR 11 sanctions.

ATTORNEY FEES ON APPEAL

Ms. Polarj requests attorney fees and costs under RAP 18.9. RAP 18.9 authorizes an award of attorney fee sanctions if an appeal is frivolous. When determining whether an appeal is frivolous, the court will consider the following factors:

“(1) A civil appellant has a right to appeal under RAP 2.2; (2) all doubts as to whether the appeal is frivolous should be resolved in favor of the appellant; (3) the record should be considered as a whole; (4) an appeal that is affirmed simply because the arguments are rejected is not frivolous; (5) an appeal is frivolous if there are no debatable issues upon which reasonable minds might differ, and it is so totally devoid of merit that there was no reasonable possibility of reversal.”

Espinoza v. Am. Commerce Ins. Co., 184 Wn. App. 176, 202, 336 P.3d 115 (2014)

(internal quotation marks omitted) (quoting *Griffin v. Draper*, 32 Wn. App. 611, 616, 649 P.2d 123 (1982)).

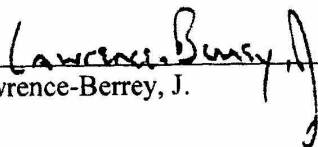
Given these standards, we determine Mr. Surina’s appeal is frivolous. The record confirms there are no debatable issues of fact or law and the appeal is so totally devoid of merit there is no reasonable possibility for reversal. Also, Mr. Surina never cited the record, he never cited legal authority, and his numerous assertions are so muddled they

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inhibit basic appellate review. Subject to Ms. Polarj's compliance with RAP 18.1(d), we grant her request for reasonable attorney fee sanctions against Mr. Surina.

Affirmed.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.


Lawrence-Berrey, J.

WE CONCUR:


Siddoway, J.


Fearing, J.