

CN: 201703018170

SN: 597

PC: 11

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TIMOTHY W. FITZGERALD
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SPOKANE COUNTY CLERK

**Superior Court of Washington,
County of Spokane**

**In re: Modification of custody by
petition Petitioner :**

SIRINYA POLARJ

And Respondent:

AARON SURINA

No. 17-3-01817-0

Respondent's opposition to pets motion
for sanctions and

*Motion for order denying sanctions and
preserving access to justice*

(MOTION)

**RESPONDENT'S OPPOSITION TO
PETITIONER'S MOTION FOR SANCTIONS AND FOR ORDER RESTRICTING
RESPONDENT FROM ENGAGING IN ABUSIVE LITIGATION;**

**AFFIDAVIT OF TRUTH BY AARON SURINA; AND REQUEST FOR ORDER
DENYING SANCTIONS AND REAFFIRMING RESPONDENT'S RIGHT TO LITIGATE
FOR THE BEST INTERESTS OF THE CHILDREN**

Date: 04/10/2024

Respondent, Aaron Surina, through this opposition, seeks to correct the record and mischaracterizations presented by Petitioner and her counsel, Mr. Stanley A. Kempner, Jr., in their pleadings both oral on march 12 and written including their Motion for CR 11

Sanctions and for Order Restricting Respondent from Engaging in Abusive Litigation as well as the commentary during the March 12, 2024 hearing where counsel was observed in a number of activities contrary to the proper administration of justice with regards to false statements and candor towards the tribunal.

Mr. Kempner brought this vexatious litigator stuff up in his presentment of orders for hearings on October 31, 2023 and was immediately denied due to the case history and relevant facts and findings existing at the time of the last hearing. Mr. Kempner also did not attend or provide representation on anything prior to March 12, 2023. That was his first hearing or should have been. Respondent moves the court to strike those orders and allow proper orders to be drafted by a court reporter and the cost be split evenly between the parties. This should be the standing orders going forward due to the attempts at changing the court's rulings, authority and more delay, frustration and costs due to this abuse of privilege Mr. Kempner has been caught in.

This pleading is emphasizing the paramount importance of both parents facilitating and supporting a healthy relationship with each other for the best interests of the child(ren), DMS and AAS.

Respondent asserts that his actions throughout this litigation have been motivated solely by his concern for the well-being and best interests of his children, AAS and DMS, and his rights as a father, not out of any intention to harass or needlessly complicate the proceedings. Before the petitioner violated the law and parenting plan in the relocation, there had been no activity since 2021. This is hardly vexatious considering the respondent was numerous times affected by the petitioner violating the court's orders and filed nothing. The court did an amazing job enforcing the child support order around taxes that petitioner was in violation of. Mr. Kempner included his lack of awareness around 4 years of being unable to file taxes. Let me remind the court of those items that also remain as heinous as that one. The amount of pleadings filed are directly relative to the amount of violations of the court's orders at hand and unresolved without relief provided to date.

II. FACTUAL BACKGROUND

The Respondent has consistently sought to ensure the welfare of his children, which has been the driving force behind every motion filed and action taken in this case. The allegations of filing spurious and incomprehensible motions are unfounded and overlook the substantive issues raised concerning the children's safety, well-being, and the necessity of maintaining a meaningful relationship with their father.

The relocation of the children, initiated by the Petitioner without adequate consideration for their educational and emotional needs, directly impacts their stability and access to a supportive family environment. The Respondent's objections to the relocation were rooted in legitimate concerns over the children's best interests, including the quality of education, their emotional health, and their desire to remain in a familiar environment.

III. LEGAL ARGUMENT

A. Respondent's Filings Are Motivated by Legitimate Concerns for the Children's Welfare

Each motion and filing by the Respondent has been a necessary step in advocating for the rights and interests of his children. The portrayal of these actions as frivolous or vexatious is a misrepresentation of a father's legitimate use of the judicial process to protect and advance the welfare of his children.

B. The Right to Object to Relocation and Seek Modification of Custody

Washington State law acknowledges the right of a non-relocating parent to object to the relocation of children and to seek modification of custody arrangements when it is in the children's best interests. The Respondent's actions are fully supported by existing legal standards and precedents focused on child welfare and the rights of parents to maintain meaningful relationships with their children.

C. Request for Denial of Sanctions and Acknowledgment of Respondent's Right to Litigate

The request for sanctions against the Respondent is unwarranted and overlooks the fundamental issues at stake – the well-being and best interests of the children. The Court should recognize the Respondent's legitimate and good faith efforts in this litigation and deny the Petitioner's motion for sanctions.

- D. Request for the court to consider and recognize the best interests of the children involved including their own desires on who they want to live with after spending 3 years in a bar everyday. Courts have consistently recognized that the best interests of the child are served **when both parents actively support and facilitate the child's relationship with the other parent**. This principle has been upheld in several jurisdictions, as demonstrated by the following cases:

IV. CASELAW

Surina - CaseLaw References

1. In re Marriage of LaMusga (2004) - Highlighted the importance of maintaining stable relationships with both parents, particularly in relocation disputes.
2. Michaud v. Michaud (1997) - Emphasized the reversal of custody due to one parent's efforts to encourage a positive relationship between the child and the other parent.
3. Vissicchio v. Vissicchio (2005) - Awarded custody based on one parent's superior ability to support the child's relationship with the other parent.
4. Rideout v. Riendeau (2000) - Favored the parent more willing to facilitate a loving relationship between the child and the other parent.
5. McAlister v. McAlister (2008) - Considered a parent's willingness to support the other parent's relationship with the children as a crucial factor in custody decisions.

Statutes

RCW 26.20.035 Family Non-Support

- (1) Except as provided in subsection (2) of this section, any person who is able to provide support, or has the ability to earn the means to provide support, and who:*

- (a) *Willfully omits to provide necessary food, clothing, shelter, or medical attendance to a child dependent upon him or her is guilty of the crime of family nonsupport.*
- (3) *The crime of family nonsupport is a gross misdemeanor under chapter 9A.20 RCW.*

******Other relative statutes attached**

EXHIBIT A (filed with motion to reconsider - statutes printed out)

V. CASE HISTORY

These cases collectively underscore the judiciary's commitment to ensuring that custody and visitation arrangements reflect the best interests of the child, which include maintaining meaningful relationships with both parents.

The court did acknowledge that the petitioner is a sole proprietor or owner of the lounge on sunset hwy known as "Sirinya's thai restaurant and lounge" in Airway Heights. Sirinya is the bartender there and works everyday. Sirinya does not use other bartenders due to the loss of that money. She has neglected our children continuously as well as failed in her duties to financially support them. Our children have been kept in a small 4x5ft janitorial closet turned into a daycare room without any adults observing what they are doing, what they are watching on the internet, how they are treating each other, big brother beating up little brother and more.

On March 12, 2024, the petitioner admitted to swing shift at work and has the time before 3pm to facilitate the current arrangements. She is unavailable and unable to perform the requirements of parenting while bartending. That is clearly not in debate. Furthermore, there is no need to alter their schooling, the respondent moved to Spokane to facilitate his children and their schooling. He's worked hard to keep them engaged even against the odds that the petitioner has created and hurdles that have been built to try to make Mr. Surina stumble. To alter their school is to change the parenting plan which needs clarification anyways. it lacks my memorial day that i was granted every year and she gets labor day. I have of course not gotten a single

memorial day since they left that out of the written version when her attorney wrote the final orders which were supposed to be reviewed prior but he refused to meet and follow the oral rulings edicts as such.

On October 31, 2023 Mr. Kempner in his first 20 minutes on the case attempted to persuade Judge Dixon to characterize me as vexatious litigator. I will remind the court, the petitioner tricked Judge Dixon into signing a writ of habeus corpus which after he found out, he quickly quashed or vacated. I've never done anything of the sort. The petitioner in an attempt to prevent me from seeing my children had kootenai county process service (for 25 bucks) have a sheriff serve me a fake restraining order that was not signed by a judge. The kootenai county sheriff's were alarmed by that clever method of custodial interference. It's par for the course.

VI. UNRESOLVED RELIEF SOUGHT THROUGH PETITION

VII. RELIEF SOUGHT

The Respondent, Mr. Aaron Surina, respectfully requests the Court to grant the following relief:

1. **Primary Custody:** Award primary custody of both children to Mr. Surina, recognizing his consistent role as the sole financial provider and the stable presence in their lives.
2. **Clarification and Enforcement of Final Orders:** Issue clear final orders reflecting the Court's original intent on November 27, 2019, addressing unresolved issues exacerbated by ambiguous or misinterpreted provisions.
3. **Financial Remediation:** Order a reassessment of the Petitioner's financial status and obligations, given the discrepancies between her claimed income and lifestyle. Compel the Petitioner to comply with financial disclosure requirements as mandated by the Court.

4. **Tax Exemptions and Forms 8332:** Require the Petitioner to sign IRS Form 8332 for both children, allowing Mr. Surina to claim them for tax purposes, reflecting the true financial contributions to their upbringing.
5. **Recognition of New Counsel's Unfamiliarity and Procedural Missteps:** Acknowledge the oversight and unfamiliarity of the Petitioner's counsel with the case specifics and the Court's previous rulings, including the assignment of a visiting judge due to underlying issues.
6. **Consideration of the Children's Testimonies:** Take into account the testimonies provided by DMS and the ongoing adverse impacts on his wellbeing.
7. **Addressing Criminal Charges and Custodial Decisions:** Review the decision to maintain the Petitioner as the primary custodian following charges by the major crimes unit and subsequent decisions by the prosecutor's office.
8. **Enforcement of Court Orders:** Acknowledge the Petitioner's unauthorized relocation and sanction her for failing to comply with court orders, reflecting the findings from September 14, 2023.
9. **Equal Access to Court Resources and Compliance with Discovery:** Ensure Mr. Surina has equal access to court facilitators and mandate the Petitioner's compliance with discovery requests, including CR26 meetings and interrogatories.
10. **Reevaluation of Parenting Time and Financial Contributions:** Update the parenting plan and child support arrangements to reflect the actual availability of the Petitioner and her financial capacity, ensuring the children's needs and preferences are prioritized.
11. **Review of RCW 26.09.191 Applications:** Reassess the application of limitations under RCW 26.09.191 to Mr. Surina, considering the lack of foundational evidence and the potential misapplication of these orders.

12. Correction of Misfiled Objections and Sanctions: Clarify the record regarding Mr. Surina's timely filing of objections and the Court's subsequent sanctions against the Petitioner.

13. Adjudication of Oral Rulings: Request a formal adjudication of oral rulings made by the Court to correct misinterpretations and misapplications affecting financial responsibilities and liabilities.

14. Adjustment to Parenting Plan: Propose a new parenting plan that aligns with the current circumstances, notably Mr. Surina's ability to be a present and active parent, contrary to the Petitioner's capacity and willingness.

15. Addressing Child Support Arrears: Correct the record regarding child support arrears attributed to employer noncompliance, absolving Mr. Surina of responsibility for these arrears in line with RCW 26.18.110.

In addition to the matters laid forth in the preceding pleading/motion, we wish to bring to the Court's immediate attention **the urgent need to address loopholes and vagueness in the existing parenting plan** which the petitioner included a restraining order placed upon our 6 and 2 year old at the time, **which present considerable risks for Aaron Surina and his minor children, David and Andrew Surina.**

Concerns About Restraining Order

Threats of Abduction: The restraining order that was inserted into the parenting plan preventing any contact with "the other parent" coincides alarmingly with the petitioner's threats of abduction. **This provision can be manipulated by the petitioner to commit an abduction under the guise of compliance with the parenting plan.** It's also considered emotional abuse in Washington state where parents are obligated to take a "sharing the children" seminar promoting each parent's relationship with their children.

Request for Modification

Clarification of Terms: We request that the restraining order be modified to clarify that it should not be interpreted to permit any actions that would lead to the removal of the children from their current country, particularly without prior written agreement from both parents, a bond posted with the clerk of the court along with approval from this Court.

Loophole Closure: The current parenting plan contains a provision that makes it unenforceable if both parties agree to alternate arrangements outside of court without a signed court order. This loophole creates the risk of abduction and should be explicitly closed.

Preventive Measures Against Abduction

Passport Surrender: Given the heightened risk and severity of potential international abduction, we urgently request that all children's foreign passports be surrendered to the Clerk of the Court and held until such time as both parents provide explicit written agreement and post an appropriate bond, and the Court signs an order confirming such arrangements.

Criminal Consequence: We ask the Court to specify that any unauthorized removal of the children from the State of Washington, in contravention of the UCCJEA or other governing statutes, will be considered kidnapping/abduction and subject to criminal prosecution. In light of the evidence presented, the clear legal standards, and the paramount importance of the children's best interests, the Respondent urges the Court to grant the requested relief, including the awarding of primary custody to the Respondent, enforcement of clear and actionable court orders, and necessary financial remediation including the 8332 forms for both children and judgements on the matters due to insisting on ignoring the court and it's direct orders to the petitioner.

Mr. Surina urges the Court to consider the extensive and ongoing violations committed by the Petitioner, the detrimental impacts on the children's wellbeing, and the clear need

for judicial intervention to rectify the current untenable situation. It is imperative that the Court issue revised orders that reflect the actual dynamics and needs of the involved parties, especially the minor children, and ensure compliance with legal and financial responsibilities. Mr. Surina commits to continuing his nurturing his dedicated and responsible parenting, prioritizing the children's best interests above all.

VIII. CONCLUSION

The Respondent's filings have been necessary responses to the *Petitioner's refusal to comply with court orders and the only means to seek resolution within the framework provided by the court*. Penalizing the Respondent for pursuing these lawful and court-sanctioned avenues would be unjust and counter to the principles of fair and equitable legal practice.

The Respondent respectfully requests that the Court deny the Petitioner's motion for sanctions, reaffirm the Respondent's right to engage in litigation aimed at protecting the best interests of his children, and consider the substantive issues related to the children's welfare, best interests, and the necessity of their maintaining a strong, meaningful relationship with their father, Aaron Surina. The respondent asks the court for available dates in the coming weeks to hold the custody trial and proposes that the trial be without oral argument as well. The respondent was forbidden to present any evidence with regards to custody on March 12, 2024. The items that were adjudicated were related to the relocation which had already been heard and was pending custody modification trial RCW 26.09.500 (3)

26.09.480 states in subsection(1) "The objection to relocation shall be in the form of (a) A petition for modification of the parenting plan pursuant to relocation (b) other court proceeding adequate to provide grounds for relief (to the objecting party). The lives and well-being of two minor children are at stake. We implore the Court to take immediate action to address these critical issues and protect Aaron Surina's rightful and

loving relationship with his children. Opposing counsel knows that if there is a custody trial, his client is not going to win due to her history, evidence and more so he's obstructing the court's authority.

All respondent's cause pleadings relative to relocation filed by respondent since June of 2023 up unto this pleading and all the exhibits attached hereto and there and **incorporated herein** by reference are a part of this Petition and Motion / Affidavit to the same extent as **if fully set forth herein**.

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 2 pages.

Signed at : Spokane, WA

Date: April 10, 2024

/s/

Sign here

Aaron Surina

Print name

CERTIFICATE OF SERVICE

I certify that on this day, I served a copy of this pleading on the Petitioner, Sirinya Surina, via personal delivery to provide a copy of this to Mr. Kempner on April 10, 2024.

/s/

4/10/2024 in Spokane WA

Aaron Surina, Respondent