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FILED

OCT 29 2024

TIMOTHY W. FITZGERALD
SPOKANE COUNTY CLERK

**Washington State Superior Court
In and for the county of Spokane**

**In re: Custody of AAS 6/26/16 &
DMS 08/12/12**

No. 17-3-01817-0

**Petitioner:
Sirinya Surina**

**Resp's MOTION TO DISMISS
duplicative Petition to chg
parenting plan**

v.

**Respondent:
Aaron Surina**

**RESPONDENT'S MOTION TO DISMISS
PETITIONER'S PETITION TO CHANGE PARENTING PLAN**

COMES NOW, the Respondent father, Aaron Surina, and moves this Court to dismiss the Petitioner's most recent petition to change the parenting plan on the grounds that it is procedurally unnecessary, in bad faith, and represents an abuse of process. Furthermore, the issue is before the appellate court with regards to exactly this matter.

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Respondent Father's Motion to dismiss 2nd petition to chg custody
Case: 17-3-01817-0 Aaron Surina 12000 N. Stinson Dr, Hayden, ID 83835

10/23/2024

INTRODUCTION

Scheduling the initial petition which was paid for and is still pending allows the Respondent Father to dismiss the appeal aside from the attorney's fees awarded after the court had been misled by the petitioner stating that the petitioner's relocation had NOT been permitted, which was done knowingly and intentionally in an attempt to relitigate where the children go to school without a modification of custody trial and in direct conflict with the stipulated agreement the petitioner herself suggested as an answer to how to deal with her sanctions on September 14, 2023 in the last 3 minutes of the hearing.

The Court has already established the need for a custody trial to resolve the outstanding issues between the parties regarding relocation, parenting, school, work schedules, credible reports of abuse that have been before the court going all the way back to 2018 and which remain unlitigated that definitively require a change in custody, and the Petitioner's new filing serves only to delay and frustrate this process, while unjustifiably increasing the cost of litigation.

1. Existing Petition and Court's Prior Orders

The Petitioner's submissions in her attempt to modify the parenting plan is duplicative, as a petition to modify the parenting plan has already been properly filed, *and the Petitioner has **accepted the court's jurisdiction and submitted her Notice and answers (responding to respondent's submission of form FL721) in June 2023 to this matter.*** The Court is well

aware that both parties have been aware of and the respondent specifically has been affected due to awaiting the evidentiary custody trial for a substantial period. The only reason this trial has not yet occurred is due to strategic delays, omissions, fraudulent submissions and statements before the court which at a minimum amount to obstruction by the Petitioner.

On page 21 of the June 23, 2023 verbatim - Report of proceedings, the Court clearly ordered both a relocation trial and a custody trial. The respondent filed and noted July 28, 2023 for the custody trial which was found to be filed timely but was put on the commissioner's docket and on September 14, 2023 during the relocation proceedings where each procedural aspect relating to filing was reviewed to ensure that all procedural requirements were met and the issue was properly before the court. The court found that the Respondent Father filed his objection (or response to the petitioner's notice of intent to relocate timely. The notice of intent to relocate was not filed before Respondent's initial objection and his paid petition to modify custody [Form FL-721]. The court found the filing was timely (in part because the responding party is allowed a single amendment as the responding party to the notice once the notice was officially filed if the party is forced to file the objection due to no Notice of intent to relocate ever being filed and the move taking place which is what the petitioner did in this case to warrant sanctions). The relocation trial took place during a "motion to prevent unilateral decision making and enrollment in school" which forced the relocation trial to take place. The orders were also improperly drafted as an "order on motion for temporary family law order" by petitioner's counsel who never obtained the verbatim

and was not counsel for the hearing but did draft orders out of thin air before any verbatim ever had been created. Judge Dixon hand wrote the court orders " the stipulated agreement of the parties and orders the same". The fact is that relocation was already resolved on **September 14, 2023**, wherein the parties **stipulated to the relocation being permitted**, which **also ordered the children remain in Spokane school district pending the custody trial**. As the stipulation pertains to the children remaining in spokane schools, the suggestion itself **was the proposal of the petitioner** who through counsel stipulated this as a proposal to meet the sanctions intended by the court and agreed that the children would attend school in Spokane **pending the outcome of the custody modification trial**. The petitioner through manipulation and misleading the court removed the sanctions through gamesmanship, manipulation and without due process, motion before the court or candor. The petitioner who states that no stipulation exists now ironically has a motion to dismiss said stipulated agreement after overthrowing the court through fraud and manipulation.

This matter was satisfactorily resolved in accordance with the Court's instructions. However, the custody trial has yet to proceed due to Petitioner's tactics, and now Petitioner seeks to further delay and manipulate this process by submitting an unnecessary new petition, through the abuse of process and gamesmanship demanding that she be the moving party and that my fees paid for the original petition that remains altogether unresolved due to the petitioner's actions are not refunded to the Respondent Father. The petitioner is attempting to modify the proper

procedure followed by the Respondent Father with regards to the very plan already under review by this Court.

2. Unlawful Frustration and Delays by Petitioner

It is clear that the Petitioner's intent in filing this new petition is not to seek a fair and just resolution of the outstanding custody matters, but rather to act vindictively in a legal proceeding hoping to alienate the Respondent Father and his hard earned strong bond with his two sons from positively engaging and parenting them over the last 12 years. The petitioner is moving the court to harm the children in a manner that proves her intent to harm the children in and of itself without any concern for the emotional, physical and overall wellbeing of their children. This almost amounts to an abduction or 100% disassociation with his children without regards to the long term and short term effects this has had and could have on all 3 which she wishes this harm upon. The petitioner striving for this harm, continues to unlawfully frustrate and delay the Court's proceedings. The Petitioner's actions are calculated to:

- **Exploit procedural loopholes** created by the retirement of **Judge Dixon**, to avoid the properly filed, noted and ordered evidentiary hearing on custody, which the parties have been awaiting for well over a year now. When the petitioner hired new counsel after her last lawyer withdrew from the case, he demanded that no trial proceed in direct defiance of the court's orders and his own stipulated agreement to note the custody hearing. The court prioritizes modification of

custody pursuant to relocation and as a general policy these trials when children are involved the court schedules these as a priority.

- **Financially strain the Respondent Father**, as Petitioner's superior financial resources allow her to leverage the court system and raise the cost of litigation through unnecessary motions and filings. This causes a prejudice towards the Respondent Father.
- **Intentionally obstruct and frustrate Respondent Father's access to effective legal counsel** by saturating the legal market in the region with consultations and obstructing access to counsel as well as purposefully driving up litigation costs. Such actions have created a significant imbalance in this case, burdening Respondent Father and delaying resolution at the cost of the well-being of the children involved. Moreover, this strategy is contrary to the interests of justice and demonstrates bad faith by the Petitioner.

3. Stipulation in the Relocation Trial

The parties already agreed in the relocation trial which ended up being held on September 14, 2023 that the children would attend school in Spokane pending the custody modification trial. This agreement further renders the Petitioner's new petition unnecessary, as it attempts to undermine the Court's existing orders and the parties' stipulation. The Petitioner's conduct is particularly egregious as she continues to unilaterally make decisions regarding the children in direct contradiction to the established stipulation **and Court orders**, and without awaiting the proper resolution of the custody trial. Even if the relocation trial took place on March 12, 2023, the

school stipulation was ordered until the custody trial that had and is pending takes place. That stipulated agreement should not have changed as we are still waiting for the custody trial which the Petitioner intentionally misled the court on numerous occasions without care for consequences.

4. Interrogatories have already been answered by both parties and discovery is complete.

In this motion to dismiss the Petitioner's duplicative petition to modify the parenting plan, it is important to note that discovery has already been completed. Interrogatories were issued and answered by the Respondent Father well before Mr. Stanley Kempner became counsel for the Petitioner, and the matters in question have already been fully addressed under the existing petition to modify. The Petitioner's blanket objections to all interrogatory questions after the retirement of judge Dixon represent the petitioner's position that the court has little to no authority over what she can and can not do and her omission of these critical facts and her attempt to file a new petition, which essentially seeks to change the moving party in the same matter, is a **clear demonstration of intransigence**. The petitioner's actions unnecessarily prolong the proceedings, complicate the respondent's time with his children dramatically almost making it impossible as she's been working at 7 years now, inflate litigation costs, and frustrate the judicial process. By failing to disclose that discovery is complete, the Petitioner intentionally misleads the Court, further delaying the resolution of the case, which is detrimental to the children's best interests.

5. Judicial Cannons related to the Petitioner's actions

Canon 1: Upholding the Integrity and Independence of the Judiciary

- The Petitioner's duplicative filing undermines the integrity of the judicial process by introducing unnecessary motions that serve no legitimate purpose other than to delay proceedings and exhaust resources. By dismissing the duplicative petition, the court can uphold the judiciary's role in ensuring a fair and efficient legal process.

Canon 2: Avoiding Impropriety and the Appearance of Impropriety in All Judicial Activities

- The Petitioner's actions of submitting duplicative petitions and omitting key facts, such as the completion of discovery, create an appearance of bad faith and misuse of the judicial system. The court should dismiss the petition to avoid condoning or appearing to condone any form of procedural abuse that manipulates the legal system to one party's advantage.

Canon 3: Performing the Duties of Judicial Office Impartially and Diligently

- The court has a duty to ensure that legal proceedings are conducted impartially and efficiently. Allowing the Petitioner's duplicative petition to stand would not serve justice and would unnecessarily prolong litigation. Dismissing the petition aligns with the duty to perform

judicial duties in a diligent manner, preventing further delays caused by bad-faith filings.

Canon 3B(8): Timely Disposition of Court Business

- Judicial efficiency is a critical component of justice, and this Canon requires that court business be disposed of promptly. The Petitioner's duplicative filing, especially after discovery has already been completed, is a tactic designed to delay the timely resolution of this case. By dismissing the duplicative petition, the court honors its duty to ensure the prompt and proper administration of justice.

Canon 3C(1): Avoiding Bias, Prejudice, and Harassment

- The Petitioner's repeated attempts to file duplicative petitions and mislead the court through omissions of material facts may be seen as harassment and an abuse of process intended to financially and emotionally drain the Respondent. The court's dismissal of the petition would prevent further prejudice and harassment, promoting a fair and unbiased resolution of the case.

6. Conclusion

For the reasons set forth above, The respondent father respectfully requests that this Court:

1. **DISMISS** the Petitioner's latest petition to change the parenting plan as it is redundant, unnecessary, and intended to obstruct the resolution of the matter that is already properly before this Court.
2. **ORDER** that the custody trial, which was ordered by the Court on June 23, 2023, again on September 14, 2023 and yet again on October 31, 2023, and which has only been delayed due to the Petitioner's actions, proceed without further delay.
3. **IMPOSE SANCTIONS** on the Petitioner in the amount of 13,000 dollars for egregious conduct on March 12, 2024, June 15, August 26, 28 and 30th of this year and because she failed to disclose to the court that the relocation was not being argued to harass her and for engaging in conduct intended to delay and frustrate the judicial process, which has resulted in unnecessary financial hardship on the Respondent Father and has complicated his time with his children in numerous ways intentionally as well as wasted the resources of this **VERIFICATION** Court.

I, swear under penalty of perjury of the laws of the state of Washington that I am a respondent father, affirm that the contents of this MOTION TO DISMISS 2ND PETITION TO CHG CUSTODY are true and correct to the best of my knowledge and belief.



Signature: /s/

Aaron Surina

[Respondent Father, In Propria]

Dated this 23rd day of October, 2024 in Hayden, ID

CERTIFICATE OF SERVICE

I, the undersigned, certify under penalty of perjury under the laws of the State of Washington, Idaho and the United States of America that on the 29th day of October, 2024, I caused a copy of this **Motion to Dismiss Petitioner's Petition to Modify Parenting Plan** to be served on the following parties by the method indicated below:

1. **Stanley Kempner Jr., Attorney for Petitioner**
Kempner Law Office, Maple St, Spokane

- ☐ Email to **sakempner@comcast.net**
☐ **Personal Delivery**

Dated this 29th day of October, 2024.

Respectfully Submitted,

_____/s/ _____

Signed by:

Aaron Surina, Respondent Father, Pro Se
12000 N. Stinson Dr. Hayden, ID, 83835