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MAR 31 2015

SPOKANE COUNTY CLERK

SUPERIOR COURT OF WASHINGTON, FOR SPOKANE COUNTY

In re the Custody of:

Christopher Simon,

Child,

Wayne Janke and Doris Strand,

Petitioners,

and

Ronald Simon and Teresa Simon,

Respondents.

NO. 15500185-5

Declaration of Petitioner(s) for
Nonparental Custody

[X] Clerk's Action Required
File in Confidential Folder

I declare:

1. Full name(s) of any person who lives with me or who spends time in my home, relationship to me, and length of time I have known them:

Doris Strand, long-time girlfriend/significant other, 25 years

2. I [] do have [X] do not have any criminal history (including arrests) or Child Protective Services (CPS) history in this or any other state. Summary:

3. The person who lives with me or spends time in my home [] do have [X] does not have a criminal history (including arrests) or Child Protective Services (CPS) history in this or any other state. Summary:

4. I [] have [X] have not been the subject of an Order of Protection or other civil restraining order that has restricted contact with another individual. The person who lives with me or who spends time in my home, [X] has [X] has not been the subject of an Order of Protection or other civil restraining order which has restricted contact with another individual. Summary:

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I declare:

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Wayne Janke, long-time boyfriend/significant other, 25 years

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SUPERIOR COURT OF WASHINGTON, FOR SPOKANE COUNTY

Case Assigned to _____ / Comm. _____

In re:
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Wayne Janke and Doris Strand,
Petitioners,

and

Ronald Simon and Teresa Simon,
Respondents.

NO. 15500185-5

MEMORANDUM IN SUPPORT OF
PETITIONERS' MOTION FOR
DETERMINATION OF DE FACTO
PARENTAL STATUS

I. INTRODUCTION

Wayne Janke and Doris Strand are the *de facto* mother and father of Christopher Simon. They have functioned, in all respects, as his parents for the last thirteen years. They cared for him, nurtured him, and provided for him. They are the only "real" parents that he has ever known.

Unfortunately, recently Christopher's biological parents have removed him from the petitioners' home. The respondents have long-term drug and alcohol issues, long-term mental health issues and long-term aggression and violence issues.

II. FACTS

As the parties' declarations indicate, the petitioners have fully and voluntarily taken on the role of being Christopher's parents with the consent of his biological parents, and are seeking for the court to recognize their status as *de facto parents* under the common law of Washington State.

III. ARGUMENT

The petitioners are Christopher's *de facto* parents. They now come before this court asking that their status be legally recognized under Washington's common law. The Washington State Supreme Court recently recognized the status of *de facto* parents as being equivalent to the status of legal, biological, or adoptive parents under Washington common law. *In re Parentage of L.B.*, 155 Wn.2d 679, 708, 122 P.3d 161 (2005).

As a result of this monumental decision, the petitioners have standing to petition this court for a determination of the rights and responsibilities that accompany legal parentage in Washington under the status of *de facto* parent. *Id.* at 683. This memorandum will, A) define the term *de facto* parent, B) give a brief background to the reasons behind the decision granting legal status to *de facto* parents, C) explain the required criteria for establishing a *de facto* parental relationship, D) argue that the petitioners have more than fully met each of the required criteria and, therefore, should be recognized as the *de facto* parents of Christopher Simon, and E) provide suggested procedures for this process.

A. DEFINITION OF *DE FACTO* PARENTAL STATUS.

In re L.B., 155 Wn.2d at 692, n. 7. *De facto* parental status is distinct from the interrelated

1 concepts of *in loco parentis*¹ and a psychological parent² in that it is a permanent in nature.
2 Unlike *in loco parentis* status or psychological parents, “a *de facto* parent stands in legal parity
3 with an otherwise legal parent, whether biological, adoptive, or otherwise.” *In re L.B.*, 155
4 Wn.2d at 708. Thus, in custody dispute between a parent and a *de facto* parent the appropriate
5 standard for determining parental rights is based upon the best interests of the child. *Id.*; see
6 RCW 26.09.002.

7

8 B. BACKGROUND TO THE LEGAL STATUS OF *DE FACTO* PARENTS.

9 Washington statutory law currently does not recognize stepparents as having parental
10 rights in custody decisions.³ In *In re L.B.*, the court noted that the reality of American families is
11 different from what was envisioned in the applicable statutes and that “Washington courts have
12 consistently invoked their equity powers and common law responsibility to respond to the needs
13 of children and families in the face of changing realities.” *In re L.B.*, 155 Wn.2d at 683; *see also*
14 *In re Marriage of Allen*. 28 Wn. App. 637, 626 P.2d 16 (Div. III 1981) (granting custody to a
15 stepparent to serve the best interests of the child under the theory of *in loco parentis*); *In re*
16 *Custody of Shields*, 120 Wn. App. 108, 84 P.3d 905 (Div. III 2004) (granting custody to a
17 stepparent to serve the best interests of the child under the theory of psychological parent). Thus,
18 in light of the gaps in the UPA and the changing reality of American families, the Washington
19 State Supreme Court exercised its equitable power to recognize the status of *de facto* parents as
20

21 1 “*In loco parentis* is a common law doctrine by which a non-parental party functions as a parent and is charged
22 with the rights, duties, and responsibilities of a parent.” *State ex. rel. Gilroy v. Superior Court for King County*, 37
23 Wn.2d 926, 933-34, 226 P.2d 882 (1951). It is a temporary term that describes a relationship in which a non-parental
24 party stands in the place of a parent with that parent’s consent. *In re L.B.*, 155 Wn.2d at 692, n. 7. While it carries
25 some legal responsibility, it does not include a guarantee of the fundamental rights conferred upon parents. *Id.*
26 2 A psychological parent is one who has a parent-like relationship with a child “based... on [the] day-to-day
27 interaction, companionship, and shared experiences of the child and adult.” *In re L.B.*, 155 Wn.2d at 692, n. 7
28 (alterations in original) (quoting JOSEPH GOLDSTEIN, ANNA FREUD, ALBERT J. SOLNIT, BEYOND THE
BEST INTERESTS OF THE CHILD 19 (1973)). Psychological parents have been recognized by Washington courts
for many years, but have limited rights. *In re L.B.*, 155 Wn.2d at 683.

1 equivalent to the status of legal, biological, or adoptive parents under Washington common law.
2 *Id.* at 708.

3

4 C. REQUIRED CRITERIA FOR ESTABLISHING *DE FACTO* PARENTAL STATUS

5 In light of the recent decision in *In re L.B.*, the petitioners have standing to bring this
6 petition asking the court to recognize their legal status as Christopher Simon's *de facto* parents.
7 In *In re L.B.* the Washington State Supreme Court set forth four criteria for the establishment of
8 *de facto* parental status:

9 (1) [T]he natural or legal parent consented to and fostered the parent-like
10 relationship, (2) the petitioner and the child lived together in the same household,
11 (3) the petitioner assumed obligations of parenthood without expectation of
12 financial compensation, and (4) the petitioner has been in a parental role for a
length of time sufficient to have established with the child a bonded, dependent
relationship, parental in nature.

13 *In re L.B.*, 155 Wn.2d at 708, 122 P.3d 161. The court also noted that *de facto* parental status is
14 "limited to those adults who have fully and completely undertaken a permanent, unequivocal,
15 committed, and responsible parental role in the child's life." *Id.* The facts will demonstrate that
16 the nature of the relationship between the petitioners and Christopher Simon is such that the
17 petitioners are Christopher's *de facto* parents under Washington common law.

18

19 1. Respondents consented to and fostered petitioners' parent-like
relationship with Christopher

20 The first criteria set forth in *In re L.B.* to establish *de facto* parental status is that "the
21 natural or legal parent consented to and fostered the parent-like relationship." *In re L.B.*, 155
22 Wn.2d at 708, 122 P.3d 161.

23 The petitioners indicated that the deep and close relationship that developed between
24 themselves and Christopher, during all these years was consented to and fostered by

26 3 The term "parent" is defined in the Uniform Parentage Act (UPA) at chapter 26.26.101.
27

1 Christopher's biological mother and father. The biological parents left the raising of Christopher
2 in the hands of the petitioners. The respondents have permitted this to occur for over 13 years.
3 The petitioners have acted in all respects as the true parents of Christopher.

4 2. Petitioners and Christopher lived together in the same household.

5 The second criteria set forth in *In re L.B.* to establish *de facto* parental status is that "the
6 petitioner and the child lived together in the same household...." *In re L.B.*, 155 Wn.2d at 708,
7 122 P.3d 161. The petitioners and Christopher lived together for Christopher's entire life.
8 Christopher has his own room in the petitioners' home, he is registered for school at the
9 petitioners' home, he spends his time at the petitioners' home, he sleeps at the petitioners' home.
10 All of Christopher's activities for his entire life have centered around his home with the
11 petitioners. Thus, to the extent legally possible, they have continue to function as a family until
12 just recently when the biological mother removed Christopher and refused the petitioners access
13 to Christopher.

14 3. Petitioners assumed obligations of parenthood without expectation of
15 financial compensation.

16 The third criteria set forth in *In re L.B.* to establish *de facto* parental status is that "the
17 petitioner assumed obligations of parenthood without expectation of financial compensation...."
18 *In re L.B.*, 155 Wn.2d at 708, 122 P.3d 161. Petitioners assert that they never received any
19 compensation, expected any compensation and they were not hired caregivers. The petitioners
20 have received no financial compensation for caring for Christopher for the last thirteen years and
21 expect none in the future. In fact, the petitioners have provided all the necessities of life for
22 Christopher, plus vacations, Boy Scout necessities, camping necessities, hunting necessities and
23 a stable family. Thus, they meet the third factor for establishing *de facto* parentage.

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1 4. Petitioners have established a bonded, dependent relationship with
2 Christopher Simon.

3 The fourth criteria set forth in *In re L.B.* to establish *de facto* parental status is that “the
4 petitioner has been in a parental role for a length of time sufficient to have established with the
5 child a bonded, dependent relationship, parental in nature.” *In re L.B.*, 155 Wn.2d at 708, 122
6 P.3d 161. Petitioners have functioned as the only parent figures of whom Christopher has been
7 cognizant. When he first learned to speak, he identified petitioners as “Dad” or “Daddy,” and
8 “Mom” or “Mommy”, an appellation that he has continued to use to the present day. The
9 petitioners are identified by third parties and the child as Christopher’s “parents”, or his “mom”
10 or “dad”. While such names can be superficial, they indicate the close relationship that has
11 developed between the petitioners and Christopher over the last thirteen years.

12 The close, bonded, dependent relationship between the petitioners and Christopher is the fruit
13 of the extensive amount of time that they have spent together.

14 The interference in the relationship between the petitioners and Christopher is what
15 precipitated this action and, as is apparent from the recent chain of events, has caused a major
16 detriment to Christopher. He has a deep, bonded, and dependent relationship with the only
17 “parents” he has ever known. The petitioners are the only parents who, in all respects, function
18 as a Christopher’s actual parents. *In re L.B.*, 155 Wn.2d at 692, n. 7. Thus, they come before this
19 court asking that the court recognize their status as *de facto* parents so that the loving and strong
20 relationship they have with Christopher can continue in spite of the manipulative actions of the
21 biological parents.

22 5. Petitioners have fully and completely undertaken a permanent,
23 unequivocal, committed, and responsible parental role in Christopher’s
24 life.

25 The final limitation placed on *de facto* parental status is that it must be “limited to those
26 adults who have fully and completely undertaken a permanent, unequivocal, committed, and

1 responsible parental role in the child's life." *In re L.B.*, 155 Wn.2d at 708, 122 P.3d 161. Their
2 actions in the last thirteen years are a strong testimony to their commitment to Christopher. After
3 thirteen years of caring, nurturing, tutoring, providing, and loving Christopher, the permanency
4 of this relationship is unquestionable. Their very motivation in seeking this determination to
5 enjoy all the rights and obligations as Christopher's parents is further evidence that their role in
6 his life is permanent, unequivocal, and committed. Finally, after thirteen years of being a
7 caregiver to Christopher, providing for him financially, taking him to doctors meetings, attending
8 school events, helping him with his homework, disciplining him, and counseling him, it is
9 evident that the petitioners have acted as responsible parental figures. Thus, the petitioners are
10 the *de facto* parents of Christopher Simon as set forth in *In re L.B.*, and have the legal right to be
11 granted this status by the court.

12

13 D. PROCEDURE FOR DETERMINING *DE FACTO* PARENTAL STATUS.

14 "Washington's common law recognizes the status of *de facto* parents and grants them
15 standing to petition for a determination of the rights and responsibilities that accompany legal
16 parentage in this state." *In re L.B.*, 155 Wn.2d at 683. Once a party has made a *prima facie*
17 showing that he/she meet the required criteria, he/she "should have the opportunity to present
18 evidence to the court sufficient to establish [his/her] status as a *de facto* parent... and if successful
19 to obtain the rights and responsibilities attendant to parentage." *Id.* Thus, the procedure derived
20 from *In re L.B.* requires 1) a *prima facie* showing of *de facto* parent status for standing to bring
21 the petition and request ex parte or temporary orders, 2) a hearing is set for fact-finding on the
22 issue of *de facto* parental status and temporary orders, 3) then the matter follows the same
23 procedures and any other parentage action through to final orders. If the status were granted, then
24 the party would obtain full rights and responsibilities as a parent under the common law of
25 Washington.

1

2 IV. CONCLUSION

3 Petitioners have functioned as Christopher's parents for his entire life. Under the
4 current common law of Washington, petitioners' legal status as *de facto* parents is now
5 recognized since they, in all respects, function as Christopher's parents. Finally, the
6 petitioners have far exceeded all of the criteria set forth in *In re L.B.* for determining *de*
7 *facto* parental status and, hence, should be recognized by this court as the *de facto* parents
8 of Christopher Simon.

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10 Dated: 3/31/15

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12 Spencer W. Harrington, WSBA 35907
13 Attorney for Petitioners

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SUPERIOR COURT OF WASHINGTON, FOR SPOKANE COUNTY

Case Assigned to _____ / Comm. _____

In re:
Christopher Simon,
Child,

Wayne Janke and Doris Strand,
Petitioners,

and

Ronald Simon; Teresa Simon,
Respondents.

NO. 15500135-5

Declaration of Wayne Janke

I, Wayne Janke, am a petitioner herein and I make this declaration in support of my ex parte order and temporary orders.

1. We have had Christopher in our house since he was 1 week old. He is now 13 years old. He became part of our lives and family, because his parents never cared, and therefore he was at our house at least 5 out of 7 days a week for the past 13 years.

2. One day I picked him up and he would not let me put him down – that's when he bonded with me (15 months old). We were always going places like up to Saint Joe River in summer and fall, skiing in the winter in the motorhome. Christopher was always with us. His biological parents never seemed to care about him or want him around. That's when we decided to give him a life and teach him about all of the experiences of life and how to grow up respecting others.

3. Our house has always been his home, not the other one. His first word was "kitty" and his second was "Wayne". When he was about two years old he asked if he could call us Daddy and Mommy, so he started calling me Daddy Wayne and Doris, Mama Doris.

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2 and pins in the four years that he was in Cub Scouts. His leaders indicated that he was one of the
3 highest ever to earn this many awards. All of the achievements required hours and hours of both Doris
4 and me working with him. He just started at the front of the book and worked his way to the back. He
5 wanted to learn everything that he could.

6 12. We got the Pontoon boat this summer so he could fish, tube and swim at the lake. I got him a
7 jet ski for his good grades that he had achieved that school year. Christopher did his Boaters Education
8 course at that time also. Also shot his second deer, I shot kill 5 point. That summer we also converted
9 the shop out at the "farm" to our Man Cave Shop – lots of fun building and planning everything we
10 wanted in it.

11 13. 12 years old: Skiing all winter except for Boy Scout back packing and camping 1 weekend a
12 month. Boating and jet skiing all summer at Lake Roosevelt. Rented slip for summer and stayed on
13 boat every weekend except for Boy Scout Camp (1 week).

14 14. 13 years old: He has completed all four phases of Life Scout. Even though he has completed all
15 of qualifications of Life Scout, he will not receive this badge until September as he has to wait six
16 months after starting Life Scout per the Boy Scout requirements. He will then start working on all of
17 the Eagle Scout badges.

18 15. We started bow hunting in the fall, killed first deer 4x4 with bow. Did a lot of bow hunting in
19 November and December, tried to ski but not much snow this year. Started doing tactical shooting in
20 tournaments in February of 2015. Joined a gun club and have had Christopher working with one of the
21 expert instructors at the club. Have a trip planned to Hawaii in April for Spring break. The tickets are
22 already purchased and we were ready to go when his biological mother took him from us and now
23 refuses to let us see him.

24 16. In March of 2015 his parents decided to take Christopher away from us. Stated that they wanted
25 to spend more time with him. That only amounted to them picking him up after school Monday thru

1
2 Friday instead of him coming to our house. He has always come to our house after school so that he
3 could get his homework done. Doris always worked with him on his homework, was his school Mom,
4 and always stayed in touch with his teachers and school administrators in all matters concerning
5 Christopher.

6 17. Christopher's biological parents only saw him one or two evenings during the week at most.
7 This has been pretty standard over the years. They are inconsistent but do see him. Christopher does not
8 really like to spend time with them but we encourage him to at least get to know his parents.
9 Christopher's life has been turned upside down by the respondents conduct.

10 18. Trips Taken With Wayne:

- 11 a. Disneyland – 6 years old, 7 days.
- 12 b. Alaska – 9 years old, 7 days
- 13 c. Disneyworld/Disney Cruise- 11 years old, 14 days
- 14 d. Yellowstone Park – 12 years old, 10 days camping
- 15 e. Hawaii – 13 years old, 8 days. This trip is planned and paid for. We are supposed to go
16 for Spring break 2015. Right now this trip is up in the air because of the respondents'
17 conduct. We have always cared for Christopher and provided for him. I am unsure why
18 the respondents are harming him this way.

19 19. Christopher bonded with us when he was a year old. He never wanted to let go of us when Ron
20 or Teresa came to pick him up. He could not understand why he had to go with "those people" to "that
21 house" (that is what he called them and how he refers to their house).

22 20. The three of us have bonded so closely and there is so much love between us. He knows that
23 our love is unconditional. Every decision that we make is centered on Christopher.

24 21. We are so proud of the incredible young man that he is and the way that he interacts with
25 everyone he comes in contact with. The separation that we have had to endure this past two weeks has

1
2 been incredibly painful. We miss him so much and the house feels completely empty and cold – even
3 the animals have noticed the change in the home without him.
4

5 I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true
6 and correct. Signed at Spokane, (city) WA (State) on
3/31/15 (date).


Wayne Janke, Petitioner

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SUPERIOR COURT OF WASHINGTON, FOR SPOKANE COUNTY

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In re:
Christopher Simon,
Child,

NO. 15500185-5

Wayne Janke and Doris Strand,
Petitioners,
and
Ronald Simon; Teresa Simon,
Respondents.

Declaration of Doris Strand

I, Doris Strand, am a petitioner herein and I make this declaration in support of my ex parte order and temporary orders.

1. TRO- Christopher is in danger and needs to be protected by this court. Teresa suffers from years of untreated bipolar and schizophrenia. She also uses illegal drugs. For all of Christopher's life (13 years) he has resided in our home and we have acted as his parents. Christopher also views us as his "real" parents.

2. Recently, for unknown reasons, Teresa removed Christopher from our home. This has been detrimental to Christopher for many reasons. It has interfered with our family unit. It has interfered with Christopher's school work, Boy Scouts, social activities, and has caused Christopher to be physically and mentally abused by the respondents.

3. Excerpts of Christopher's journal are as follows:

a. I feel scared at my life threatened an abused. I am becoming very unhappy and depressed all my teachers and friends have noticed the change since I have been taken by my parents from Wayne and Doris.

b. I am scared to ride in the truck with her because of her gun.

- 1
- 2 c. Also when I get in the car after school it smells of a scent of marijuana.
- 3 d. I'm tired of fearing of my life and welfare and also the mental abuse.
- 4 e. I just want to come to my real home, be happy, get my school work done, work toward
- 5 Eagle scout, not screamed at or put down.
- 6 f. She told me if I touch the phone she'll beat the S**t out of me!
- 7 g. When I am at my parents I feel scared and threatened ...mental abuse, also to mention he
- 8 yells in my face and pushed me back.
- 9 h. My parents do not understand how important my goal personally is to me by taking me
- 10 away from my real home.
- 11 i. I feel so much love and compassion from Wayne & Doris there is no words to describe it.
- 12 Wayne and Doris have always been my home, I live at Wayne and Doris's on Monday
- 13 Thursday, Friday and every weekend. After school Doris has always picked me up.
- 14 j. Wayne and Doris taught me everything I know about life. Once I was born Wayne and
- 15 Doris' lives revolved around my life, choices and welfare.
- 16 k. I'm scared for my life. I'm tired of fearing for my life.
- 17 l. My mom owns a Beretta.
- 18 m. Dad owns a Glock.
- 19 n. Mom forced me to drink a sip of Jägermeister.
- 20 o. I have horrible nightmares of mom hurting me.
- 21 p. Inappropriate conversations.
- 22 q. Effecting school work and attitude.

23 4. Christopher's life has been turned upside down by his biological parents' recent actions. Our only

24 concern is for Christopher's safety. He is not safe in their home and should be returned immediately to our

25 home.

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2 5. Background. Ron Simon -- have been friends for 38 years – his family was my Spokane family –
3 sharing holidays and many good times, and I worked with Ron at Albertson's for many years. We were very
4 close.

5 6. I meet Teresa 15 years ago when she started dating Ron. Ron was 47 years old and Teresa was his
6 first girl he brought around to meet friends and family. They moved in together, rental housing being a
7 common ground. Teresa just wanted to get married – all she talked about when there were together. They
8 got married July 30, 2001 and Christopher was born September 24, 2001. I was present the day he was born.

9 7. After Christopher was born, I was at Ron and Teresa's home each day to see the baby – so excited,
10 at least I was. Then, to my surprise, October 1st Teresa brought Christopher to my home, "so he could get to
11 know his Aunt Doris better", she asked if I could babysit during the week as Teresa was going back to work.
12 I agreed, was paid what she could afford and that's how Christopher Simon started being at our home. Ron
13 worked nights for Albertson's and Teresa was a traveling hairdresser.

14 8. Right away I set up our home for a baby, as it was easier to have playpen, changing table and car
15 seat here. I did all the "Mommy" tasks – changing diapers, feeding him, always buying curt "boy" clothes,
16 loving him and spoiling him.

17 9. I took Christopher everywhere I went – hairdresser, grocery shopping, doctors' office, etc. He never
18 left my sight while in my care – in his baby seat or in my arms, in all rooms with me. He slept in his
19 playpen. This arrangement went on fine for everyone his entire first year.

20 10. Christopher loved me, but Wayne did more fun things – outside playing in the garden and pounding
21 nails building stuff. Christopher would crawl to find Wayne when Wayne was home or Wayne would be
22 carrying him around in his arms. Wayne took Christopher a lot when he would have errands to do.

23 11. May of 2002 Wayne and I took Christopher to Idaho to see my mother, Helen, for Mother's Day – in
24 the motorhome for the weekend. When we got back to Spokane, Christopher promptly moved all toys,
25 books and blankets to Wayne's room and this began a huge "love affair" between us and Christopher. This

1
2 also began us taking Christopher each and every weekend wherever we went – St. Joe River camping,
3 fishing, deer hunting and snow skiing.

4 12. All of this was agreed upon with Christopher's parents. This period of time Christopher was staying
5 more and more at our home. So a schedule was established - Sunday night Christopher went home with his
6 parents until Tuesday morning when he was brought back to our home. I would have Christopher during the
7 day on Tuesday and Wednesday and beginning on Thursday morning we would have Christopher 24/7 until
8 Sunday night.

9 13. It was during this time that I became alarmed about some things that were taking place with this
10 little boy who was not quite a year old.

11 14. Went to their home one morning to pick up Christopher, he was being fed chili con carne, checked
12 the cupboards and found that they did not contain any baby food.

13 15. One of the days that Teresa had indicated she wanted to take care of Christopher, she left him with
14 another friend who then left Christopher with her husband and went shopping not realizing that she had the
15 baby diaper bag with his food and diapers in her car and was gone for several hours. When Teresa told me
16 this, I asked that from now on if she did not have time to take care of Christopher, please bring him to me
17 and in the future no other person was to care for Christopher except us. Both parents agreed.

18 16. Went to their home another time to pick up Christopher, he was in his baby walker – Ron came in,
19 Christopher stood up and raised his arms for Ron to pick him up – Ron looked down at his only child and
20 said "how ya doing Bud" and kept on walking. Christopher sat back down with such a sad face – that look
21 was powerful for me as to what I felt was going on in his home. No time for baby. At this point in time I
22 made it my mission in life to give Christopher a life of love and joy.

23 17. This schedule continued, no problems until Christopher was put in pre-school at East-Central.
24 Christopher was very unhappy. I had looked into Ponderosa at Care-a-Lot in Mrs. Heather Mikelson's class.
25 Christopher was very happy there and I was happy that he was in a great pre-school close to our home. I
26 became the "school Mom". I took him to school and picked him up.

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2 18. If it was Ron and Teresa's nights – Tuesday and Wednesday – I still picked him up from school
3 and they picked him up around 4:00 p.m.

4 19. At 5 years old Christopher entered the Central Valley School District to attend Kindergarten at
5 Ponderosa Elementary. We were named as Christopher's guardians with his home address being listed as
6 our home on 24th Avenue. This practice continued throughout all of the schools that he has attended. Wayne
7 and I were also listed as the first contacts in case of emergencies. I was always a chaperone for all of the
8 school field trips.

9 20. Christopher attended first thru sixth grade at University Elementary. The schedule between the two
10 homes stayed the same. **The respondents only saw Christopher on Tuesday and Wednesday evenings.**

11 21. The teachers knew me as Christopher's Mom as did students and school office administrators. I was
12 very much a hands on Mom – keeping in contact with his teachers as to his behavior and progress. I received
13 all school mail at our address. Also, I kept Ron and Teresa up to date on all information.

14 22. I attended all conferences with teachers twice a year. It is always important for the parents to attend
15 the "first day of school". Teresa has never attended. Both Wayne and Ron have tried to be there for
16 Christopher, I have attended them all. Throughout the school years, Christopher has always introduced
17 Wayne and me as his real "Dad and Mom". His other Dad and Mom (the respondents) lived in Spokane but
18 he lives with us.

19 23. I bought all school supplies, paid for all school activities, pictures, parties, etc. Also, I
20 picked Christopher up after school.

21 24. It is impossible to let this court know everything we have done over the years. But the
22 normal schedule until just recently was that Christopher lived with us fulltime. The respondents would see
23 Christopher for only a few hours on Tuesday and Wednesday evenings each week if they were available.

24 25. We have also filed under confidential seal multiple records and pictures of Christopher and
25 us engaged in all sorts of activities over his life.

1
2 26. Christopher had lived in our home for his entire life until just a few weeks ago. His mother
3 is suffering from serious mental health issues. She used drugs daily and is carrying a pistol on her all the
4 time. Her conduct is very concerning. Both of the respondents have long term stability issues, drug and
5 alcohol issues, and mental health issues.

6 27. It is detrimental to Christopher to spend more than a few hours at a time with the
7 respondents. We are asking for immediate placement with us until the hearing on temporary orders.

8 28. Additionally, Christopher and Wayne have a trip to Hawaii and a cruise planned and paid
9 for over Spring break. I request the court to place Christopher with us until the hearing and permit the
10 respondents to have Tuesday and Wednesday evening visitation as they have in the past (except while
11 Christopher is in Hawaii).

12 I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and
13 correct. Signed at Spokane, (city) Washington (State) on 3/31/15 (date).

14 
Doris Strand, Petitioner

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FILED

MAR 31 2015

SPOKANE COUNTY CLERK

SUPERIOR COURT OF WASHINGTON, FOR SPOKANE COUNTY

In re Parentage:

Wayne Janke and Doris Strand,
Petitioners,

and

Ronald Simon,
Respondent

and

Teresa Simon,
Respondent

and

Christopher Simon,
Child over the age of 2.

NO. 15500185-5

Petition for Establishment of Parentage
(PTDTP) or in the Alternative
Nonparental Custody Petition

Para 1.10: check box if petition is attached
for:

Order for protection DV (PTORPRT)
 Order for protection UH (PTORAH)

I. Basis

1.1 Cause of Action

This is a petition for the establishment of parentage. This action is brought on behalf of:
Christopher Simon, born on September 24, 2001, a resident of Spokane County, Washington.

1.2 Parties to the Action

A. Petitioner, Wayne Janke, I am the (select one):

alleged parent/DeFacto Parent

Petitioner, Doris Strand, I am the (select one):

alleged parent/DeFacto Parent

B. Respondent, Ronald Simon, who is:

birth father

Respondent is Teresa Simon who is:

birth mother

1
2 C. Child:

- 3 [X] The following child is a party to this case because the child has a presumed parent and the
4 child was born more than two years ago.

5 Christopher Simon,

6 Petitioner requests the court to appoint a Guardian ad Litem for the child who is a party.

7 **1.3 Presumed Parent**

- 8 [X] Does not apply. There is no presumed parent.

9 **1.4 Jurisdiction**

- 10 [X] Jurisdiction over respondent Ronald Simon (check all that apply):

- 11 [X] This person currently resides in Washington State.
12 [X] This person engaged in sexual intercourse in the state of Washington as a result of
which the child may have been conceived.
13 [X] This person resided with the child in this state.
14 [X] This person resided in this state and provided prenatal expenses or support for the
child.

- 15 [X] Jurisdiction over respondent Teresa Simon (check all that apply):

- 16 [X] This person currently resides in Washington State.
17 [X] This person engaged in sexual intercourse in the state of Washington as a result of
which the child may have been conceived.
18 [X] This person resided with the child in this state.
19 [X] This person resided in this state and provided prenatal expenses or support for the
child.

20 **1.5 Jurisdiction Over the Child**

21 This court has jurisdiction over the child for the reasons set forth below:

- 22 [X] This state is the home state of the child because:

- 23 [X] the child lived in Washington with a parent or a person acting as a parent for at least
six consecutive months immediately preceding the commencement of this proceeding.
24 [X] any absences from Washington have been only temporary.

- 25 [X] The child and the parent or the child and at least one parent or person acting as a parent
have significant connection with the state other than mere physical presence, and substantial
evidence is available in this state concerning the child's care, protection, training and
personal relationships, and

- 26 [X] the child has no home state elsewhere.

- 27 [X] No other state has jurisdiction.

1

2 **1.6 Child Support and Residential Placement**

3 The child is entitled to financial support pursuant to the Washington State child support statutes and
4 health insurance coverage from any parent owing a duty of child support, and it is otherwise in the
child's best interests to obtain a judicial determination of the parentage and residential placement of
the child.

5 [X] Other:

6 [X] It is in the child's best interests to enter the residential schedule/parenting plan
7 proposed by petitioner.

8 **1.7 Current Residence of the Child**

9 The child currently resides with Ronald and Teresa Simon.

10 **1.8 Reimbursement**

11 [] Does not apply.

12 [X] The state of Washington and/or petitioners are is/are entitled to reimbursement for support
or assistance provided to the child, for expenses incurred on behalf of the child.

13 [] Other:

14 **1.9 Continuing Restraining Order**

15 **RESERVED**

16 [] Does not apply.

17 [] A continuing restraining order should be entered which restrains or enjoins
(name) _____ from disturbing the peace of
(name) _____.

18 [] A continuing restraining order should be entered which restrains or enjoins
(name) _____ from going onto the grounds of or entering the
home, work place or school of (name) _____ or the day
care or school of the child.

19 [] A continuing restraining order should be entered which restrains or enjoins
(name) _____ from knowingly coming within or knowingly
remaining within (distance) _____ of the home, work place or school of
(name) _____ or the day care or school of the child.
20 Other: _____.

21 [] A continuing restraining order should be entered which restrains or enjoins
(name) _____ from assaulting, harassing, stalking, or
molesting (name) _____ or the child, or using,
attempting to use, or threatening to use physical force against the protected party or the
child that would reasonably be expected to cause bodily injury, or engaging in other conduct
that would place the protected party in reasonable fear of bodily injury to himself/herself or
the child.

If the court orders this relief, and the restrained party and the protected party are spouses or former spouses, current or former domestic partners, parents of a child in common, or current or former cohabitants as part of a dating relationship, the restrained person may be prohibited from obtaining or possessing a firearm, other dangerous weapon, concealed pistol license, or ammunition under state or federal law for the duration of the order.

1.10 Protection Order

[X] Does not apply.

1.11 Other

[X] Identification of all other Adults Living in Petitioner's Household: Does not apply

[X] Indian Child Welfare Act: Child's Indian status: The child is not an Indian children as defined in Laws of 2011, ch. 309, §4, and the federal and Washington State Indian Child Welfare Acts do not apply to these proceedings.

[X] Uniform Child Custody Jurisdiction and Enforcement Act Information:

<u>Name of Child</u>	<u>Parent's Name</u>	<u>Parent's Name</u>
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Christopher Simon	Ronald Simon	Teresa Simon
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The child permanently resides in this county or can be found in this county.

During the last five years, the child has lived:

[X] in no place other than the state of Washington and with no person other than the petitioners or the respondents.

Claims to custody or visitation:

[X] The petitioners do not know of any persons other than the respondents who has physical custody of, or claims to have custody or visitation rights to, the child.

Involvement in any other proceeding concerning the child:

[X] The petitioners have not been involved in any other proceeding regarding the child.

Other legal proceedings concerning the child:

[X] The petitioners know of the following legal proceedings that concern the child (list the children concerned, the court, the case number and the kind of proceeding):

CHINS petition filed 3/19/15, Spokane County Cause #: 15-7-00716-8

[X] Adequate Cause: We have valid reasons to ask for custody of the child:

[X] Neither parent is a suitable custodian.

[X] Ronald Simon and Teresa Simon are unfit.

[X] The child will suffer actual detriment (harm) to his growth and development if he lives with Ronald and Teresa Simon.

[X] See Declarations filed separately and concurrently herein.

II. Relief Requested

The court is requested to enter an order and judgment that:

[X] Wayne Janke and Doris Strand be declared to be the parents of Christopher Simon.

[X] Support, including medical support, be determined for the dependent child pursuant to the Washington State child support statutes.

[X] Ronald Simon and Teresa Simon pay past support, medical, and other expenses incurred on behalf of the child.

[X] A residential plan or parenting plan for the child be adopted by the court as proposed by the petitioners or as the court finds to be in the child's best interest.

RESERVED [] Provides for a continuing restraining order.

[] Other:

Dated: 3/31/15


Spencer W. Harrington, WSBA # 35907
Attorney for Petitioners

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) 3/31/15.


Wayne Janke, Petitioner


Doris Strand, Petitioner

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FILED

MAR 31 2015

SPOKANE COUNTY CLERK

SUPERIOR COURT OF WASHINGTON, FOR SPOKANE COUNTY

In re the Parentage of:

Christopher Simon,

Child,

Wayne Janke and Doris Strand,

Petitioners,

and

Ronald Simon and Teresa Simon,

Respondents.

NO. 15500185-5

Summons
(Petition for Establishment of Parentage)
(SM)

To the Respondents: Ronald Simon and Teresa Simon

1. The petitioner has started an action in the above court requesting that there be a determination of parentage. Additional requests, if any, are stated in the petition, a copy of which is attached.
2. You must respond to this summons and petition by filing a written response with the clerk of the court and by serving a copy of your response on the person signing this summons.

If you do not file and serve your written response within 20 days (60 days if you are served outside of the state of Washington) after the date this summons was served on you, exclusive of the date of service, the court may, without further notice to you, enter a default judgment against you ordering the relief requested in the petition. If you serve a notice of appearance on the undersigned person, you are entitled to notice before an order of default may be entered.

3. Your written response to the summons and petition must be on form WPF PS 16.0300, Response to Petition for Establishment of Parentage Pursuant to RCW 26.26.540(2) (RSP). Information about how to get this form may be obtained by contacting the clerk of the court, by contacting the Administrative Office of the Courts at (360) 705-5328, or from the Internet at the Washington State Courts homepage:

<http://www.courts.wa.gov/forms>

4. If this action has not been filed with the court, you may demand that the petitioner file this action with the court. If you do so, the demand must be in writing and must be served upon the person signing this summons. Within 14 days after you serve the demand, the petitioner must file this action with the court, or the service on you of this summons and petition will be void.

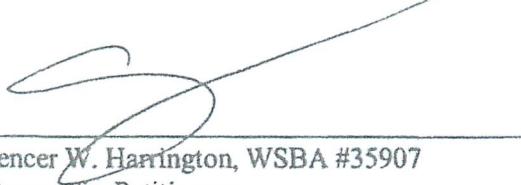
- 1
- 2 5. If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your
written response, if any, may be served on time.
- 3 6. One method of serving a copy of your response on the petitioner is to send it by certified mail with
return receipt requested.

4

5 This summons is issued pursuant to RCW 4.28.100 and Superior Court Civil Rule 4.1 of the state of
Washington.

6

7 Dated: 3-31-15


Spencer W. Harrington, WSBA #35907
Attorney for Petitioners

8

9 ***File original of your response with
the clerk of the court at:***

10

11 Spokane County Superior Court
12 [Name of Court]

Serve a copy of your response on:

[X] Petitioners' Lawyer

13 1116 W. Broadway Avenue
[Address]

Spencer W. Harrington
Harrington Law Office, PLLC
1517 W. Broadway Ave.
Spokane, WA 99201

14 Spokane, WA 99206

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FILED

MAR 31 2015

SPOKANE COUNTY CLERK

SUPERIOR COURT OF WASHINGTON, FOR SPOKANE COUNTY

In RE the Custody of:

Christopher Simon,

Child,

Wayne Janke and Doris Strand,

Petitioners,

and

Ronald Simon and Teresa Simon,

Respondents

NO. 15500185-5

Summons for Nonparental Custody
Proceeding
(SM)

To the Respondents: Ronald Simon and Teresa Simon

1. An action has been started against you in the above court requesting that the petitioner be granted custody of the following child:

Christopher Simon

Additional requests, if any, are stated in the petition, a copy of which is served upon you with this summons.

2. You must respond to this summons and petition by filing a written response with the clerk of the court and by serving a copy of your response on the person signing this summons.
3. Your written response to the summons and petition must be on form WPF CU 01.0300, Response to Nonparental Custody Petition. Information about how to get this form may be obtained by contacting the clerk of the court, by contacting the Administrative Office of the Courts at (360) 705-5328, or from the Internet at the Washington State Courts homepage:

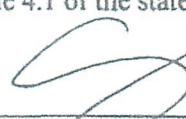
<http://www.courts.wa.gov/forms>

4. If you do not file and serve your written response within 20 days (60 days if you are served outside of the state of Washington) after the date this summons was served on you, exclusive of the date of service, the court may, without further notice to you, enter a default judgment against you ordering the relief requested in the petition. If you serve a notice of appearance on the undersigned person, you are entitled to notice before an order of default may be entered.

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- 2 5. You may demand that the other party file this action with the court. If you do so, the demand must
3 be in writing and must be served upon the person signing this summons. Within 14 days after you
4 serve the demand, the other party must file this action with the court, or the service of this summons
and petition will be void.
- 5 6. If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your
6 written response, if any, may be served on time. Copies of these papers have not been served upon
7 your attorney.
- 7 7. One method of serving your written response and completed worksheets is to send them by certified
8 mail with return receipt requested.

This summons is issued pursuant to Superior Court Civil Rule 4.1 of the state of Washington.

Dated: 3-31-15



Spencer W. Harrington, WSBA # 35907
Attorney for Petitioners

11 ***File original of your response
with the clerk of the court at:***

13 Spokane County Superior Court

[Name of Court]

14 1116 W. Broadway, Spokane, WA 99260

[Address]

Serve a copy of your response on:

[X] Petitioners' Lawyer

Spencer W. Harrington
Harrington Law Office, PLLC
1517 W. Broadway Avenue
Spokane, WA 99201

EXHIBIT 13

SUPERIOR COURT OF WASHINGTON
COUNTY OF SPOKANE
JUVENILE DIVISION

In re the Matter of:

CHRISTOPHER SIMON,

DOB: 09/24/01

NO. 15-7-00716-8

COPY

VERBATIM REPORT OF PROCEEDINGS

BE IT REMEMBERED that the above-entitled matter was heard before the Honorable Michelle Ressa, Superior Court Commissioner, County of Spokane on April 1, 2015 in Juvenile Courtroom 1.

SUSAN L. ROBSON, TRANSCRIBER
PO BOX 3100
DEER PARK, WA. 99006
509-280-2577

APPEARANCES:

For the Youth: MR. NATHAN EILERT
Attorney at Law
1032 West Gardner St.
Spokane, WA. 99201

For the Parents: MR. ROBERT HERVATINE
Attorney at Law
1304 west College Ave.
Lower Level
Spokane, WA. 99201

For the Current
Placement of Youth: MR. SPENCER HARRINGTON
Attorney at Law
1517 West Broadway Ave.
Spokane, WA. 99201

Case Manager: MR. CARL BRUSCOE

on history or work on math and that stuff is really stressful, I'm not telling you to think it's not, because it is. It's just not something you can fix so don't put your energy into it.

MR. CHRISTOPHER SIMON: Yes.

THE COURT: Trust that there's people that love you that are going to use their resources in ways that they believe is best and you won't have the ability to make the decision. But I suspect given your age the court is going to want to know your position, and you've already written that down. So this will be available to the Family Court to know what you've already said, okay.

A boundary to set when you hear adults talking that you don't think something you should hear, can you guys not talk about that in front of me, or hey you guys are talking loud enough where I hear you. I really don't want to deal with this because I don't have a -- you're not the decision maker. You don't get to say.

So this is real hard on everybody, the adults recognize how hard this is to be 13 and being in the middle of all this. So it really is your jobs to keep him out of it as much as you can. The court is probably going to want to hear his position but like I said he wrote it down. So this court, that court will have access to the CHINS case and to whatever you both put in in the family law 261.0 case. I

don't know what the problem with the cause number is, the lawyers will figure that out and obviously I don't know the issue of why it was set for ten day (inaudible) fourteen days out, it wasn't mentioned in the order. Okay, I'll sign the dismissal.

MR. EILERT: Thank you, Your Honor. I've signed the dismissal, as well as Mr. Hervatine, if I may approach?

THE COURT: Yes, and Mr. Hervatine will you make sure your substitution still gets in this file?

MR. HERVATINE: Oh absolutely, Your Honor.

THE COURT: So it makes sense of why I let you sign the order.

MR. HERVATINE: Alright, thank you.

(COURT HEARING CONCLUDES)

WASHINGTON STATE COURT OF APPEALS DIVISION III
IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE

4 IN RE:) CAUSE NO. 15-3-02130-1
5 C.S.) 15-5-00185-5
6 Child,) COA NO. 35974-3-III
7 WAYNE JANKE and DORIS)
8 STRAND,)
9 Respondents,) TRANSCRIPT OF PROCEEDINGS
10 RONALD D. SIMON and TERESA)
11 SIMON,)
11 Appellants.)

VERBATIM REPORT OF PROCEEDINGS
BEFORE THE HONORABLE COMMISSIONER HOSKINS

April 16, 2015

Spokane County, Washington

17 APPEARANCES:

18 For Simons: Gary Stenzel
19 1304 W. College Avenue
Spokane, WA 99201

20 For Janke: Spencer Harrington
1517 W. Broadway Avenue
21 Spokane, WA 99201

22 Transcription Service: Amy M. Brittingham
23 2210 Maryhill Street SE
24 East Wenatchee, WA 98802
24 (509) 594-2196

25 Proceedings recorded by electronic sound recording;
transcript produced by transcription service.

1 implicate the constitutional rights of biological parents
2 with non-parents asserting that they are the defacto or
3 psychological parents that right at the beginning of the case
4 it was front loaded for the court to make some determination
5 as to whether or not this case will move forward.

6 So, this isn't a run of the mill paternity or
7 divorce case.

8 THE COURT: And as I'm listening to you, I'm a
9 little bit concerned that this perhaps should be assigned to
10 a commissioner who is there as opposed to ---

11 MR. HARRINGTON: That was ---

12 THE COURT: Have the pro tem handle it. If it's
13 not --- it wasn't assigned when you filed it?

14 MR. HARRINGTON: No because under --- so, the
15 defacto petition is actually a paternity action under the
16 case law of In Re L.B. so it's gets filed as a paternity
17 action and doesn't get assigned. I believe my concern as
18 well as was if we have a pro tem and this case is ongoing
19 that it --- a commissioner is then gonna have to read it
20 anyway because they would be the person to hear future
21 hearings. I had assumed it would be before a sitting
22 commissioner because they would be doing future hearings.
23 So, I have the same concern and I don't have Mr. Stenzel
24 present to ask him that, but I understand that he also
25 understood that it was important for the Court to have more

1 information rather than less in making a decision at the
2 beginning here because it decides, quite frankly, a lot of
3 issues going forward.

4 THE COURT: Well and I guess let me ask this.
5 Is it and you eluded to this a little bit. Is it plead as a
6 defacto parentage so in theory I'm gonna say no defacto
7 parentage, it's dismissed, you've also plead it as a third
8 party custody.

9 MR. HARRINGTON: We have.

10 THE COURT: So, tomorrow won't --- it can't be
11 your case is dismissed, you're done and then you could
12 potentially appeal it. I suppose it would continue on.

13 MR. HARRINGTON: It ---

14 THE COURT: Do you understand what I'm asking?

15 MR. HARRINGTON: Yes, it would likely continue
16 on with a next hearing set regarding placement under the non-
17 parental custody.

18 THE COURT: Okay, um ---

19 MR. HARRINGTON: Again, this is not a run of the
20 mill. This is ---

21 THE COURT: Right and I have experience with
22 defacto parentage. I was a guardian ad litem so I'm fairly
23 familiar with this. I'll have to kind of brush up on it.
24 But, I'm concerned about having me hear this and I don't know
25 if Amanda was aware of what kind of case this was.

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SEP 10 2015

SPOKANE COUNTY CLERK

SUPERIOR COURT OF WASHINGTON
COUNTY OF SPOKANE

In re:

CHRISTOPHER SIMON,

Child,

WAYNE JANKE and DORIS STRAND,

Petitioners,

and

RONALD SIMON and TERESA SIMON,

Respondents.

15302130-1

No: 15-5-00185-5

ORDER RE STATUS OF CASE

& Clerks Action

I. BASIS

The court, on its own motion inquired into the status of this case and the assignment of a trial judge. All parties provided their input on the case's history and why it was a posted as a "5" confidential case. The commissioner asked that a proposed order be provided and she would talk with the assigned commissioner, Rugel, about the case's status and trial judge.

II. FINDINGS

There is good cause for this order. *The is not a confidential case + should not have been filed with a '5' number. The Petitioner bears the responsibility for designating this as a "Patenty" case.*

It is ordered:

The case shall be given a '3' domestic number + all pleadings in this matter shall be consolidated into that new number

The case shall be immediately assigned to a trial department.

The Petition shall take this order to the Clerk's office & then inform the other parties of the new case number.

Dated: 7/10/75

Nichols, Ben

Court Commissioner/Judge

Presented by:

~~Gary R Stenzel, WSBA 16974~~

Sent copy from
Family Law Center

Spencer Harrington, WSBA #

Agreed:

Sent Copy
from Family Law Center
Kulnerby Kamel, WSBA/#

EXHIBIT 14

Fwd: Order Re: Status of Case

From: TJ Simon (agentappraiser@gmail.com)
To: corrieamsden@yahoo.com
Date: Thursday, August 6, 2020, 02:59 PM PDT

----- Forwarded message -----

From: **TJ Simon** <agentappraiser@gmail.com>
Date: Mon, Sep 14, 2015 at 11:10 PM
Subject: Re: Order Re: Status of Case
To: Gary Stenzel <Stenz2193@comcast.net>

Thank you.

On Mon, Sep 14, 2015 at 10:55 PM, Gary Stenzel <Stenz2193@comcast.net> wrote:

Yes that is a good part, it says "the Petitioner bears the responsibility for disseminating this case as a "paternity" case" and that this case was not a confidential "5" case. Then she basically said it should never have been a 5 case - cause a 5 case never gets a judge assigned so you really cannot do dis-positive motions or discovery motions, that this case needs and will make the case go faster instead or forever without end. I told you guys I was right on this issue.
Harrington their attorney is a slippery little guy and relies on slight of hand and smoke and mirrors to do his cases. this will add an entirely new and good dimension to this case. This is a good win. Gary

From: "TJ Simon" <agentappraiser@gmail.com>
To: "Stenzel Law Office" <stenz2193@comcast.net>, "Jayn Courchaine" <jayncourchaine@yahoo.com>
Sent: Monday, September 14, 2015 9:39:07 PM
Subject: Fwd: Order Re: Status of Case

We can't read the words written in the top... disseminating. or something but we cannot read one of the words in the pleading.

Also we don't understand how the Defacto has gotten dismissed or has it?

Thank you,

Ron and Teresa

----- Forwarded message -----

From: **Cassandra Taggart** <cassandra.stenzellaw@gmail.com>
Date: Mon, Sep 14, 2015 at 1:56 PM
Subject: Order Re: Status of Case

To: Ronald Simon <mrappraiserguy@gmail.com>, TJ Simon <agentappraiser@gmail.com>, Jayn Courchaine <jayncourchaine@yahoo.com>, Gary Stenzel <Stenz2193@comcast.net>

Hello Everyone,

Attached you will find a copy of the above-referenced pleading. This is a big win for your case. Now the case will be assigned to a judge and the De Facto Parenting part of the case is no longer one of the issues.

We are very pleased with this ruling.

--
If you have any questions, please contact our office.

Very Truly Yours,

Cassandra Taggart

Paralegal

NOTICE OF CONFIDENTIAL/PRIVILEGED COMMUNICATION

This email and any files transmitted with it may be protected by the attorney/client privilege, work product doctrine, or other confidentiality protections. It is intended solely for the individual or entity to whom it is addressed. If you have received this communication in error, please reply or call (509) 327-2000 and destroy any associated printed materials and delete the electronic material from any computer.

--
Teresa Simon
A La Carte Realty Services, LLC
708 S. Thor St.
Spokane, WA 99202
Direct (509) 535-6500
Fax (509) 532-8000

Teresa Simon
A La Carte Realty Services, LLC
708 S. Thor St.

Spokane, WA 99202
Direct (509) 535-6500
Fax (509) 532-8000

--
Teresa Simon
(509) 535-6500

Callan, Ashley <ACallan@spokanecounty.org>
To: TJ Simon <agentappraiser@gmail.com>

Tue, Oct 23, 2018 at 10:37 AM

Ms. Simon –

My responses to your inquiry are as follows:

1. I have spoken to Judge Moreno and Ms. Robson regarding your concerns. The Court conducts background checks when an attorney or litigant provides the appropriate form to court staff. In addition, it appears that your case arose from a petition for defacto parentage which does not have the same background check requirements as third-party custody cases. Please review RCW 26.26A for further details.
2. I am in receipt of your complaint regarding the Family Law Center. As I mentioned when you dropped off the complaint, court staff are not required to know the statutes regarding various court actions. We do not have a formal process regarding background checks. As stated above – court staff conduct background checks when requested by an attorney or litigant in accordance with the statute. Third party custody action background checks are governed under RCW 26.10.135 if you would like to review that statute.
3. Superior Court Administration does not retain the list of three people who were available to serve as a GAL in cases. In addition, if the parties stipulated to a GAL there are occasions where the GAL Registry is not used. I would suggest you consult with your attorney to determine if the GAL was stipulated to or if he/she recalls who the available GAL's were.

Thank you,

Ashley Callan

Superior Court Administrator

<https://mail.google.com/mail/u/0/?ik=2b123e4d47&view=pt&search=all&permthid=thread-a%3Ar-7349320849032989399&simpl=msg-a%3Ar-82391941...> 1/2

Lillian, Ashley

From: Moreno, Maryann <MMoreno@spokanecounty.org>
Sent: Monday, March 5, 2018 4:49 PM
To: Robson, Susan
Subject: RE: 15-3-01230-1

15-3-02130-1

Regards,

Maryann Moreno
Judge

1116 West Broadway
Spokane, Washington 99260
509-477-4712

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: Robson, Susan
Sent: Monday, March 05, 2018 4:47 PM
To: Moreno, Maryann <MMoreno@spokanecounty.org>
Subject: RE: 15-3-01230-1

This is not a good case number, do you have a name I can look at?
I'm about to leave out the door for today, been in DV all afternoon, but I'll be here first thing in AM.

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From: Moreno, Maryann
Sent: Monday, March 05, 2018 4:28 PM
To: Robson, Susan <SRobson@spokanecounty.org>
Subject: 15-3-01230-1

Can you tell me if the background records check has occurred in this case? A bit late to be asking.

Regards,

Maryann Moreno
Judge

1116 West Broadway
Spokane, Washington 99260
509-477-4712

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Callan, Ashley

From: Robson, Susan <SRobson@spokanecounty.org>
Sent: Tuesday, March 6, 2018 10:05 AM
To: Moreno, Maryann
Subject: RE: 15-3-01230-1

No, because this case was brought from a "S" case to being filed as a parenting plan/residential case, so it was not coded as a NP custody case. It would not of come up on any of my reports to initiate background checks.

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Subject: 15-3-01230-1

Callan, Ashley

From: Robson, Susan <SRobson@spokanecounty.org>
Sent: Tuesday, March 6, 2018 1:08 PM
To: Moreno, Maryann
Subject: RE: 15-3-01230-1

Do you want me to prepare an order for you? In order for me to do any background stuff I would have to have the NPS submit authorizations, etc. I can do that if you like, but since you did the trial you know more than any CPS or WSP can tell us.

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From: Moreno, Maryann
Sent: Tuesday, March 06, 2018 10:08 AM
To: Robson, Susan <SRobson@spokanecounty.org>
Subject: RE: 15-3-01230-1

I'm going to be entering findings and an order. The statute requires this so....help me out here.

Judge Maryann Moreno

Spokane County Superior Court
1116 West Broadway
Spokane, Washington 99260
509-477-4712

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Sent: Tuesday, March 06, 2018 10:05 AM
To: Moreno, Maryann <MMoreno@spokanecounty.org>
Subject: RE: 15-3-01230-1

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Sent: Monday, March 05, 2018 4:49 PM
To: Robson, Susan <SRobson@spokanecounty.org>
Subject: RE: 15-3-01230-1

15-3-02130-1

Regards,

Callan, Ashley

From: Moreno, Maryann <MMoreno@spokanecounty.org>
Sent: Tuesday, March 6, 2018 2:30 PM
To: Robson, Susan
Subject: RE: 15-3-01230-1

I think the statute requires this- I think I'll need to have the petitioner go through the WSP and DSHS/CPS check. Any directions for them? Spencer Harrington is the attorney.

Regards,

Maryann Moreno
Judge

1116 West Broadway
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Spokane County Superior Court
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Spokane, Washington 99260
509-477-4712

Callan, Ashley

From: Robson, Susan <SRobson@spokanecounty.org>
Sent: Tuesday, March 6, 2018 2:55 PM
To: Moreno, Maryann
Subject: RE: 15-3-01230-1

If they're going through the entire process, they need an Order Directing DCFS to Release information; Authorization to Release information (one for each party in home 16 y.o. and older); Declaration of Petitioner for NP Custody (our local mandatory form); WSP for each adult in home; and the Cover Sheet for DCFS background check to come to me. Spencer has done a few of these in the past; they can call me if they have any questions. Once I get everything and submit to CPS, it can usually take about 2 weeks depending if all t's are crossed/l's dotted.

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Callan, Ashley

From: Moreno, Maryann <MMoreno@spokanecounty.org>
Sent: Tuesday, March 6, 2018 2:56 PM
To: Robson, Susan
Subject: RE: 15-3-01230-1

We already had the trial and I made rulings. sigh

Regards,

*Maryann Moreno
Judge*

1116 West Broadway
Spokane, Washington 99260
509-477-4712

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Regards,

Callan, Ashley

From: Robson, Susan <SRobson@spokanecounty.org>
Sent: Tuesday, March 6, 2018 3:51 PM
To: Moreno, Maryann
Subject: RE: 15-3-01230-1
Attachments: SIMON JANKE ORDER.doc

Attached is an Order on NP. I'm assuming that the GAL investigated CPS records and criminal history throughout her investigation. I do all my stuff if you like, but I think the thorough investigation of GAL would cover the CPS and WSP requirements under 26.10.135. ?????

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Maryann Moreno
Judge

1116 West Broadway
Spokane, Washington 99260
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(Copy Receipt)

(Clerk's Date Stamp)



SUPERIOR COURT OF WASHINGTON
COUNTY OF SPOKANE

In re the Custody Of:

CHRISTOPHER,
Child(ren),

WAYNE JANKE and DORIS STRAND,
Petitioner(s),

And

RONALD and TERESA SIMON,
Respondent(s).

NO. 15-3-02130-1

ORDER ON NONPARENTAL CUSTODY

(OR)

I. BASIS

The court has reviewed the records concerning the Petitioner(s), and parties in the petitioner(s) household in the above referenced action.

II. FINDINGS

Based upon that review of the records

- Although there were initial concerns about this placement the court has had the concerns addressed to the extent that this matter should proceed.
- No concerns, this matter should proceed.

III. ORDER

IT IS ORDERED that this case shall proceed toward final resolution.

Dated: _____

Judge/ Commissioner

Callan, Ashley

From: Moreno, Maryann <MMoreno@spokanecounty.org>
Sent: Tuesday, March 6, 2018 4:17 PM
To: Robson, Susan
Subject: RE: 15-3-01230-1

Good thought. I can enter some type of order referencing that. Thanks.

Regards,

*Maryann Moreno
Judge*

1116 West Broadway
Spokane, Washington 99260
509-477-4712

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Subject: RE: 15-3-01230-1

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Regards,

*Maryann Moreno
Judge*

EXHIBIT 15

1 **WASHINGTON STATE COURT OF APPEALS DIVISION III**
2 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
3 IN AND FOR THE COUNTY OF SPOKANE

4 IN RE:) CAUSE NO. 15-3-02130-1
5) 15-5-00185-5
6 C.S.)
7 Child,)
8 WAYNE JANKE and DORIS)
9 STRAND,)
10)
11 Respondents,) TRANSCRIPT OF PROCEEDINGS
12)
13 RONALD D. SIMON and TERESA)
14 SIMON,)
15)
16 Appellants.)

17 VERBATIM REPORT OF PROCEEDINGS
18 BEFORE THE HONORABLE COMMISSIONER COLTON

19 April 3, 2015

20 Spokane County, Washington

21 APPEARANCES:

22 For Simons: Gary Stenzel
23 1304 W. College Avenue
24 Spokane, WA 99201

25 For Janke: Spencer Harrington
26 1517 W. Broadway Avenue
27 Spokane, WA 99201

28 Transcription Service: Amy M. Brittingham
29 2210 Maryhill Street SE
30 East Wenatchee, WA 98802
31 (509) 594-2196

32 Proceedings recorded by electronic sound recording;
33 transcript produced by transcription service.

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1 understand my son's feelings. There it's indicated by Ms.
2 Simon that she is accepting of her son's requests.

3 And then, the person who did this report indicates
4 that C.S. states he believes that his parents are unfairly
5 removing him from his home of origin, Doris and Wayne,
6 without warning or explanation. His father is screaming at
7 him and won't see --- that he won't see Doris and Wayne any
8 longer and he does not want this.

9 The school reports that they have records
10 indicating that Doris and Wayne were his parents since
11 elementary school. The school staff had not heard of or did
12 they know about his parents until February of this year. The
13 family assessment report indicates that the CHINS petition
14 should move forward and it should be filed.

15 Now, the motion and order of dismissal regarding
16 the CHINS petition was dismissed pursuant to agreement by the
17 parents and the child. And, in speaking with Commissioner
18 Ressa and in looking at the child's statements in his
19 petition, it's clear to me that the petition was dismissed
20 because of this action in superior court and that C.S. knew
21 that he was going to be residing with Doris and Wayne.

22 Now, that brings me back to the issue of the fact
23 that there was not leave to proceed granted in the juvenile
24 court and I agree that that's a problem. However, what I'm -
25 -- what I'm inclined to do is quash the restraining order

1 that was filed on March 31st and sign a restraining order with
2 today's date and have this hearing heard on its merits on ---
3 in two weeks, on Friday the 17th of April at which time, you
4 know, any proposed parenting plans or any --- anymore
5 findings with respect to the defacto parentage will be made.

6 In my reading of L.B. it's required that a guardian
7 ad litem is appointed for C.S. This guardian ad litem
8 actually has to file a response to the petition for C.S.
9 This guardian ad litem has to assist the Court in determining
10 whether or not there truly is a defacto parentage that
11 exists. This guardian ad litem will likely investigate the
12 claims of C.S. residing primarily with Wayne and Doris versus
13 how much time has he actually had with his biological
14 parents.

15 But, the other thing that's important to me is the
16 relationship that C.S. has with his biological parents. He's
17 making some pretty substantial allegations in his CHINS
18 petition and he's also --- those allegations seem to be
19 substantiated by his own sister. So, that's very concerning
20 to me and if there is in fact those kinds of problems
21 happening --- happening in biological parents' home, there
22 needs to be counselors or somebody in place to address that
23 and repair that relationship.

24 So, today, I want you to know I'm not making a
25 finding that there is a defacto parentage. I can't do that.

1 permission of Ron ---

2 MR. STENZEL: Hold on. Those are for issues when
3 we have the hearing. She's found some other evidence.

4 THE COURT: Okay.

5 MR. STENZEL: She doesn't understand the process.

6 THE COURT: Okay.

7 MR. STENZEL: That's for the hearing that we have
8 coming up, okay? You probably have other things going so
9 we'll probably need to have the table clear.

10 THE COURT: I have a hearing at 2:30 are we ---
11 do we have any other questions about ---

12 MR. HARRINGTON: Yeah, I --- I have an order
13 that is the same as the prior TRO I'm drafting an order based
14 on the extra things that you just ordered and I will provide
15 that to Mr. Stenzel.

16 THE COURT: It doesn't look like this case is
17 assigned to a commissioner ---

18 MR. HARRINGTON: No.

19 THE COURT: So, I guess it'll either go to
20 Commissioner McKay or Commissioner Rugel on that Friday.

21 MR. STENZEL: Um I guess I'm more concerned about
22 your order was that the child reside with them. He continues
23 to have deadly weapons issue here, which is totally
24 inappropriate at this point and as well as all these other
25 restraints about going within two blocks. I didn't really --

1 - I heard you say that the TRO is the child is with them
2 until we have the hearing. I'm ---

3 THE COURT: I said I would sign the same TRO for
4 purposes of perfecting the fact that there wasn't leave to
5 proceed granted on the 31st.

6 MR. STENZEL: Do we really need the gun thing? I
7 mean cause that's just ---

8 MR. HARRINGTON: I believe we need ---

9 MR. STENZEL: That's not ---

10 MR. HARRINGTON: Mentions the fear of mom
11 carrying a gun. He identifies mom's and dad's guns.

12 THE COURT: I saw those --- those statements
13 from C.S. in the CHINS petition that he filed.

14 MR. STENZEL: They can keep them locked up.

15 THE COURT: Is there a third party, a friend or
16 somebody that they're willing to give the guns to until
17 further court order?

18 MR. STENZEL: They have guns as well.

19 MR. SIMON: I turned mine over to the sheriff.

20 THE COURT: You already did do that?

21 MR. STENZEL: He already did. Already done. I'll
22 put already done.

23 MS. SIMON: He already turned his over to the
24 sheriff.

25 THE COURT: Okay.

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FILED

APR 08 2015

SPOKANE COUNTY CLERK

SUPERIOR COURT OF WASHINGTON, FOR SPOKANE COUNTY

In re the Custody of:
Christopher Simon,
Child,

Wayne Janke and Doris Strand,
Petitioners,

and

Ronald Simon and Teresa Simon,
Respondents.

NO. 15-5-00185-5

**Ex Parte Restraining Order/
Order to Show Cause
(Nonparental Custody)
(TPROTSC/ORTSC)**

Clerk's Action Required
 Law Enforcement Notification,
¶4.1

Restraining Order Summary:

Does not apply. Restraining Order Summary is set forth below:

Name of person(s) restrained: Ronald Simon and Teresa Simon.

Name of person(s) protected: Wayne Janke, Doris Strand and Christopher Simon.

See paragraph 4.1.

Violation of a Restraining Order in Paragraph 4.1 Below With Actual Knowledge of its Terms is a Criminal Offense Under Chapter 26.50 RCW and Will Subject the Violator to Arrest. RCW 26.10.115.

I. Show Cause Order

It is ordered that Ronald Simon and Teresa Simon appear and show cause, if any, why the restraints below should not be continued in full force and effect pending final determination of this action and why the other relief, if any, requested in the motion should not be granted. A hearing has been set for the following date, time and place:

Date: April 17, 2015

Time: 8:30 am

Place: Spokane County Superior Court
1116 W. Broadway, Spokane, WA

Room/Department: 401

If you disagree with any part of the motion, you must respond to the motion in writing before the hearing and by the deadline for your county. At the hearing, the court will consider **Written** sworn affidavits or declarations. Oral testimony may **Not** be allowed. To respond, you must:

(1) file your documents with the court; (2) provide a copy of those documents to the judge or commissioner's staff; (3) serve the other party's attorney with copies of your documents (or have the other party served if that party does not have an attorney); and (4) complete your filing and service of documents within the time period required by the local court rules in effect in your county. If you need more information, you are advised to consult an attorney or a courthouse facilitator.

Failure to Appear May Result in a Temporary Order Being Entered by the Court Which Grants the Relief Requested in the Motion Without Further Notice.

II. Basis

A motion for a temporary restraining order without written or oral notice to (name of nonrequesting party) **Ronald Simon and Teresa Simon** or that party's lawyer has been made to this court. The court has consulted the judicial information system, if available, to determine the existence of any information and proceedings that are relevant to the placement of the child.

III. Findings

Indian Child Welfare Act

Indian child status:

- The child(ren) are not Indian child(ren) as defined by 25 U.S.C § 1903 and the Indian Child Welfare Act, 25 U.S.C. § 1901, et seq., does not apply to these proceedings.

The court adopts paragraphs 2.1, 2.2, and 2.4 of the Motion/Declaration for an Ex Parte Restraining Order and for an Order to Show Cause (Form WPF CU 03.0150) as its findings, except as follows:

IV. Order

It is Ordered:

4.1 Restraining Order

Violation of a Restraining Order in Paragraph 4.1 With Actual Notice of its Terms Is a Criminal Offense Under Chapter 26.50 RCW and Will Subject the Violator to Arrest. RCW 26.10.115.

- Does not apply.
 Ronald Simon and Teresa Simon is/are restrained and enjoined from disturbing the peace of Wayne Janke, Doris Strand and Christopher Simon.
 Ronald Simon and Teresa Simon is/are restrained and enjoined from going onto the grounds of or entering the home, work place or school of the protected person(s) or the day care or school of the following named child: Christopher Simon.
 Ronald Simon and Teresa Simon is/are restrained and enjoined from knowingly coming within or knowingly remaining within (distance) 2 blocks of the home, work place, or school of the protected person(s) or the day care or school of this child: Christopher Simon.
 Ronald Simon and Teresa Simon is/are restrained and enjoined from molesting, assaulting, harassing, or stalking Wayne Janke, Doris Strand and Christopher Simon.

[X] **Clerk's Action.** The clerk of the court shall forward a copy of this order, on or before the next judicial day, to (name of appropriate law enforcement agency) Spokane County Sheriff/Police Dept. which shall enter this order into any computer-based criminal intelligence system available in this state used by law enforcement agencies to list outstanding warrants. (A law enforcement information sheet must be completed by the party or the party's attorney and provided with this order before this order will be entered into the law enforcement computer system.)

Service

The requesting party must arrange for service of this order on the restrained party. File the original Return of Service with the clerk and provide a copy to the law enforcement agency listed above.

4.2 Other Restraining Order

- [X] Ronald Simon and Teresa Simon is/are restrained and enjoined from permanently removing the child from the state of Washington.
- [X] The child shall reside with Wayne Janke and Doris Strand until the hearing.
- [] Other:

4.3 Surrender of Deadly Weapons

- [] Does not apply.
- [X] It is ordered that Ronald Simon and Teresa Simon surrender any deadly weapon in his or her immediate possession or control or subject to his or her immediate possession or control to:

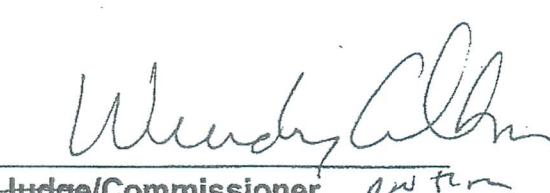
[X] the Spokane county sheriff, *or turn any firearms over to a 3rd party*

The court finds that irreparable injury could result if an order is not issued until the time for response has elapsed. (See RCW 26.09.060(2)(b).)

4.4 Expiration Date

This order shall expire on the hearing date set forth above or 14 days from the date of issuance, which ever is sooner, unless otherwise extended by the court. If this matter is set past the 14 days from entry, this order shall remain in full force and effect until the date of the hearing set by the court.

4.5 Other

Dated: 4-3-15 at 1:50 a.m/p.m. 

Judge/Commissioner *Wendy Aho*

Presented by:

Spencer W. Harrington, WSBA #35907
Attorney for Petitioners

objection noted

SPW 4/7/15

Harrington Law Office, PLLC
1517 W. Broadway Avenue
Spokane, WA 99201
Phone: 509-838-8300
Fax: 509-838-8301

FILED

APR 03 2015

SPOKANE COUNTY CLERK

SUPERIOR COURT OF WASHINGTON, FOR SPOKANE COUNTY

In re:
Christopher Simon,
Child,

Wayne Janke and Doris Strand,
Petitioners,

and

Ronald Simon and Teresa Simon,
Respondents.

NO. 15-5-00185-5

Order on Motion to Shorten Time and on
Motion to Quash Ex Parte Restraining
Order

I. BASIS

Respondents moved the Court for an order to shorten time on motion to quash ex parte restraining order and for an order to quash ex parte restraining order entered on March 31, 2015.

II. FINDINGS OF FACT

After reviewing the case record to date, declarations, the oral arguments of counsel, and the basis for the motion, the court finds that: The court finds there is good cause to enter this order The oral

findings of this court are incorporated herein by reference in their entirety. The initial
order was entered while there was a CHINS matter.

III. ORDER

IT IS ORDERED that:

[] Respondents' motion to shorten time is [] granted [] denied.

[] Respondents' motion to quash ex parte restraining order entered March 31, 2015 is
[] granted [] denied, but is entering a new order (TRO) today.

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A GAL shall be appointed and is required.

pursuant to
In re L.B.
Iswn. 2d
W.Y.
692

- The biological parents shall be called at least 2x over the Spring break vacation in Hawaii. The Petitioners shall initiate these calls.

- If it is found that the petitioners have brought this petition in bad faith, attorneys fees are reserved to respondents.

- Temporary Orders + TRO to be heard on 4-17-15.

- The subject child shall sleep ^{alone} in his own bed while w/ the Petitioners

Dated: 4/3/15

Mandy Allen
Judge/Commissioner of the Court pro tem

Presented by:

Spencer W. Harrington, WSBA # 35907
Attorney for Respondent

Approved by: objection noted

Gary Stenzel, WSBA # 16974
Attorney for Petitioner

EXHIBIT 16

UNIFORM PARENTAGE ACT (2017)

drafted by the

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

and by it

APPROVED AND RECOMMENDED FOR ENACTMENT
IN ALL THE STATES

at its

ANNUAL CONFERENCE
MEETING IN ITS ONE-HUNDRED-AND-TWENTY-SIXTH YEAR
SAN DIEGO, CALIFORNIA
JULY 14 - JULY 20, 2017

WITH PREFATORY NOTE AND COMMENTS

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By
NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

September 22, 2017

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ULC members must be lawyers, qualified to practice law. They are practicing lawyers, judges, legislators and legislative staff and law professors, who have been appointed by state governments as well as the District of Columbia, Puerto Rico and the U.S. Virgin Islands to research, draft and promote enactment of uniform state laws in areas of state law where uniformity is desirable and practical.

- ULC strengthens the federal system by providing rules and procedures that are consistent from state to state but that also reflect the diverse experience of the states.
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- ULC is a state-supported organization that represents true value for the states, providing services that most states could not otherwise afford or duplicate.

UNIFORM PARENTAGE ACT (2017)

The Committee appointed by and representing the National Conference of Commissioners on Uniform State Laws in preparing this act consists of the following individuals:

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[ARTICLE] 6

PROCEEDING TO ADJUDICATE PARENTAGE

[PART] 1

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[PART] 2

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[PART] 3

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Section 611, addressing challenges to adjudicated parents.

Subsection (a) clarifies that if the individual received notice of the action under Section 603, a proceeding to challenge the adjudication by the individual is governed by the rules governing collateral attacks on judgments.

As was true under UPA (2002), subsection (b) imposes a two-year limitations period on challenges to an adjudication of parentage of a child by an individual who was not a party to and did not receive notice of the prior proceeding. Other sections of the act likewise utilize a two-year limitations period. *See, e.g.*, Section 307; Section 608. As was true under UPA (2002), a challenge brought within this limitations period is subject to considerations related to the best interest of the child.

SECTION 612. ADJUDICATING PARENTAGE OF CHILD OF ASSISTED REPRODUCTION.

(a) An individual who is a parent under [Article] 7 or the woman who gave birth to the child may bring a proceeding to adjudicate parentage. If the court determines the individual is a parent under [Article] 7, the court shall adjudicate the individual to be a parent of the child.

(b) In a proceeding to adjudicate an individual's parentage of a child, if another individual other than the woman who gave birth to the child is a parent under [Article] 7, the court shall adjudicate the individual's parentage of the child under Section 613.

Comment

This new section specifically authorizes the filing of a proceeding to adjudicate the parentage of individuals who are intended parents under Article 7. The rules regarding adjudications of parentage for individuals who are parents under Article 8 are set forth in Article 8.

SECTION 613. ADJUDICATING COMPETING CLAIMS OF PARENTAGE.

(a) Except as otherwise provided in Section 614, in a proceeding to adjudicate competing claims of, or challenges under Section 608(c), 610, or 611 to, parentage of a child by two or more individuals, the court shall adjudicate parentage in the best interest of the child, based on:

- (1) the age of the child;

(2) the length of time during which each individual assumed the role of parent of the child;

(3) the nature of the relationship between the child and each individual;

(4) the harm to the child if the relationship between the child and each individual is not recognized;

(5) the basis for each individual's claim to parentage of the child; and

(6) other equitable factors arising from the disruption of the relationship between the child and each individual or the likelihood of other harm to the child.

(b) If an individual challenges parentage based on the results of genetic testing, in addition to the factors listed in subsection (a), the court shall consider:

(1) the facts surrounding the discovery the individual might not be a genetic parent of the child; and

(2) the length of time between the time that the individual was placed on notice that the individual might not be a genetic parent and the commencement of the proceeding.

Alternative A

(c) The court may not adjudicate a child to have more than two parents under this [act].

Alternative B

(c) The court may adjudicate a child to have more than two parents under this [act] if the court finds that failure to recognize more than two parents would be detrimental to the child. A finding of detriment to the child does not require a finding of unfitness of any parent or individual seeking an adjudication of parentage. In determining detriment to the child, the court shall consider all relevant factors, including the harm if the child is removed from a stable placement with an individual who has fulfilled the child's physical needs and psychological

needs for care and affection and has assumed the role for a substantial period.

End of Alternatives

Legislative Note: A state should enact Alternative A if the state does not wish a child to have more than two parents. A state should enact Alternative B if the state wishes to authorize a court in certain circumstances to establish more than two parents for a child.

Comment

UPA (1973) contained a provision addressing situations in which multiple individuals have a claim to parentage of a child. Section 4(b) of UPA (1973) provided guidance in such situations, although the guidance was vague. UPA (1973) § 4(b) ("If two or more presumptions arise which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls.").

UPA (2002) eliminated that provision and did not expressly address how a court should resolve cases involving competing presumptions or claims of parentage. UPA (2002) did, however, include a provision that implicitly acknowledged the possibility of multiple claimants. UPA (2002), § 608 authorized a court to deny a request for genetic testing in cases in which a party sought to challenge a presumption of parentage. The section provided a list of factors that a court was directed to consider in such cases. The reality is, however, that whether or not the court orders genetic testing, the parties often know what the results of that genetic tests would reveal. In that way, the section concealed the purpose of the provision, which was to provide guidance to a court faced with competing claims of parentage between an alleged genetic parent and a presumed parent.

UPA (2017) addresses how to resolve cases between competing claimants directly. While UPA (2017) frames the issue differently, this section is consistent with the basic approach of UPA (2002) § 608. Thus, the factors included in this section are largely carried over from UPA (2002) § 608.

This section also expressly addresses another issue that UPA (2002) did not: whether a court may conclude that a child has more than two parents under the act. This is a question with which courts have increasingly been confronted.

The act provides two alternatives. Alternative A provides that a child cannot have more than two legal parents. Alternative B permits a court, in rare circumstances, to find that a child has more than two legal parents.

Alternative B is consistent with an emerging trend permitting courts to recognize more than two people as a child's parents. Four states expressly permit a court to find that a child has more than two legal parents by statute. See Cal. Fam. Code 7612(c); Del. Code Ann. tit. 13, § 8-201(a)(4), (b)(6), (c); D.C. Code § 16-909(e); Me. Rev. Stat. tit. 19-a, § 1853(2). In addition, courts in several other states have reached that conclusion as a matter of common law. See, e.g., *Warren v. Richard*, 296 So.3d 813, 815 (La. 1974). In addition, courts in some states have

concluded that a child had two legal parents and one equitable parent who was entitled to at least some rights and duties of a parent. *See, e.g., In Interest of P.S.*, 505 S.W.3d 106 (Tex. Ct. App. 2016) (3-way custody and visitation arrangement); *A.B. v. T.V.*, 2015 WL 7571451 (Pa. Super. Ct. 2015); *In re Parentage of J.B.R. Child*, 336 P.3d 648, 653 (Wash. App. Ct. 2014) (“The fact that [the child] has two living biological parents does not prohibit [the child’s stepparent] from petitioning for de facto parentage.”); *McAllister v. McAllister*, 779 N.W.2d 652 (N.D. 2010).

Again, Alternative B recognizes and reflects this trend in favor of recognizing the possibility that a child may have more than two legal parents. Alternative B, however, stakes out a narrow, limited approach to the issue by erecting a high substantive hurdle before the court can reach this conclusion: a court can determine that a child has more than two legal parents only when failure to do so would cause detriment to the child.

SECTION 614. PRECLUDING ESTABLISHMENT OF PARENTAGE BY PERPETRATOR OF SEXUAL ASSAULT.

(a) In this section, “sexual assault” means [cite to this state’s criminal rape statutes].

(b) In a proceeding in which a woman alleges that a man committed a sexual assault that resulted in the woman giving birth to a child, the woman may seek to preclude the man from establishing that he is a parent of the child.

(c) This section does not apply if:

(1) the man described in subsection (b) has previously been adjudicated to be a parent of the child; or
(2) after the birth of the child, the man established a bonded and dependent relationship with the child which is parental in nature.

(d) Unless Section 309 or 607 applies, a woman must file a pleading making an allegation under subsection (b) not later than two years after the birth of the child. The woman may file the pleading only in a proceeding to establish parentage under this [act].

(e) An allegation under subsection (b) may be proved by:

(1) evidence that the man was convicted of a sexual assault, or a comparable crime in another jurisdiction, against the woman and the child was born not later than 300 days

1
2 **WASHINGTON STATE COURT OF APPEALS DIVISION III**
3 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
4 IN AND FOR THE COUNTY OF SPOKANE

5 IN RE:) CAUSE NO. 15-3-02130-1
6) 15-5-00185-5
7 C.S.)
8) COA NO. 35974-3-III
9 Child,)
10)
11 WAYNE JANKE and DORIS)
12)
13)
14 STRAND,)
15)
16)
17 Respondents,) TRANSCRIPT OF PROCEEDINGS
18)
19 RONALD D. SIMON and TERESA)
20)
21)
22 SIMON,)
23)
24 Appellants.)

13 VERBATIM REPORT OF PROCEEDINGS
14 BEFORE THE HONORABLE COMMISSIONER HOSKINS

15 April 16, 2015

16 Spokane County, Washington

17 APPEARANCES:

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25 Proceedings recorded by electronic sound recording;
 transcript produced by transcription service.

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1 implicate the constitutional rights of biological parents
2 with non-parents asserting that they are the defacto or
3 psychological parents that right at the beginning of the case
4 it was front loaded for the court to make some determination
5 as to whether or not this case will move forward.

6 So, this isn't a run of the mill paternity or
7 divorce case.

8 THE COURT: And as I'm listening to you, I'm a
9 little bit concerned that this perhaps should be assigned to
10 a commissioner who is there as opposed to ---

11 MR. HARRINGTON: That was ---

12 THE COURT: Have the pro tem handle it. If it's
13 not --- it wasn't assigned when you filed it?

14 MR. HARRINGTON: No because under --- so, the
15 defacto petition is actually a paternity action under the
16 case law of In Re L.B. so it's gets filed as a paternity
17 action and doesn't get assigned. I believe my concern as
18 well as was if we have a pro tem and this case is ongoing
19 that it --- a commissioner is then gonna have to read it
20 anyway because they would be the person to hear future
21 hearings. I had assumed it would be before a sitting
22 commissioner because they would be doing future hearings.
23 So, I have the same concern and I don't have Mr. Stenzel
24 present to ask him that, but I understand that he also
25 understood that it was important for the Court to have more

EXHIBIT 17

Fwd: April 3, 2015 Orders

From: TJ Simon (agentappraiser@gmail.com)
To: corrieamsden@yahoo.com
Date: Saturday, August 8, 2020, 05:44 PM PDT

----- Forwarded message -----

From: **TJ Simon** <agentappraiser@gmail.com>
Date: Thu, Aug 6, 2020 at 4:24 PM
Subject: Fwd: April 3, 2015 Orders
To: Corrie Amsden <corrieamsden@yahoo.com>

----- Forwarded message -----

From: **Cassandra Taggart** <cassandra.stenzellaw@gmail.com>
Date: Mon, Apr 13, 2015 at 2:00 PM
Subject: April 3, 2015 Orders
To: TJ Simon <agentappraiser@gmail.com>

Teresa,

Attached are copies of the Orders entered on Friday April 3, 2015. Please note that there is no hearing tomorrow and it is set for Friday April 17, 2015 @ 8:30 am. You need to be on telephone stand by at 9:15-9:30 to know what time and what courtroom your hearing is. The 8:30 is for Attorney's only to do a roll call.

--
If you have any questions, please contact our office.

Very Truly Yours,

Cassandra Taggart
Paralegal to Robert J. Hervatine

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(509) 535-6500