

66573-1

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NO. 66573-1

COURT OF APPEALS, DIVISION ONE
OF THE STATE OF WASHINGTON

MONIQUE U LE

Appellant,

Vs.

TONY MAI

Respondent.

BRIEF OF RESPONDENT

TONY MAI

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Alameda, CA 94501
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I. INTRODUCTION

After a prolonged petition for Child Support Modification, originally filed on April 2010 by me, Commissioner Bianca found that I “failed to meet my burden of demonstrating a substantial change of circumstances.” The respondent, Uyen Le, was pro se throughout the trial but she requested over \$18,000 in attorney’s fees and was awarded \$1,000k. Immediately after this judgment, Ms Le appealed the decision to the revision court which again denied her request for additional attorney fees. Commissioner Spearman cited the reason as “the respondents numerous litigation that further increased the cost of the hearing.” After more than a year and half of trial and one request for revision, four separate commissioners; Spearman, Bianca, Smith, and Doerty all found 1) no conflict of interest existed with my attorney Jillian Presnall and 2) attorney’s fees awarded should be no more than \$1,000. In addition the WSBA dismissed her grievance against Ms Presnall.

After being denied the \$18,888 for attorney’s fees Ms Le moved to appeal the decision through the Appellate Court. While moving forward with this appeal, the respondent simultaneously requested the King County DA’s office to file a contempt motion against me for failing to pay child support I could not afford. My petition for Child Support Modification was ruled on November 12, 2010 and after the holidays I was served in January 2011 for a Contempt Motion for child support initiated by Uyen Le. This was the 2nd Contempt Motion in 14 months, the first for violation of Parenting Plan, brought on by Ms Le. After Ms Le’s WSBA filing of grievance against Jillain Presnall was dismissed, she is in the process of initiating a lawsuit against Ms Presnall’s law firm, Anderson, Fields.

II. Argument

A conflict of interest requires the party involved to be in the “same or substantially related” litigation for a conflict to exist. That is not the case here. The Appellant was a client of Wolfgang Anderson for a prior divorce with a different man. The firm represented the Appellant for a short period of time before the working relationship was terminated. Ms Le later hired another attorney and based on Anderson, Fields records her entire file was turned over to another firm. Jillian Anderson made a sworn declaration that “no file regarding the Appellant remains at this office.” In regards to receiving assistance from Wolfgang Anderson she also stated she has “not sought his help regarding this case and do not intend to.” There was no conflict of interest for Anderson, Fields to represent me. Ms Le was a client for her divorce

with a prior spouse. I was not involved in that litigation in any way. The two matters are not related – it is as if Ms Le was involved in two car accidents with two different passengers. No conflict exists.

As the Appellant is not an attorney and has not hired an attorney, she has no right under the law to request attorney's fees. RCW 26.09.040 states in relevant part:

“The Court from time to time after considering the financial resources of both parties may order a party to pay a reasonable amount for...reasonable attorney's fees or other professional fees in connection therewith...”

The Appellant has not incurred attorney's fees, as she did not have counsel, and shows no basis for \$18,888 in legal costs.

III. Conclusion

There was no conflict of interest in the previous modification case. It was an entirely different action involving a post-dissolution child support modification from a dissolution involving a different spouse than the case previously handled by Wolfgang Anderson. This is not the same or a substantially related matter.

No attorney's fees should have been awarded as no attorney's fees were incurred by Ms Le.

After 4 years of litigation with Ms Le, I was financially and emotionally depleted and had to move back home with my parents in CA. I currently reside with my parents in Alameda, CA and have no funds for representation and limited access to court records and transcripts for this appeal. Unlike Ms Le, I am obviously not adept or as well prepared for handling a complicated appeals process. I am currently unemployed, involved in ongoing litigation for a Contempt Motion of which might be transferred to CA due to my residency, and responding to this Appeals Motion. However, since I moved to CA and reduced my living expenses I have been able to make my court ordered child support payments of \$700 per month on a timely and consistent basis.

Dated this 9th day of November, 2011

By: Tony Mai
Tony Mai

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

MONIQUE UYEN LE)
v.)
Appellant) No. 66573-1-1
TONYMAI) King County No.: 08-3-06004-1 SEA
Respondent) PROOF OF SERVICE

I, Thu Thi Mai, am over 18 years old and not a party to this action. I declare under penalty of perjury under the laws of the State of Washington my statement below is true and correct.

I served the following documents to Monique Uyen Le, A and Court of Appeal-Div. I:

[x] Respondent Brief

CERTIFICATE OF SERVICE

I certify that on the 13 day of September, 2011, I caused a true and correct copy of the above marked documents to be served on the following in the manner indicated below:

Monique Uyen Le (x) U.S. Mail
2201 3rd St #1604 () Hand Delivery
Seattle, WA 98121

Division I () U.S. Mail
One Union Square () Hand Delivery
600 University Street (x) Fax
Seattle, WA 98101

Date: 9/13/2011

By: Thu Thi Mai

Thu Thi Mai

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