

E-FILED
THURSTON COUNTY, WA
SUPERIOR COURT
09/16/2021 8:02:06 AM
Linda Myhre Enlow
Thurston County Clerk

[X] EXPEDITE (If filed within 5 court days of hearing)
[X] Hearing is set: Present at same Time & Date as Motion
Date: 9-17-21
Time: 10:00amm Zoom #: 242-974-5214 Rm:4
Judge/Calendar: **Schaller**/Motion to Revise

**Superior Court of Washington
for Thurston County Family &
Juvenile Court**

In re: Emergency Guardianship of
Hazel Belle Ursa Smith

Respondent(s): Minor Child(ren)

No. 21-4-00443-34

**Case Record Index &
Attachments pp 601-675**

**By JOHN SMITH
(Index & Attachments 501 - 607
(Pursuant to ER 902 & 1005
(RCW 2.24.050, CR 19, 24 & 59)**

(Cover Sheet)
TITLE OF DOCUMENT

**Case Record & Attachments Index
by JOHN SMITH**

**NAME: John Smith, grandfather
Mailing ADDRESS: PO Box 1711,
Shelton, WA 98584
PHONE: (360)427-3599**

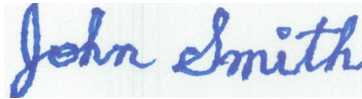
MATERIAL & RELEVANT FACTS (& DECLARATION)

New evidence revealing the **Abuse of Process** by the Stokers and **fraud** by security guard Robert K. Kurtz have been discovered affecting the disposition of this case and must be weighed and a STAY granted to prevent a miscarriage of justice and harm to the children at issue.

I, John Smith, **certify the Court record Index List and Attachments submitted** are true copies of what I received and entered into the record from the Thurston County Family & Juvenile Court in case #21-4-00443-34 pursuant to ER 902 and 1005. Selena Smith is indigent, presently unemployed and unable to afford transcripts of the audio of the review hearings of this case, & was never appointed a lawyer.

I declare under penalty of perjury of the laws of the State of Washington and pursuant to GENERAL Court RULE 13 and RCW 9A.72.085 that the foregoing is true and correct to the best of my knowledge.

Signed at Mason, [County] Washington [State] on 9-15-2021.

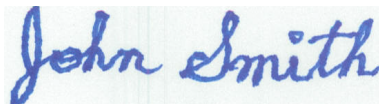


Signature of Petitioner or Lawyer/WSBA No.

John Smith (grandfather), pro se
Print Name

I have e-mailed/posted a copy of this entire document and contents to Breckan Scott, attorney for the Stokers, Selena Smith & James Wells on 9-15-21. (<http://amicuscuria.com/wordpress/?p=24546>), not Mr. Ayer.

Respectfully Signed & submitted in Mason, [County] Washington [State] on 9-15-2021 [Date]



Signature of Petitioner or Lawyer/WSBA No.

John Smith (grandfather), pro se
Print Name

<p style="text-align: center;">SUPERIOR COURT OF WASHINGTON FOR THURSTON COUNTY FAMILY AND JUVENILE COURT</p>	
<p>In re: The Emergency Guardianship of Hazel Belle Ursa Smith</p> <p>Respondent(s): The Minor Child(ren)</p>	<p>NO. 21-4-00443-34</p> <p>ATTACHMENT LIST (ATTLST)</p> <p>JUDGE Schaller Clerk: Court Reporter: Date: 10-17-21 @ 10:00am ZOOM ID: 242-974-5214 Rm:4 Type of Hearing: Motion for Revision</p>

Received from	Number of Attachment	Admitted? Y/N Date, Not Offered, etc.	Attachment Description
Selena Smith	501 (1)	5-27-21	Case Schedule Notice
Selena Smith	502 (2)	5-27-21	Case Info CoverSheet
Selena Smith	503 (3)	5-27-21	443 Summons
Selena Smith	504 (4)	5-27-21	443 Emergency Guardianship Petition
Selena Smith	505 (4)	5-27-21	Annotated 443 Emergency Grdn Petition
Selena Smith	506 (5)	5-28-21	443 Motion for SC Order
Selena Smith	507	6-28-21	443 Reply Dec of Kat Stoker
Selena Smith	508 (6)	5-28-21	Motion for DCYF to Release CPS info
Selena Smith	509 (7)	5-28-21	Motion for DCYF to Release CPS info
Selena Smith	510 (8)	5-28-21	443 ex parte Motion for Emergency Order
Selena Smith	511 (9)	5-28-21	443 Notice of ex parte Emergency HRG (none)
Selena Smith	512 (11)	5-27-21	443 Emergency Grdn for minors Petition
Selena Smith	513 (12)	5-28-21	443 Declaration of NJ Security Guard Kurtz

Received from	Number of Attachment	Admitted? Y/N Date, Not Offered, etc.	Attachment Description
Selena Smith	514 (14)	5-28-21	443 ex parte Immediate Order & HRG Notice
Selena Smith	515 (16)	5-28-21	443 ex parte immed order & notice Kortokrax
Selena Smith	516 (17)	5-28-21	443 ex parte Mot HRG Kortokrax
Selena Smith	517 (18)	12-17-20	20-2-30788-34 DV Protection Order Zinn
Selena Smith	518 (19)	6-1-21	443 Dec of Mira Glasser
Selena Smith	519 (20)	6-1-21	Dec of Kaitlyn Dey
Selena Smith	520	6-1-21	Dec & Exhibit 'A' of John Smith
Selena Smith	521	7-22-21	443 Alt Proposed Order & Findings Fact
Selena Smith	522 (21)	6-1-21	443 Dec of Marylou White
Selena Smith	523 (22)	6-1-21	443 Mot HRG set FULL(?) HRG
Selena Smith	524 (23)	6-1-21	443 ex parte immed order Rebekah Zinn
Selena Smith	525 (24)	6-1-21	443 Dec of Ryan McGarvey
Selena Smith	526 (25)	6-1-21	443 Dec of Joshua D Buckley
Selena Smith	527 (26)	6-1-21	443 Dec of Jonathan R Moore
Selena Smith	528 (27)	6-1-21	443 Dec of Benjamin Donlon
Selena Smith	529 (28)	6-1-21	443 Dec of Katherine Sponagle
Selena Smith	530 (29)	6-2-21	443 Dec & Exhibit 'A' of John Smith
Selena Smith	531 (30)	6-11-21	443 Motion to Vacate
Selena Smith	532 (31)	6-11-21	443 Declaration of Selena Smith
Selena Smith	533 (32)	6-11-21	443 Notice of HRG by Selena
Selena Smith	534 (33)	6-11-21	443 Motion 2 Vacate by Selena
Selena Smith	535 (34)	6-16-21	443 Motion in Limine (Join) by John
Selena Smith	536 (35)	6-16-21	443 Dec by Maya Stoker
Selena Smith	537 (36)	6-16-21	443 Dec by Kathryn Stoker
Selena Smith	538 (37)	6-16-21	443 Dec by Heather Stoker
Selena Smith	539 (38)	6-16-21	443 Dec by Chad Stoker

Received from	Number of Attachment	Admitted? Y/N Date, Not Offered, etc.	Attachment Description
Selena Smith	540 (39)	6-16-21	443 Dec by Hans Stoker w/stolen docs
Selena Smith	541 (40)	6-16-21	443 Dec of Alex Stoker
Selena Smith	542 (41)	6-16-21 conflict	Immed ex parte emerg order Scott-Kortokrax
Selena Smith	543 (42)	6-16-21	Kortokrax recusal but enters order anyway
Selena Smith	544 (43)	6-16-21	Kortokrax ex parte recusal notice
Selena Smith	545 (44)	6-21-21	Memo, objection, Dec by John Smith
Selena Smith	546 (46)	6-21-21	443 Mot 2 Join by John Smith
Selena Smith	547 (47)	6-23-21	443 Mot 2 Join by John Smith
Selena Smith	548 (48)	6-24-21	443 Mot 2 Join grandfather by Selena Smith
Selena Smith	549 (49)	6-24-21	443 Declaration of Amy Gmazel
Selena Smith	550 (50)	6-24-21	443 Deny Mot 2 Vacate by Selena; Zinn
Selena Smith	551 (51)	6-25-21	443 Not of HRG 2 Join by John Smith
Selena Smith	552 (52)	6-25-21	443 Not of HRG 2 Join by John Smith
Selena Smith	554 (54)	6-25-21	443 Counter to Alex Stoker by Selena Smith
Selena Smith	555 (55)	6-25-21	443 Notice HRG 2 Join by John Smith
Selena Smith	556 (56)	6-25-21	443 Order Short Setting Time - Zinn
Selena Smith	557 (57)	6-25-21	443 E-mail submitted by Edith Vanderweal
Selena Smith	558 (58)	6-25-21	443 Ex Parte Motion denied - Zinn
Selena Smith	559 (59)	6-28-21	Counter Aff 2 Kat Stoker by Selena Smith
Selena Smith	560 (60)	6-28-21	443 Declaration by Kat Stoker
Selena Smith	561 (61)	6-29-21	443 Selena rebuttal Dec to Kathryn Stoker
Selena Smith	562 (62)	6-29-21	443 Affidavit of John Smith
Selena Smith	563 (63)	6-29-21	215-JV-171 CO. case re: Hazel Smith (8yo)
Selena Smith	564 (64)	6-30-21	443 Mot HRG clerk's notes
Selena Smith	565 (65)	6-30-21	443 Order Setting HRG
Selena Smith	566 (66)	7-2-21	443 Not of ex parte HRG

Received from	Number of Attachment	Admitted? Y/N Date, Not Offered, etc.	Attachment Description
Selena Smith	567 (67)	7-2-21	443 Mot Srv by Pub (hired skip tracer Kurtz?)
Selena Smith	568 (68)	7-2-21	443 Not ex parte HRG by Breckan. Scott
Selena Smith	569 (69)	7-2-21	443 Mot Srv Pub by Breckan Scott
Selena Smith	570 (70)	7-2-21	443 Order Proposed by Breckan Scott
Selena Smith	571 (71)	7-6-21	443 Mot HRG clerk's notes
Selena Smith	572 (72)	7-8-21	443 Prelim Objection Exhibit 'F'
Selena Smith	573 (73)	7-8-21	443 Mot Reconsider unheard
Selena Smith	574 (74)	7-8-21	443 Mot 2 Reconsider by John Smith
Selena Smith	575 (75)	7-8-21	443 CounterAff 2 James Wells by John Smith
Selena Smith	576 (76)	7-8-21	443 Prelim Obj Exhibit 'G'
Selena Smith	577 (77)	7-8-21	443 Prelim Obj Exhibit 'F'
Selena Smith	578 (78)	7-9-21	443 Not HRG by John Smith 2 Reconsider
Selena Smith	579 (79)	7-9-21	443 Mot 2 Reconsider by John Smith
Selena Smith	580 (80)	7-9-21	443 Amended Counter 2 James Wells
Selena Smith	581 (81)	7-9-21	443 Memorandum
Selena Smith	582 (82)	7-9-21	443 Prelim Objection Exhibit 'F'
Selena Smith	583 (83)	7-9-21	443 Prelim Objection Exhibit 'G'
Selena Smith	584 (84)	7-9-21	443 Not HRG Mot 2 Revise unheard
Selena Smith	585 (85)	7-12-21	443 Not HRG Mot 2 Revise (court canceled)
Selena Smith	586 (86)	7-12-21	443 Mot 2 Revise
Selena Smith	587 (87)	7-12-21	443 Memorandum & CounterAff
Selena Smith	588 (88)	7-16-21	443 Motion to Revise
Selena Smith	589 (89)	7-16-21	443 Not of Mot 2 Revise HRG
Selena Smith	590 (90)	7-16-21	443 Memo & CounterAff
Selena Smith	591 (91)	7-19-21	443 Not HRG Alt Proposed Order (rejected)
Selena Smith	592 (92)	7-19-21	443 Alt Proposed Order & Findings

Received from	Number of Attachment	Admitted? Y/N Date, Not Offered, etc.	Attachment Description
Selena Smith	593 (93)	7-19-21	443 Not Alt Proposed Order (Sched full)
Selena Smith	594 (94)	7-20-21	21-1-00676-34 PC Dec
Selena Smith	595 (95)	7-20-21	443 Dec of Kathryn Stoker
Selena Smith	596 (96)	7-20-21	443 Proposed Order & Findings by Scott
Selena Smith	597 (97)	7-22-21	443 Not HRG (bad set) by Scott
Selena Smith	598 (98)	7-27-21	443 Not Address Change
Selena Smith	599 (99)	7-29-21	443 HRG review clerk's notes
Selena Smith	600 (100)	7-29-21	443 Order on Review (Scott's adopted)
Selena Smith	601 (101)	7-29-21	443 Praecipe by Selena Smith
Selena Smith	602 (102)	7-29-21	443 Subpoena Duces Tecum by Selena Smith
Selena Smith	603 (103)	7-29-21	443 Praecipe by Selena Smith
Selena Smith	604 (104)	7-29-21	443 Subpoena Duces Tecum by Selena Smith
Selena Smith	605 (105)	7-29-21	443 CounterAff to Kat Stoker by Selena
Selena Smith	606 (106)	8-5-21	443 Not HRG fee waiver (rejected)
Selena Smith	607 (107)	8-5-21	443 Praecipe by Selena Smith
Selena Smith	608		
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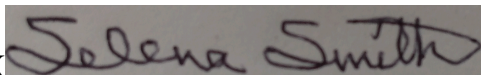
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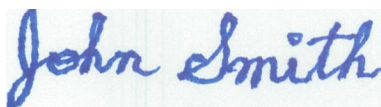
STIPULATION TO EXHIBIT LIST

I have examined the exhibits in the above-entitled case and stipulate the exhibits noted as admitted are acceptable for review by the judge.

Dated: August 11, 2021.

X _____
Breckan Scott, esq. (Atty for Petitioners)

X 
Selena Smith, mother, pro se



John Smith, grandfather

Selena, her movements, purchases, bills and confidential health/billing records obtained by opening her mail without permission (as well as rifling through her personal papers left where she once resided on the Stoker property). Adding outrage to injury, the Stokers kept the notices intended for Selena of fines received in the mail they opened rather than forwarding it to her new mailing address of which they were aware—putting her Driver's License at risk of suspension for want of notice. They used the unlawfully acquired document to try and prejudice the court against her. They may have succeeded, denying Selena fairness in these proceedings, or even the appearance of fairness.

This rogue action by a Washington Family Court fails what even grade school children would recognize as the **SMELL TEST**. The statutory construction of a normal petition for guardianship of minors in Washington State replete with a full complement of meaningful due process is very different from an ex parte emergency petition for guardianship of minors with effectively **no meaningful due process**. Accordingly, the ex parte judicial excess of Washington's judiciary ought to be a pleasure enjoyed by its own citizens which it is accountable to rather than being visited upon the citizens of foreign states.

In *Troxel vs. Granville* (530 U.S. 57), the U.S. Supreme Court pronounced Washington's Courts interpretation of the 'best interests' of the child(ren) "breathtaking in scope"! Additionally, it concluded a parent's bond with their minor children was so fundamental a right that a state which substituted its judgment for a parents exceeded its authority no matter how seductive the state's reasoning might be without a genuine true imminent harm that would come to the child(ren). Not only is that not evident in the instant case, but the child(ren) were minus Oregon due process and judicial oversight which would surely have denied the execution of an foreign state's emergency order under the circumstances where Washington had no prior orders establishing any rights for the Stokers. Nor were the children evaluated by a qualified expert prior to the court issuing its ex parte emergency seizure order executed out-of-state under cover of darkness.

Kathryn Stoker lied to me when she described the circumstances and genesis of that seizure as well as the date of the court hearing (Nathan Kortokrax presiding who recused himself) as being on the 18th of this month when it, in truth, was the 16th. The Stokers also lied about my mental condition and their egregiously galling false claims there was a "nation-wide manhunt" for Selena Smith.

This court did not provide Selena with 60-days notice to respond to service from out-of-state, nor was a Return of Service filed in either of the 2 case #'s involving the child(ren) within 48 hours to either father or permission for alternative service sought. No return of service was filed, no Petition or summons was served on Selena Smith, or even properly filed with this court. By it's own court rules, this court has not had proper jurisdiction in this case from the start. Nor were the fathers notified in a timely manner—48 hours in an ex parte emergency Guardianship order gratuitously and egregiously executed after midnight in a foreign jurisdiction where no emergency existed nor was one found when the children were seized without an iota of due process in their home State. A rent-a-prosecuting-attorney is not a presiding Oregon judge in a court of law, but just another attorney serving the two-bit town of Oakridge, OR. What has already been lost in this case can never be recovered or restored, Selena's trust in her mother...a mother who admitted to Selena she'd been using the iPhone she'd gifted her daughter to spy on her. A credit card Selena used to make personal purchases for herself and her children. Security guard Robert Kurtz lied to authorities in other states by claiming to have obtained a warrant to spy on/surveil her use of her credit card in real time. This was doubtless a fraud he used to deceive the credit card company and why he declined to clarify his methods in his sworn declaration submitted to this court. **Falsus in uno, falsus in omnibus!**

Motion for Reconsideration (Rule 59)
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In short, this case and all orders pursuant to it are void ab initio for failure to establish proper subject matter and in personam jurisdiction over all the parties. The issuance of the ex parte emergency order to seize the children executed out-of-state was based on fraudulent misrepresentations and deceptions that are a matter of record presented to the court. Nor did the court take any care to insure the child(ren) were genuinely at risk before giving them the impression that their mother was a 'bad' person as they were seized as though she was Dillinger. I have ordered and will be paying for the video, audio, photos, and police reports from the Oakridge PD. They will reveal my grandchildren were not imperiled and their needs were being met; they were not living in squalid conditions. I will present this evidence to this court for its consideration given the chance. Selena has spoken to the Oakridge authorities about this case. Their assessment does not support the tale the Stokers had to tell this court. The midnight raid on Selena and her child(ren) is what one would expect in a totalitarian regime or from Hollywood. She has spent many hours discussing these events with my me. I am part of my daughter and her children's life and have always tried to maintain a relationship with them. I has never interfered with Selena's relationship with her children. I am a necessary and indispensable party to this action as the Stokers have never respected my role in their lives which can be seen in their declarations where Hans and his wife deceived the court into believing he is the grandfather of my daughter's children. Her story is persuasive if the court would but take the time to hear it out rather than 5-minute justice. I, John Smith, have taken the time to do so since I learned of my daughter's predicament despite Kathryn Stoker's lies about it—dozens of hours listening to my daughter, Selena. It is abundantly clear mu daughter is **not** delusional or mentally ill. She cries and gets upset about her babies. I am not an attorney, but I has an important ongoing role in the lives of my daughter and grandchildren that will be ignored by the Stokers if I am not allowed to join this action and represent myself on behalf of my relationship with Selena, my daughter, and her children.

II Relief Requested

1. To permit John Smith, the maternal grandfather of the children currently being held by he Stokers against their mother's will, to join this cause under Rule 30 and the court's own inherent equitable authority while reserving and continuing my objection to the court exercising jurisdiction in this matter when none exists.
2. To enjoin the Stokers from denying me or hindering my physical and/or Stoker as they have done, telephonic visitation with my grandchildren, including my adult granddaughter, Maya Stoker.
3. To provide me a specific weekend per month I may visit my grandchildren (preferably the first whole weekend in each and every calendar month) and phone visitation up to 45 minutes with my grandchildren once per week in the evening after 5:00pm, preferably on Wednesdays.
4. To order **all** parties to this action to provide me with all contact information including the address of where they currently reside when/while my grandchildren are in their care, and not to remove them from the State of Washington or Oregon without leave of a court of proper jurisdiction and 20 days written notice to me should they make such a request. This shall include any phone number or e-mail address my grandchildren may have now or in the future until they reach their majority.
5. To JOIN me to this action under Rule 19 as a matter of right and a matter of discretion, and to enter a written order including all the above listed relief into the record.

Motion for Reconsideration (Rule 59)
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III MATERIAL & RELEVANT FACTS (& DECLARATION)

I, John Smith, am the maternal grandfather of the children at issue before the court in this case. I am unrepresented and necessarily come, without counsel, pro se before this court to voluntarily and honestly make the following Declaration under penalty of perjury in support of my Motion for Reconsideration and to Join this cause under Rule 19.

During the hearing held on 6-30-21, commissioner Indu Thomas presiding over my objections because I did not feel I could get a fair hearing or the appearance of fairness before her, the court made a number of unfair comments about the presumed 'evidence' it had, my relationship to my daughter during this litigation, and repeatedly directly asked me if I was an attorney at law despite my many filed declarations invariably stating I am not an attorney at law. I am, however, a Notary Public for the State of Washington, but have not acted in that capacity in this case and it hasn't come up or been an issue, other than to say the truth, especially in a court of law, means something to me as well does the law!

I was very disappointed the court did not appoint an attorney for my daughter, which I thought this case cried out for given her circumstances and indigency, her work, her lack of meaningful access to the court in a jurisdiction of inconvenience and where the DV she suffered occurred. **This is material to my motion as I will explain.**

It is not only that my daughter sorely needs an attorney (if she could keep one were they appointed) but that I need for her to have an attorney. This is relevant as I will explain. I am old. I am not in the best of health. As a paralegal with the electronic resources needed to assist her, I have, out of love and compassion for her, worked on typing the volumes of documents associated and filed in her case and on her behalf, often 12 or more hours/day, 7 days a week. I am emotionally and physically exhausted. I have a bad heart. My body is telling me to slow down. This kind of stress could kill me.

My daughter only has one good hand, She lost the other when she was 19 in a climbing accident near Spokane. Her mother kept this information from me for over 4 and a half months. My daughter once played the piano beautifully. I purchased a grand piano and once thought I could provide music lessons on it for her children, my grandchildren, but for Selena's mother who always interfered with my relationship with my children, then my grandchildren.

Commissioner Thomas questioned my capacity in aiding my one-handed daughter, in part, because of the many typos and errors contained in some of her submissions, assembled in great haste trying to meet numerous deadlines, clogged phone lines, flaky connectivity during ZOOM court sessions from Selena's phone while she worked her Portland job delivering auto parts at subminimum wages after expenses.

Commissioner Thomas denied my motion to Join, commenting my position was aligned with my daughter's in this action, implying by innuendo I was redundant (or worse) because my pleadings and position mirrored my daughter's, who I dearly love and am proud of. But I've repeatedly stated to all who will listen, I will NOT be force, bullied, intimidated into choosing between my daughter and my grandchildren. I have incurred my daughters wrath in the past by reminding her of her duty to her own children0even now she explodesds, yells at me over the phone, hangs up on me when I'm in the middle if trying to help her and won't even tell me the address of where she resides or engage in the simplest exchange of pleasantries

Motion for Reconsideration (Rule 59)
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without telling me it's none of my business. Her mother's spying and surveillance has destroyed her trust in everyone except her s newly found Portland allies and her small children.

I know, in the end, if I do not have some kind of court protection, I will never see my grandchildren again regardless of who gets custody or guardianship of them, the Stokers, the fathers, or even Selena. This court erred when it opined my daughter's interests and mine were so aligned, so parallel, as to be indistinguishable. This is simply untrue and doubly harms me and my grandchildren in the wake of this court denying my daughter competent legal representation. If it is true that my daughter is mentally ill, which she most definitely is not, then the court errs by violating the ADA which provides the handicapped the same right to meaningfully access the courts as those of sound mind and body.

The real rub here is my daughter cannot competently represent my interests despite this court's expressed opinion from the bench she was doing fine and didn't need a lawyer. This simply isn't true. I have spent many hours trying to find her an attorney. Despite the importance of this case, none will have her. She has no money and no assets as her mother, the petitioner in this case, is quick to point out to this court. It may be a moot point in that if my daughter was consigned a court appointed counsel, they'd soon withdraw if she treated them in the same manner she ha treated me, Attorneys are suffiently in demand they need not tolerate rude or extremely difficult clients.

Thus, when this court consigns me to have my daughter represent me, which is impossible for her to do for all the reasons I have explained, it does a gross injustice to me and my grandchildren and our interests where they are NOT parallel or indistinguishable from my daughter's. My daughter has no one to help her in all this but me. She will not be adequately transparent with me, with the court, with almost anybody to the point where she CAN be helped. To deprive me of the ability to represent myself in this action as the maternal grandfather when the petitioners knowingly lied about this fact, as did their attorney, and officer of the court, by stealing my identity as Selena's father and her children's grandfather (not the only material deception/misrepresentation) lends strong support to the argument I be allowed to intervene, have standing to ask for this court's help in protecting my relationship with my grandchildren—something that's commonly and routinely granted in guardianship matters.

Why wasn't I notified a so called nation wide manhunt for my daughter was underway? Because the Stokers had button holed NJ security guard Robert Kurtz, gulling him into believing THEY were the "grandparents" of my daughter's children. They've been pounding this particular drum for so long, even they must have begun to believe it. They believed the theft of my identity was so complete, they could openly, wantonly, substitute themselves for me even in their sworn documents under penalty of perjury.

It's an old legal maxim: False in one thing, false in all things. That certainly applies, and always has, to the Stokers. I want my daughter to thrive as a strong independent woman no longer codependnt and controlled by her mother and Kathy's husband, Hans. But I know without this court's protection, I will never see my grandchildren again, and will die with but a fond distant memory of them. I cannot expect this court to be my advocate. I can only be my own advocate. Nobody else is sufficiently competent or willing to do that. I must be granted standing to do so. The truth is, this is not only in my best interest, but ultimately in every party's interest.

Not even Selena had a way to contact James Wells, the father of Onowa and Raven (her I-Phone with this information was broken and she has no money to fix it), nor did the Stokers or their attorney. It was I who called James and explained to him the DV order did not prevent him from making an appearance in this

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cause nd urged him to do so. I had no hand in leading Jimto the misapprehension he could use these proceedings as a can opener to avoid complying with the terms of the relevant DV order, which he openly guffawed at during his oral statement inth ZOOM court session on 6-30-21. ("...the RIDICULOUS DV Order...!"). He remains defiantly noncompliant with it, bever even attempting to abide by its terms.

Breckan Scott, the Stokers' attorney, has often broadly used innuendo to invite this court to believe she is not ttelling the truth or is hiding information about the contact information Ms. Scott presumes my daughter must have for Roger Ayers, the father of Hazel. Ms. Scott has called my daughter a liar speaking to me by phone. This would fit the definition for the Yiddish term 'CHUTZPAH' for aan attorney, and officer of the court, to openly and knowingly endorse her client's perjurd declarations to this court. Ms. Scott was perfectly aware Hans Stoker was not my aughtler's father or her children's grandfather as was represented to this court. The Stokers knew there as a Colorado Court Order of original jurisdiction establishing a parenting plan. They had lived in Colorado for approximately 6-months while my daughter got her act together in that State. They were well aware that court order existed, but wanted to hide it from this court until their subterfuge was a fait accompli.

Yet in the face of all this, the court continues to treat my daughter as though she was Dillinger, except without his ill gotten money. The court treats me as superfluous and an annoyance or worse. An e-mail exchange between myself and this court's administrator regarding commissioner Shelley Brandt's recusal having nothing to do with this case inasmuch as Shelley Brandt never presided over this cause, could not because of her heavy involvement with the Stokers, and my making certain everybody knew I was aware of this fact to avoid a repeat of the debacle when commissioner Kortokrax recused himself for familiarity with the Stokers yet extending his previously entered order(s) awarding them what he'd sought in their preemptive ex parte emergency guardianship order executed illegally out-of-state PRACTICALLY IN THE SAME BREATH! Kortokrax set the next hearing on 6-30-21 and extended his orders until then.

The rancorous e-mail exchange between this court's administrator and myself over ensuring Shelley Brandt's disqualification for a conflict of interest was sent by the administrator to Breckan Scott, the Stokers' attorney. Breckan, in turn, entered it into the record for this court to see in hopes they would sanction me or at least bias the court. She may have succeeded. I have yet to see or experience justice being done by all the parties or the Stokers and their committed ally, NJ security guard Robert Stoker, held accountable for deception and criminally obtained material. Neither I nor my daughter have been afforded a fair hearing, or the appearance of a fair hearing. It is ritical the court, in the interest of justice, schedule a full hearing with live sworn testimony subject to cross examination interrogatories and depositions aling with full discovery and due process. These hearings have been treated like they were a traffic ticket...a ticket with 3 very small confused children's lives hanging in the balance and a very angry mother.

I respectfully request it also be **NOTED** that should I fail in my request for the relief I've sought in this pleading to be granted and denied the right to Join these proceedings as the maternal grandfather under Rule 19, **this document is also, in that event, intended to serve as notice prerequisite for filing a NOTICE of seeking a revision of this courts order in a review de novo before a Superior Court Judge.**

My daughter is not mentally ill.

My daughter cannot adequately even represent herself in these proceedings despite commissioner's thoughts to the contrary expressed from the bench. There are many errors that have been introduced throughout the course of these proceedings. No good can come of pruning a grandfather from them.

Motion for Reconsideration (Rule 59)
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I declare under penalty of perjury of the laws of the State of Washington and pursuant to GENERAL Court RULE 13 and RCW 9A.72.085 that the foregoing is true and correct to the best of my knowledge.

Signed at Mason, [County] Washington [State] on July 7, 2021 [Date]



Signature of Petitioner or Lawyer/WSBA No.

John Smith (grandfather), pro se
Print Name

IV. Argument, Points & Authorities

This action is one in equity, thus the litigants are denied the right to a jury trial pursuant to the Washington State Constitution. This makes it all the more incumbent on the court to take the time and care to detail to do justice by all the parties. It is inherently within the courts authority to grant the relief sought within the 4-corners of this document.

A fatal irregularity throughout these proceedings has been conflating the statutory construction of UCCJEA type cases (See Exhibits 'F' & 'G') involving custody/guardianship dispute with the statutory construction of the far more procedurally draconian measures embarked upon by the Stokers when they planned far in advance a mechanism engineered to strip myself and my daughter of all due process in an ex parte emergency guardian action they knew would be executed out-of-state and intended to create an inconvenient forum/jurisdiction impossible for my daughter to negotiate and likely to keep me in the dark until it had become a fait accompli—a course they now openly espouse, but set up with all the deception they thought the court would swallow. The irregularity here is deliberately and covertly stripping interested parties of their rights to due process while the gestapo pounded on my daughter's door in the middle of the night on 5-30-21. The Stokers waited until my daughter's location had been unlawfully ascertained with faux authority and the most egregious invasion of her privacy with her own children.

Clearly, new Jersey did not want my daughter; there was no attempt to transport my daughter or her children back to NJ after they'd left there on 1-16-21. In fact, she had appeared shortly thereafter before the Washington DSHS authorities to prove her children were with her—required to physically stand with her children before these officials due to James Wells having defrauded DSHS out of sums of cash by falsely claiming the children were with him. If there had been a hue and cry, a nationwide manhunt for my daughter and her children, there they were within arm's reach of Washington DSHS and family Services officials inside their offices!

Had Selena's children looked ill kempt or abused, they would have been seized on the spot. Sometimes what a sleuth does NOT hear (like the Japanese crickets caged inside homes to warn of burglars in the dark) is altogether more important than what one does hear—like Robert Kurtz's incessant croaking.

Motion for Reconsideration (Rule 59)
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But the court was not taking the time to adequately weight the evidence carefully and, most importantly, to DO NO HARM! Instead, urged on by the Stokers, the court set on a course to destroy my daughter and her children in order to 'save' them when, in truth, there was no true emergency, only a croaking frog befriended by wealthy multimillionaires many times over able to hire an attorney to assist them in laying the trap. Ms. Scott even offered to go down into Oregon and pinch the children for them. Given the very late hour in the middle of the night, we must leave it to imagination the level of involvement the attorney had to take their calls at night unless she'd been being continually updated by the croaking frog as the plan wound its way under the cover of darkness to its destination, the kidnapping, the snatching of 3 small children from their mother. See the Oakridge police report indicating how clean the mother's RV was and how the children had everything they needed, but obedient to Washington's laws and abuse of process, the police and clueless Oregon CPS workers carried out the Stoker's plot as planned.

There couldn't be a better example of misconduct by the prevailing party (Stokers) as described in CR 59(a)(2).

The Oakridge PD report from the night of 5-30-21 is newly discovered evidence of this miscarriage of justice only received yesterday, weeks after I'd paid for and requested it from the Oakridge, OR PD. It would have been helpful if I'd had standing to subpoena the audio and video from that department unredacted. It would further prove there was NO EMERGENCY when those babies, my grandchildren, were seized from their mother in the dead of night. What THIS COURT RELIED ON FROM THE CROAKING FROG, ROBERT KURTZ, was unverifiable hearsay on hearsay—unverifiable because upon checking with the Brooklawn NJ police, their officer's report said nothing of the sort as the frog stated in his false declaration, an event that occurred on 1-16-21 while my daughter was broken down in a Motel 6 until she could replace her vehicle and be on her way. Yet commissioner Indu Thomas pronounced from the bench on 7-6-21 this meant Selena Smith was RESIDING/LIVING in NJ. Surely this commissioner, after the years she states she has served on the bench, understands transiting a state, even if your vehicle breaks down, doesn't establish residency in NJ as a matter of law as she ruled. If so, then so much the better as that simply establishes a domicile other than Washington prior to Selena's arrival and establishing residency in Oregon.

This case is complex and is composed of many levels of conflicting laws and jurisdictions. Most judges and lawyers don't have a firm grasp on the substrate of this core foundation of law and a court's authority. I was not trying to be impudent when I objected to commissioner Indu Thomas and asked she recuse herself from this case. What I had witnessed years ago in Indu Thomas' courtroom presiding over Amy Cunningham's 16yo adopted daughter's emancipation petition was her twice refusing to rule on or even comment on Amy's motion (TWICE properly noted and docketed on Thomas' calendar) to appoint her an attorney—a right under the ADA federal law. Amy had been a victim of a horrible accident on the Hood Canal Bridge years earlier that left her hospitalized in a coma for weeks. I was in that courthouse accommodating her because she asked me too, and trusted me since she and my daughter, Selena, grew up together and are still best friends years later. Amy has submitted declarations in this case. The accident left her with permanently impaired SHORT TERM MEMORY LOSS. She could not remember what you told her from the bench or the date you continued the hearing to for want of proper service of original process 5 minutes earlier. "Amy, is was in the back. I couldn't hear what the judge said. It sounded like she continued the hearing until a future date. What day did she [Thomaas] continue it to?"

"I don't know."

Motion for Reconsideration (Rule 59)
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"Amy, it's really important that you remember as you're representing yourself and these court dates are important!"

"John! It's not that I don't want to remember or that I'm not trying. I just can't remember."

This was the young mother (Amy Cunningham, now remarried after being widowed, NKA: Amy Gmazel) you denied her motion for an attorney in a proceeding that ultimately resulted in you emancipating her immature adopted 16yo daughter, Christine. You may, at this point be thinking what I'm recapitulating has NOTHING to do with this case, Oh yes it does, as I'll explain.

You not only refused to appoint Amy an attorney (as you know do when Selena requests one though the Guardianship act in Washington (basically a UCCJEA statute) but you wouldn't even respond on the record to the motion for one. Then you refused to let any of the witnesses who had arrived to testify on Chrristines maturity, or lack thereof, and her inability to support herself. Christine simply planned on supporting herself on her dead adoptor father's social security death benefits for surviving minor. Children. The girl would steal \$ from Amy's purse even before her father died (painfully) from terminal cancer, calculating Amy wouldn't detect it, knowing of her short term memory handicap. I developed a color photo of Christine in a car with her teen pals all holding open beer containers mugging for the camera. Not only did you deny Amy, a brain damaged woman with little/no short term memory, but you condoned my being persecuted for accommodating her by juvenile probation officer Sara Dotson. Surely you remember her despite the thousands of litigants you've seen?

Your ordered Christine to speak with Sara Dotson followed by her mother, Amy, separately. Christine was upset, even though you'd announced you weren't going to allow it or other evidence be submitted ti substantiasate the fact she was far too immature to be emancipated and Amy far to responsible a mother to have her parental rights terminated. You may not rember us, I can't know, but we all remember you. Christine had even crossed the street from her home with Amy and stolen the jeans of a police womqn who was later murdered in Lakewood along with 3 other LEO;s in a coffee shop. The police womqn was small statured and her missing pants must have fit as she suspected Christine enough to ask her mother if she could look in her bedroom while she was gone. Sure enough, the two women found the stolen jeans in Christine's bedroom. But that was only the tip of the iceberg. We had written evidence Christine would forge her mother's name on notes exfcuing her from classes. She drove without a license after her mother requested it be revoked due to her daughter's dangerous impetuous behavior. But you denied allowing any of that documented evidence to be submitted. You wouldn't allow live sworn testimony from people who knew Christine well. Now, fast forward.

Christine stepped out of the courtroom with Sara Dotson and Christine Cunningham/s retinue to spend 5-10 minutes in Sara Dotson's office. Amy, I and two of her other witnesses sar on benches waiting for Christine to come out. When she did, her face was wet from crying and the embarrassment of the color photo of her with her beer toting pals in a motor vehicle mugging for the camera. One of Amy's witnesses had downloaded it from Christine's social media FaceBook account.

Sara Dotson motioned for Amy to follow her into her office, I got up to accompany and continue accommodating Amy because I knew she wouldn't be able to remember the conversation—the woman you wouldn't provide with an attorney...or even respond to the request. Sara wouldn't hear of allowing me to accompany and accommodate Amy despite my remonstrating with her explaining Amy's handicap and how she, you, and the entire Family and Juvenile Courthouse were violating her ADA rights. Finally, I pulled

Motion for Reconsideration (Rule 59)
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out my audio recorder and offered it to Amy to take with her to the interview. Sara Dotson became even more belligerent. She refused to let Amy take hold of the audio recorder. I got my camera out and began to take snapshots of Sara Dotson in the hall. She went ballistic and called security, telling them I was harassing and threatening her, asking them to trespass me from the courthouse—except there were 4 eye witnesses to the incident besides Sara Dotson, i.e. myself, Amy, and her other two witnesses. They all signed sworn declarations that Sara Dotson was lying when she alleged I had threatened/intimidating her. She knew Detective Roland Weiss. She was also friends with prosecutor Jennifer Lord. They were all so tight they might have been called the 3 musketeers and been sitting in each other's laps. This went on for months in Judge Murphy's courtroom before I managed to discredit them for prosecutorial abuse and caught Sara Dotson lying or changing her story so often, Judge Murphy granted me a change of venue—a rare event in the Thurston County courthouse to be sure.

But YOU, you knew about this. You knew a good Samaritan accommodating a handicapped woman in an emancipation case was being discriminated against and deprived of the one person she asked to come to the hearing and accommodate her. You turned not only a blind eye to her, denying her due process in the proceedings you presided over in your courtroom, but me as well for remonstrating with Sara Dotson by refusing her to rely on the accommodation she had brought with her. Then you condoned the retaliation I was subjected to for having the courage to insist on accommodating my daughter's life long friend she grew up in, a woman who also witnessed what went on in the Stoker house while she was playing with Selena—a woman who is a declarant and witness in THIS very case and is willing to tell what she knows and testify against the Stokers....the same woman you refused to provide a court appointed attorney and would not allow me to watch what went on in your courtroom because I was banned without recourse or appeal procedures to challenge the unlawful ban. Eventually, I prevailed as the whole truth came out and I was able to bring it to the court's attention, a lengthy, time consuming exhausting process, judge Murphy (mercifully) presiding. The truth and fairness mattered to that judge. She was the only one standing between me and a lying LEO (Sara Dotson) trying to railroad me into prison with a phony Class B felony allegation based purely on her uncorroborated story she changed every time she was interviewed/questioned, never recorded, signed or sworn to but merely repeated as hearsay, as here, and prosecutor Jennifer Lord SWEARING the hearsay on hearsay was the God's honest truth under penalty of perjury. Ultimately, prosecutor Jennifer Lord went behind my back after watching me query the states chief complaining witness (Dotson), expose the LEO, and file a motion to sanction deputy prosecuting attorney Sara Dotson for prosecutor misconduct, violating the Brady rule and her chief detective Roland Weiss admitting to a PI their decision to prosecute was at least partly based on retaliation for the wording I'd chosen in a reply to civil litigation brought on my non other than Sara Dotson. You may remember her. Are you going to retaliate against me for having the nerve to bring out the truth bearing on your qualifications, or not, to hear this case or make a determination—a discretionary ruling on my motion for reconsideration in seeking to Join this action under Rule 30? The same way you did when you condoned denying me entrance to your courtroom to observe the proceedings against Amy Cunningham?

Here's the cite: 11-2-30671-0 | IN RE CHRISTINA CUNNINGHAM
You presided.

This case now before you echoes the one you say you forgot. Well here's a refresher course: The juvenile delinquent you emancipated is dead now. She was murdered at 26 years of age a few months ago by a boyfriend and her poor judgment in choice of men. He stabbed her to death. I wrote and published her obituary in my company's blog. It's toward the very end of the article under EPILOG. She was a beautiful

Motion for Reconsideration (Rule 59)
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26yo young woman dead at her BF's violent hands and a knife. I firmly believe she'd still be alive today if it hadn't been for you and the rest of the cast of characters (photos included) I referenced.

Here's the multimedia link to her obituary and what lead to it starting in YOUR courtroom: **EPILOG**

<http://amicuscuria.com/wordpress/?p=4426>

Commissioner Thomas, it wasn't only for the reason of your prior egregious entanglement with declarants and litigants in this case I was timorously objecting to. It was also because, no offense intended, I firmly believe you are not competent to hear a case as sensitive and complex as this. I saw your work. I documented your work and those of your peers working in that courthouse where judge murphy finally agreed it was impossible for me to get a fair hearing in your court house or the appearance of one. Breckan Scott has sought to take advantage of the tendency of your courthouse's bias against men, against the poor, against the handicapped, against the outspoken who remonstrate with public officials who trample on the rights of the people, even the poor and the destitute to justice by all the parties. The only commissioner I see who MIGHT be able to be impartial and try to take the time needed to be competent in ruling on a case as complex as this rather than dispense 10-minute justice would be commissioner Rebekah Zinn. I'd prefer a change of venue for the reason I see too much evidence of corruption within the Thurston County Family & Juvenile Courthouse. Moreover, I've often said, especially in the public sector and our judiciary, incompetence is equally as pernicious as incompetence and equally intolerable since the end results are the same: Miscarriages of justice. I do not want to see my grandchildren and daughter sacrificed on the horns of that alter. Enough!

Substantial justice has NOT been done! CR 59(a)(9)

Stop rewarding the petitioner's egregious abuse of process, the manipulation if this court through perjured misrepresentations, their criminal acts.

Permit me standing to represent myself in these proceedings, a provision typically granted to grandparents interested in preserving family bonds. There is no other than myself able and willing to articulate my case for standing, visitation, and transparency by all parties with custody of these children. This cannot wait. Every day that goes by is a loss that must not be trivialized.

I have e-mailed a copy of this entire document to Breckan Scott, attorney for the Stokers, Selena Smith & Not Robert Ayers on 7-7-21.

Respectfully Signed & submitted in Mason, [County] Washington [State] on July 7, 2021 [Date]



Signature of Petitioner or Lawyer/WSBA No.

John Smith (grandfather), pro se
Print Name

Motion for Reconsideration (Rule 59)
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21-4-00443-34
DCLR 85
Declaration Affidavit
10633617



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E-FILED
THURSTON COUNTY, WA
SUPERIOR COURT
07/09/2021 8:01:44 AM
Linda Myhre Enlow
Thurston County Clerk

☐ EXPEDITE (If filed within 5 court days of hearing)
☒ Hearing is set: Revised due to clerk's cancellation
Date: 7-29-21
Time: 10:30am Zoom #: 242-974-5214 Rm:4
Judge/Calendar: Rebekah Zinn/Motion Reconsider

**Superior Court of Washington
for Thurston County Family &
Juvenile Court**

In re: Emergency Guardianship of
Hazel Belle Ursa Smith

Respondent(s): Minor Child(ren)

No. 21-4-00443-34
AMENDED
Counter--Affidavit to
James Wells' Declaration
By JOHN SMITH

(Cover Sheet)
TITLE OF DOCUMENT

**AMENDED Counter-Affidavit to James Wells' Declaration
by JOHN SMITH**

NAME: John Smith, grandfather
Mailing ADDRESS: PO Box 1711,
Shelton, WA 98584
PHONE: (360)427-3599

Counter-Affidavit to James Wells' Dec
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[] EXPEDITE (if filing within 5 court days of hearing)

[X] Hearing is set:

Date: 7-22-21

Time: 10:30pm Zoom #: 242-974-5214 Rm:4

Judge/Calendar: Rebekah Zinn/Motion Reconsider

**Superior Court of Washington
for Thurston County Family &
Juvenile Court**

In re: Emergency Guardianship of
Hazel Belle Ursa Smith

Respondent(s): Minor Child(ren)

**No. 21-4-00443-34
AMENDED
Counter-Affidavit to
James Wells' Declaration
by JOHN SMITH**

TO: The Clerk of the Thurston County and Juvenile Court, (360)709-3260, 2801 32nd AVE SW,
Tumwater, WA 98512;

AND,

Breckan Scott-Gabriel, bar #:41585, attorney for Kathryn Stoker (maternal grandmother) and Hans Stoker (husband of Kathryn Stoker, but NOT the grandfather), PO Box 1123, Yelm, WA 98597-1123, PH. (360)960-8951, fax (360)485-1916, e-mail: breckan@breckanlaw.com;

AND,

Selena Ursa Smith, mother, e-mail: doublekachina007@protonmail.com, domiciled in Oregon
mailing address: 6901 26th Ct SE, Lacey, WA 98503, Ph. (971)803-9898

AND,

Robert Ayers (father), e-mail: unknown, Ph. unknown, address: unknown

I Identity of Parties

I, John Smith (grandfather of the subject minor(s) in this action) enter this counter-affidavit to James Wells' Declaration into the record, without counsel of necessity, pro se, for this court's consideration as the truth and nothing but the truth. I reserve the right and continue to object to the jurisdiction of this court as stated below under JURISDICTION. I also **object to Shelley Brandt presiding** over ANY aspect of this case due to her having received money from the Stokers, previously represented my ex-wife, Kathryn Stoker, a party herein, against myself who seeks to join this action and she nearly precipitated a physical altercation with me during that custodial litigation years ago. She also represented my daughter, Selena Smith, a party to this action. A fair hearing without her recusal cannot be had.

Kathryn Stoker (maternal grandmother) and her husband, Hans Stoker (who is NOT the grandfather of the children, contrary to his and his wife's sworn misrepresentations in their filed pleadings to this court)

Counter-Affidavit to James Wells' Dec
pinbalwyz@yahoo.com

John Smith, grandfather (360)427-3599
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brought this action before this court well BEFORE the young children at issue had been evaluated by any qualified Family and Children's social worker within the State of their domicile or oversight of a state court properly presiding over the same, i.e. Oregon, where this court's emergency ex parte order to seize the children was executed around midnight and they were spirited, under cover of darkness, out of Oregon after handing off the very young three to the Stokers at a gas station adjacent to I-5 north of Eugene that night. The seizure was executed, as described at midnight, 5-30-21 in/near Oakridge, OR, the initial ex parte emergency petition for seizing my 3 grandchildren was filed 5-27-21, the order granting the petition was entered on 5-28-21. The Stokers filed their petition prior to the children being examined and evaluated precisely to deny their mother and my grandchildren due process with this court's approval, aid, and abetment under color of state law in violation of Oregon's sovereignty, the federal ADA (Selena has only one hand), her status as a destitute DV survivor (contrary to UCCJEA requirements, and in violation of meaningful protection under the 6th and 14 Amendment as well as principles laid out in Troxel vs. Granville (530 U.S. 57) and the notorious Elian Gonzalez international case.

JURISDICTION

The Petitioners (Stokers) are longtime residents of and domiciled in Thurston County, Washington.

I, John Smith (grandfather), am the one seeking to join this action. My daughter left Washington State without any intention of returning **more** than 6 months prior to the date my grandchildren were seized in Oregon where Selena Smith resided and was domiciled with her children. She returned briefly in March to recover some of her property, from the Stokers, but did not reside in Washington. The Stokers misused this date to deceive the court into believing less than 6 months had lapsed since Selena left Washington in late November, 2020 as a DV survivor with her 3 young children. Thus, this court does not have proper in personam or subject matter jurisdiction even if there had not been a less than 6-month absence of my grandchildren residing/domiciled in Washington. **In light of these facts, all actions/orders taken/entered by this court are void ab initio.** The basis for this court's rulings have been fraudulent misrepresentations and deception submitted to this court by the Stokers.

Selena Smith, the mother of the very young child(ren) at issue in this cause, due to DV, fled the State of Washington with my grandchildren prior to 11-21-20, which is the date James Wells (her boyfriend) filed a DV Protection Petition (20-2-30761-34 | JAMES DANIEL WELLS, Jr vs SELENA URSA SMITH) after she left Washington State to preserve her and her children's safety. Mr. Wells' purpose was to use the children (who he sought custody of in the petition) to support himself. The petition was denied by Court Commissioner Rebekah Zinn. Mr. Wells is currently sleeping near Mt. Adams, and is non-compliant with a DV protection order issued by the court prohibiting him from contact with my grandchildren.

Selena Smith, filed a petition for DV protection, alleging Mr. Wells was violently abusive with her and the children, an alcoholic, and in need of anger management classes. Court Commissioner Rebekah Wells ruled in Selena's favor and ordered Mr. Wells, a convicted felon, to surrender his firearms. This action was filed by the mother from out of State. Selena personally appeared electronically before this court (Court Commissioner Rebekah Zinn, presiding) from an out of state DV women's shelter, filed the declaration of an advocate associated with that shelter confirming evidence she'd seen what appeared to be stalking while Selena was staying in that out-of-state DV shelter. I, John Smith, observed the proceedings.

(20-2-30788-34 | SELENA URSA SMITH vs JAMES DANIEL WELLS, Jr)

Counter-Affidavit to James Wells' Dec
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i.e. For longer than 6-months, Selena Smith, and her children had left and no longer resided in Washington State prior to having her 3 children seized around midnight on 5-30-21 under the color of Washington State law via an ex parte emergency guardianship order executed beyond Washington's own borders in a foreign state (Oregon). Court Commissioner Rebekah Zinn was either well aware Selena had left Washington State with her children (or should have been) more than 6 months before the instant case had been filed. Selena was under no legal obligation to inform the Stokers of her whereabouts, nor did the Stokers have standing to object since there was no court order granting them standing, custody, or visitation. Yet they conspired to track Selena cross-country in conjunction with NJ security guard Robert Kurtz for months wherever she went using her I-phone to do so.

THIS COURT HAS REPEATEDLY CONFLATED NORMAL UCCJEA TYPE CUSTODY DISPUTES INVOLVING PARENTS/GUARDIANS WITH EX PARTE EMERGENCY PETITIONS FOR GUARDIANSHIP OF MINORS ORDERS EXECUTED OUT-OF-STATE, EFFECTIVELY STRIPPING THE RESPONDENT(S) OF ALL MEANINGFUL DUE PROCESS IN ALL BUT NAME ONLY. FOR THIS REASON, THE VERIFIABLE RATIONALE FOR DOING SO (IF IT IS NOT AN IMMUTABLE ABUSE OF PROCESS AB INITIO) MUST BE ASSURED. It was not. (See Exhibits 'F' & 'G'). Thus the unceasing ongoing objection to jurisdiction continues irrespective of the perjured and fraudulent declaration of security guard without portfolio AND NO "PROFESSIONAL CREDENTIALS in children's services or authorization from New Jersey to criminally stalk ?Selena Smith across the nation—a "nationwide manhunt" of 3...the Stokers and Robert Kurtz. He misrepresented his position to police agencies in other jurisdictions and made use of numerous criminally unlawful means of invading Selena Smith's privacy for months in tandem with the Stokers whose purloined information he used. Notwithstanding the evidentiary value of his sworn Declaration, his lies to other agencies regarding his authority, his credentials, Robert Kurtz's statements should be discounted/ignored and any evidence presented through his office should be suppressed. Robert Kurtz has tainted this entire process and this court along with any basis for its jurisdiction in this matter. Ergo, the court should vacate its rulings under Rule 60(b) and dismiss this case with extreme prejudice.

Even case officers with the New Jersey Division of Children & Families admitted they had no authority to use a New Jersey Court Order (under the circumstances) to order law enforcement in Oregon to seize Selena's children upon New Jersey's direction, although security guard Robert Kurtz was indifferent to the invasion of my privacy when we spoke. When Kurtz's actions were challenged, a case worker supervisor retorted it was NJ Division of Children & Families 'policy' to track or find missing families/children when receiving reports/suspicions of the same. **Except...there WERE NO missing children!** They were with Selena, their mother, who had no legal duty to provide the State of New Jersey or the Stokers with such information. Nor was there a nation-wide manhunt for her, only the illegal surveillance conducted by NJ security guard Robert Kurtz and the Stokers, the means by which he chose **not** to reveal in his declaration submitted to this court to avoid incriminating himself.

Robert Kurtz was acting only on his own without authority from his agency or direction to invade Selena's privacy by conspiring with the Stokers who were using software on her I-phone to track, unbeknownst to Selena, her movements, purchases, bills and confidential health/billing records obtained by opening her mail without permission (as well as rifling through her personal papers left where she once resided on the Stoker property). Adding outrage to injury, the Stokers kept the notices intended for Selena of fines received in the mail they opened rather than forwarding it to her new mailing address of which they were aware—putting her Driver's License at risk of suspension for want of notice. They used the unlawfully

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acquired document to try and prejudice the court against her. They may have succeeded, denying Selena fairness in these proceedings, or even the appearance of fairness.

This rogue action by a Washington Family Court fails what even grade school children would recognize as the **SMELL TEST**. The statutory construction of a normal petition for guardianship of minors in Washington State replete with a full complement of meaningful due process is very different from an ex parte emergency petition for guardianship of minors with effectively **no meaningful due process**. Accordingly, the ex parte judicial excess of Washington's judiciary ought to be a pleasure enjoyed by its own citizens which it is accountable to rather than being visited upon the citizens of foreign states.

In *Troxel vs. Granville* (530 U.S. 57), the U.S. Supreme Court pronounced Washington's Courts interpretation of the 'best interests' of the child(ren) "breathtaking in scope"! Additionally, it concluded a parent's bond with their minor children was so fundamental a right that a state which substituted its judgment for a parents exceeded its authority no matter how seductive the state's reasoning might be without a genuine true imminent harm that would come to the child(ren). Not only is that not evident in the instant case, but the child(ren) were minus Oregon due process and judicial oversight which would surely have denied the execution of an foreign state's emergency order under the circumstances where Washington had no prior orders establishing any rights for the Stokers. Nor were the children evaluated by a qualified expert prior to the court issuing its ex parte emergency seizure order executed out-of-state under cover of darkness.

Kathryn Stoker lied to me when she described the circumstances and genesis of that seizure as well as the date of the court hearing (Nathan Kortokrax presiding who recused himself) as being on the 18th of this month when it, in truth, was the 16th. The Stokers also lied about my mental condition and their egregiously galling false claims there was a "nation-wide manhunt" for Selena Smith.

This court did not provide Selena with 60-days notice to respond to service from out-of-state, nor was a Return of Service filed in either of the 2 case #'s involving the child(ren) within 48 hours to either father or permission for alternative service sought. No return of service was filed, no Petition or summons was served on Selena Smith, or even properly filed with this court. By it's own court rules, this court has not had proper jurisdiction in this case from the start. Nor were the fathers notified in a timely manner—48 hours in an ex parte emergency Guardianship order gratuitously and egregiously executed after midnight in a foreign jurisdiction where no emergency existed nor was one found when the children were seized without an iota of due process in their home State. A rent-a-prosecuting-attorney is not a presiding Oregon judge in a court of law, but just another attorney serving the two-bit town of Oakridge, OR. What has already been lost in this case can never be recovered or restored, Selena's trust in her mother...a mother who admitted to Selena she'd been using the I[Phone she'd gifted her daughter to spy on her. A credit card Selena used to make personal purchases for hersekf and her children. Security guard Robert Kurtz lied to authorities in other states by claiming to have obtained a warrant to spy On/surveil her use of her credit card in real time. This was doubtless a fraud he used to deceive the credit card company and why he declined to clarify his methods in his sworn declaration submitted to this court. **Falsus in uno, falsus in omnibus!**

In short, this case and all orders pursuant to it are void ab initio for failure to establish proper subject matter and in personam jurisdiction over all the parties. The issuance of the ex parte emergency order to seize the children executed out-of-state was based on fraudulent misrepresentations and deceptions that are a matter

Counter-Affidavit to James Wells' Dec
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of record presented to the court. Nor did the court take any care to insure the child(ren) were genuinely at risk before giving them the impression that their mother was a 'bad' person as they were seized as though she was Dillinger. I have ordered and will be paying for the video, audio, photos, and police reports from the Oakridge PD. They will reveal my grandchildren were not imperiled and their needs were being met; they were not living in squalid conditions. I will present this evidence to this court for its consideration given the chance. Selena has spoken to the Oakridge authorities about this case. Their assessment does not support the tale the Stokers had to tell this court. The midnight raid on Selena and her child(ren) is what one would expect in a totalitarian regime or from Hollywood. She has spent many hours discussing these events with my me. I am part of my daughter and her children's life and have always tried to maintain a relationship with them. I has never interfered with Selena's relationship with her children. I am a necessary and indispensable party to this action as the Stokers have never respected my role in their lives which can be seen in their declarations where Hans and his wife deceived the court into believing he is the grandfather of my daughter's children. Her story is persuasive if the court would but take the time to hear it out rather than 5-minute justice. I, John Smith, have taken the time to do so since I learned of my daughter's predicament despite Kathryn Stoker's lies about it—dozens of hours listening to my daughter, Selena. It is abundantly clear mu daughter is **not** delusional or mentally ill. She cries and gets upset about her babies. I am not an attorney, but I has an important ongoing role in the lives of my daughter and grandchildren that will be ignored by the Stokers if I am not allowed to join this action and represent myself on behalf of my relationship with Selena, my daughter, and her children.

II REBUTTAL DECLARATION

I, John Smith, am the maternal grandfather of the children at issue before the court in this case. I am unrepresented and necessarily come, without counsel, pro se before this court to voluntarily and honestly make the following Counter-Affidavit to James Wells 's Declaration filed 6-29-21 in this cause:

Kathryn Stoker does not like James Wells. She has had to clean up after him and his disgusting filth in the home she provided him, rent free, too often. (See Maya Stoker's declaration regarding the filth and mouse feces requiring the house to be gutted by Kathy Stoker's own admission to me over the phone.)

Maya's observation of the filth in her grandmother's house took place months after Selena fled the DV she experienced there at the hands of James Wells and in the findings of a DV order, entered by commissioner Rebekah Zinn. The Stokers, through their attorney, and in league with James Wells are attempting to Strip Selena Smith and her children of the DV protection order they so desperately need entered by Commissioner Zinn.

Mr. Wells has yet to comply with any of the conditions imposed by the order Commissioner Zinn entered except surrendering his firearms. Rebekah Zinn noted in her ruling James Wells appeared drunk when appearing before her. I have recently heard Mr. Wells slurred speech over the phone when attempting to discuss my grandchildren with him.

I believe Hans Stoker is using/gulling James Wells to undo Selena's efforts to have her children restored to her. Hans violates the intent of the DV protection order entered on her and her children's behalf by commissioner Zinn. I have reason to believe James Wells is omitting important information in his declaration such as sexually assaulting and injuring my handicapped daughter. Selena confided a great deal to me in an earlier DV petition against James Wells which she ultimately allowed to languish. It is a matter of record.

Counter-Affidavit to James Wells' Dec
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Mr. James Wells filed a motion to vacate the DV protection order issued by commissioner Zinn for failure to show up in the proper courtroom. The court granted that motion and rescheduled a new hearing date Mr. Wells attended. He lost at that hearing when commissioner Zinn ordered a renewed DV protection plan after a full hearing where James Wells was given the opportunity to present his case. Commissioner Zinn noted in her ruling that James Wells appeared before her drunk, slurring his speech, and had violently abused Selena Smith and her children. She reviewed the pictures, submitted by Selena Smith, of a squalid house Selena had left weeks before in which James Wells continued to live off the Stoker's largesse, preventing any possibility of Selena returning to it.

James Wells was doing little/nothing to support his children while residing at/on the Stoker's \$5 million waterfront estate and is doing nothing by his children currently. He was effectively subsisting off of Selena and the children prior to her leaving. He would like to return to that status now, were it possible, and that is his hope.

Kathryn Stoker has helped Selena clean out mountains of beer cans from James' residence and vehicle in the past. When I confronted him over the phone with this fact, he did not deny it, but averred Selena helped consume some of them. Selena states she does not drink.

James Wells allowed one of his junkie friends going through severe heroin withdrawals to abide in the house with the children, leaving the vomit covering the walls, carpet, and bed for Selena to clean up/. He excused this abuse by arguing Selena went along with it. But, Selena bitterly complained of the incident and does not like Jim's drug addicted/using friends. She speaks of witnessing Jim snort hard drugs at a meth house.

Jim is associated with the Rainbow Family. He likes to attend their annual gatherings in far flung remote locations across the country. The one I recall most recently occurred in eastern Oregon. Everyone who attended became ill from a tainted water source, including Hazel Smith, my daughter's child with special needs. When they arrived at my home, I discovered Hazel was vomiting regularly and had diarrhea every 3-days. I deduced this was likely a multinucleated protozoan parasitic disease like/similar to giardia. What distressed me was rather than respond to my granddaughter's complaints about the pain she felt, he left to play frisbee golf for the day instead of taking her to the hospital. When he returned, I gathered up my granddaughter, Selena, and Jim for a trip to a family medical clinic in Shelton Washington. We waited some days for a test result diagnosing what ailed my granddaughter, Hazel. It proved to be inconclusive, but close enough to act on my hunch. We were forced to demand medication for my sick granddaughter with me leading the charge remonstrating with the PA who finally threw up her hands and retorted, "What do you want me to do?" I told her and she finally conceded the point, writing a children's prescription for Hazel who was not yet 5. Nobody in the region had it due to it being for. Small children. We had to race to an Olympia compounding pharmacy 15 minutes before it closed to get the prescription filled. It worked. Hazel healed. But I will never forget Jim's priorities: Frisbee Golf over a child sick with pain and vomiting. Jim cannot be trusted with the responsibility for the health and safety of small children, particularly in a drug induced or drunken stupor. His unwillingness to provide financial support for his children and their need of basic like food, shelter, clothing, etc. also militate against his being entrusted with the care of small children or a second bite at the legal DV apple separating him from those children until he complies with the order.

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7 PO Box 1711, WA 98584

But, this is all 'fine' with Kathryn and Hans Stoker according to their declarations filed with this court. They're more than pleased to accommodate Jim despite the well founded existing DV order Jim has made no effort to comply with. The Stokers continue to hinder/deny my visitation with my grandchildren, in person or by phone, while embracing my daughter's abuser who thought nothing of endangering Hazel at the Rainbow Family gathering or failing to respond to her pain driven pleas for help! Think about that for one minute in this forum for 5/10 minute justice. Would you want this man entrusted with YOUR children's care? But Hans and Kathryn Stoker would according to their own declarations. Their ego infested extra-judicial plan to strip the children from my daughter is doing my grandchildren no favors. To date, neither has this court.

If Mr. Wells' job pays so well, as he says in his declaration, then why is a stage hand living in a rented tent trailer (he says) near Mt. Adams rather than Tacoma or Seattle? Why isn't he contributing to the support of his children? Why does he refuse to comply with the DV order naming him? Why hasn't her submitted a series of paystubs to the court confirming the rosy picture he paints. The truth is, even if he were working, the children would see none of it. But THIS IS THE GUY the Stokers heartily support to spend time with my daughter's children. It speaks volumes about the Stokers' priority and misuse of this court.

The house Jim describes on the Stoker estate was NOT safe, primarily due to Jim's and Hans Stoker's presence there. Selena is terrified of Jim and the Stokers because they injured and oppressed her. They have now seized her children without proper authority or due process in the middle of the night like some Gestapo scene from a bad movie lying in wait for Dillinger. James Wells is not a hard working man trying to provide for his children. He does not provide for them now, and he didn't provide for them then. Neither did he provide for his oldest daughter from long before he met Selena. His personal hygiene is disgusting with sores on his head under his dreadlocks last I saw him. He does not bathe regularly and he fills his abode with the detritus of alcohol containers and drug paraphernalia. This does nothing to queer his relationship with Hans Stoker. Selena, and the court, has good reason to protect her children from Jim.

Despite what 'benefits' Jim may have received from the State, he was never the head of household, in fact, and never was the primary support of the children. He used whatever income he received on himself and to buy alcohol. Mr. Wells describes his well-paying trade in his declaration, then segues to his routine of applying for public assistance, TANIF, food stamps, etc. He goes on to describe his receipt of public welfare benefits as continuing uninterrupted.

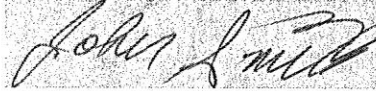
Mr. Wells vaguely pans my daughter's veracity without so much as a shred of evidence or specific bare assertions. Jim voices platitudes about family while doing little/nothing to contribute to it. A father who limits himself to being a sperm donor doesn't have much to crow about. If Selena berated James, it was because he laid about in a drunken stupor all day doing nothing. Any court attempt to emasculate the existing DV protection order requiring Mr. Wells' compliance would be cavalier and irresponsible. It would also reward the Stokers for their deceit, perjury, and chicanery before this court. The seeds of a new Faustian bargain with the Stokers (this court presiding) lie barely beneath the surface of Mr. Wells' declaration. My grandchildren would be better off in a foster home than under the alcohol saturated care of James Wells.

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I declare under penalty of perjury of the laws of the State of Washington and pursuant to GENERAL Court RULE 13 and RCW 9A.72.085 that the foregoing is true and correct to the best of my knowledge.

Signed at Mason, [County] Washington [State] on July 7, 2021 [Date]



Signature of Petitioner or Lawyer/WSBA No.

Selena Smith (mother), pro se
Print Name

**I have e-mailed a copy of this entire document to Breckan Scott,
attorney for the Stokers, Selena Smith & not Robert Ayers on 7-7-21.**

Signed at Mason, [County] Washington [State] on July 7, 2021 [Date]



Signature of Petitioner or Lawyer/WSBA No.

Selena Smith (mother), pro se
Print Name



15

E-FILED
THURSTON COUNTY, WA
SUPERIOR COURT
07/09/2021 8:06:29 AM
Linda Myhre Enlow
Thurston County Clerk

☐ EXPEDITE (If filed within 5 court days of hearing)
☒ Hearing is set: Present in tandem w/Reconsideration Motion
Date: 7-29-21
Time: 10:30am Zoom #: 242-974-5214 Rm:4
Judge/Calendar: Rebekah Zinn/Motion Reconsider

**Superior Court of Washington
for Thurston County Family &
Juvenile Court**

In re: Emergency Guardianship of
Hazel Belle Ursa Smith

Respondent(s): Minor Child(ren)

No. 21-4-00443-34
**MEMORANDUM, (Argument &
Counter-Affidavit to
ALL Declarations Attacking
Selena Smith to date) in
Support of Motion for
Reconsideration of Motion. To
JOIN (Rule 30 & 59)
By JOHN SMITH, Grandfather**

(Cover Sheet)

TITLE OF DOCUMENT

**MEMORANDUM, (Argument & Counter-Affidavit to ALL Declarations Attacking
Selena Smith to date) in Support of Motion for Reconsideration of Motion. To
JOIN (Rule 30 & 59)**

by JOHN SMITH

**NAME: John Smith, grandfather
Mailing ADDRESS: PO Box 1711,
Shelton, WA 98584
PHONE: (360)427-3599**

[] EXPEDITE (if filing within 5 court days of hearing)

[X] Hearing is set:

Date: 7-29-21

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Counter-Affidavit to
ALL Declarations Attacking
Selena Smith to date) in
Support of Motion for
Reconsideration of Motion. To
JOIN (Rule 30 & 59
by JOHN SMITH**

TO: The Clerk of the Thurston County and Juvenile Court, (360)709-3260, 2801 32nd AVE SW,
Tumwater, WA 98512;

AND,

Breckan Scott-Gabriel, bar #:41585, attorney for Kathryn Stoker (maternal grandmother) and Hans
Stoker (husband of Kathryn Stoker, but NOT the grandfather), PO Box 1123, Yelm, WA 98597-1123,
PH. (360)960-8951, fax (360)485-1916, e-mail: breckan@breckanlaw.com;

AND,

Selena Ursa Smith, mother, e-mail: doublekachina007@protonmail.com, domiciled in Oregon
mailing address: 6901 26th Ct SE, Lacey, WA 98503, Ph. (971)803-9898

AND,

Robert Ayers (father), e-mail: unknown, Ph. unknown, address: unknown

I Identity of the Parties

I, John Smith (grandfather of the subject minor(s) in this action) enter this MEMORANDUM & counter-affidavit to ALL Declarations of record to date adverse to Selena Smith, without counsel of necessity, pro se, for this court's consideration as the truth and nothing but the truth. I reserve the right and continue to object to the jurisdiction of this court as stated below under **JURISDICTION**. I also **object to Shelley Brandt presiding** over ANY aspect of this case due to her having received money from the Stokers, previously represented my ex-wife, Kathryn Stoker, a party herein, against myself who (I) seeks to join this action and also represented Selena Smith on the Stokers' dime on a separate occasion. She also represented my daughter, Selena Smith, a party to this action. A fair hearing without her recusal cannot be had.

Memorandum & Affidavit in support of Reconsideration: John Smith, (360)427-3599
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Kathryn Stoker (maternal grandmother) and her husband, Hans Stoker (who is NOT the grandfather of the children, contrary to his and his wife's sworn misrepresentations in their filed pleadings to this court) brought this action before this court well BEFORE the young children at issue had been evaluated by any qualified Family and Children's social worker within the State of their domicile or oversight of a state court properly presiding over the same, i.e. Oregon, where this court's emergency ex parte order to seize the children was executed around midnight and they were spirited, under cover of darkness, out of Oregon after handing off the very young three to the Stokers at a gas station adjacent to I-5 north of Eugene that night. The seizure was executed, as described at midnight, 5-30-21 in/near Oakridge, OR, the initial ex parte emergency petition for seizing my 3 grandchildren was filed 5-27-21, the order granting the petition was entered on 5-28-21. The Stokers filed their petition prior to the children being examined and evaluated precisely to deny their mother and my grandchildren due process with this court's approval, aid, and abetment under color of state law in violation of Oregon's sovereignty, the federal ADA (Selena has only one hand), her status as a destitute DV survivor (contrary to UCCJEA requirements, and in violation of meaningful protection under the 6th and 14 Amendment as well as principles laid out in Troxel vs. Granville (530 U.S. 57) and the notorious Elian Gonzalez international case--Selena Smith, the object of a witch hunt.

JURISDICTION

The Petitioners (Stokers) are wealthy longtime residents of and domiciled in Thurston County, Washington.

I, John Smith (maternal grandfather), am the one seeking to join this action. My daughter, Selena, left Washington State without any intention of returning **more than 6 months** prior to the date my grandchildren were seized in Oregon where Selena Smith resided and was domiciled with her children. She returned briefly in March to recover some of her property, from the Stokers, but did not reside in Washington or reestablish it since 11-21-21. The Stokers deliberately misconstrued this date to deceive the court into believing less than 6 months had lapsed since Selena left Washington in late November, 2020 as a DV survivor with her 3 young children. Thus, this court does not have proper in personam or subject matter emergency jurisdiction even if there had not been a less than 6-month absence of my grandchildren who were safely residing/domiciled in Oregon with their mother. **In light of these facts, all actions/orders taken/entered by this court are void ab initio.** The basis for this court's rulings have been based on fraudulent misrepresentations and deception submitted to this court without question by the Stokers. Objections to jurisdiction are **always timely**, even if raised for the first time on appeal.

Selena Smith, the mother of the very young child(ren) at issue in this cause, due to DV at the hands of her boyfriend, James Wells and long term emotional/psychological abuse at the hands of the Stokers, fled the State of Washington with her children (my grandchildren) prior to 11-21-20, which is the date James Wells (her boyfriend) filed a DV Protection Petition (20-2-30761-34 | **JAMES DANIEL WELLS, Jr vs SELENA URSA SMITH**) after she left Washington State to preserve her and her children's safety. Mr. Wells' purpose was to use the children (who he sought custody of in the petition) to support himself. The petition was denied by Court Commissioner Rebekah Zinn. Mr. Wells is currently homeless sleeping near Mt. Adams, and is non-compliant with a DV protection order issued by the court prohibiting him from contact with my grandchildren. The Stokers have announced, in their pleadings, they intend to violate that court order by granting the defiant James Wells access to the children protected under that court order. The Petition for a parenting plan filed by Mr. Wells (Thurston case # 20-3-01280-34 | **JAMES DANIEL WELLS, Jr vs SELENA URSA SMITH**) was found by this court on 7-6-21 upon examination of the record to have never completed proper original process, thus depriving that family court of jurisdiction.

Memorandum & Affidavit in support of Reconsideration: John Smith, (360)427-3599
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Selena Smith, filed a petition for DV protection, alleging Mr. Wells was violently abusive with her and the children, an alcoholic, and in need of anger management classes. Court Commissioner Rebekah Wells ruled in Selena's favor and ordered Mr. Wells, a convicted felon, to surrender his firearms. This action was filed by the mother from out of State. Selena personally appeared electronically before this court (Court Commissioner Rebekah Zinn, presiding) from an out of state DV women's shelter, filed the declaration of an advocate associated with this shelter confirming evidence she'd seen that appeared to be stalking while Selena was staying in the out-of-state DV shelter. **I, John Smith, observed the proceedings.**

(20-2-30788-34 | SELENA URSULA SMITH vs JAMES DANIEL WELLS, Jr)

i.e. For longer than 6-months, Selena Smith, and her children had left and no longer resided in or ever reestablished residence in Washington State prior to having her 3 children illegally seized around midnight on 5-30-21 under the color of Washington State law via an ex parte emergency guardianship order executed beyond Washington's own borders in a foreign state (Oregon). Court Commissioner Kortokrax was either well aware Selena had left Washington State with her children (or should have been) more than 6 months before the instant case had been filed. Selena was under no legal obligation to inform the Stokers of her whereabouts, nor did the Stokers have standing to object since there was no court order granting them standing, custody, or visitation. Yet they conspired to track Selena cross-country in conjunction with NJ security guard Robert Kurtz for months, **ALONE**, wherever she went, using her I-phone and credit card to do so. **There was NO 'Nationwide manhunt' for Selena Smith**, only the witch hunt the Stokers and security guard Robert Kurtz (without authorization) had orchestrated, stolen (including MY identity) to support and deceive others unaware of the deception into supporting--**INCLUDING THIS COURT!**

THIS COURT HAS REPEATEDLY CONFLATED NORMAL UCCJEA TYPE CUSTODY DISPUTES INVOLVING PARENTS/GUARDIANS WITH EX PARTE EMERGENCY PETITIONS FOR GUARDIANSHIP OF MINORS ORDERS EXECUTED OUT-OF-STATE, EFFECTIVELY STRIPPING THE RESPONDENT(S) OF ALL MEANINGFUL DUE PROCESS IN ALL BUT NAME ONLY. FOR THIS REASON, THE VERIFIABLE RATIONALE FOR DOING SO (IF IT IS NOT AN IMMUTABLE ABUSE OF PROCESS AB INITIO) MUST BE ASSURED. It was not. (See Exhibits 'F' & 'G'). Thus the unceasing ongoing objection to jurisdiction continues irrespective of the perjured and fraudulent declaration of security guard without portfolio AND NO "PROFESSIONAL" CREDENTIALS in children's services or authorization from New Jersey to criminally stalk Selena Smith across the nation—a "nationwide manhunt" of 3...the Stokers and Robert Kurtz. He misrepresented his position to police agencies in other jurisdictions and made use of numerous criminally unlawful means of invading Selena Smith's privacy for months in tandem with the Stokers whose purloined information he used. Notwithstanding the 'evidentiary' value of his sworn Declaration, his lies to other agencies regarding his authority, his credentials, Robert Kurtz's statements should be discounted/ignored and any evidence presented through his office should be suppressed. Robert Kurtz has tainted this entire process and this court along with any basis for its jurisdiction in this matter. Ergo, the court should vacate its rulings under Rule 60(b) and dismiss this case with extreme prejudice and sanctions against Breckan Scott-Gabriel, esq, who actively conspired with the Stokers from the outset, pursuant to Rule 11 along with the Stokers themselves.

Even case officers with the New Jersey Division of Children & Families admitted they had no authority to use a New Jersey Court Order (under the circumstances) to order law enforcement in Oregon to seize Selena's children upon New Jersey's direction, although security guard Robert Kurtz was indifferent to the invasion of Selena's privacy when we spoke. When I challenged Kurtz's actions, a case worker supervisor claimed it was NJ Division of Children & Families 'policy' to track or find missing families/children

Memorandum & Affidavit in support of Reconsideration: John Smith, (360)427-3599
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when receiving reports/suspicions of the same. A supervising NJ Family Services official contradicted her. **Except...there WERE NO missing children!** They were with Selena, their mother, who had no legal duty to provide the State of New Jersey or the Stokers with such information. Nor was there a **nation-wide manhunt for her**, only the illegal surveillance conducted by NJ security guard Robert Kurtz and the Stokers, the means by which, in his declaration submitted to this court, he chose **not** to reveal to avoid incriminating himself. Ostensibly, Kurtz should be as clean as a hound's tooth. He's a RETIRED U.S. Marshal, now a security guard and ONLY a security guard, not a child/family case worker authorized to do the crimes he has implicated himself in doing. He declares hearsay on hearsay as fact, and swears to it despite it being contradictory to the patrol officer's own report—speaking of which, where is it?

Where are the photos of rotting food and detritus ankle high Kurtz speaks of? Where is the audio? Contemporary cops have body cameras and recorders. Where is the body? Where is the witchcraft? Where is the proof of the 'nationwide manhunt'? And where are the documents surveilled by Mr. Kurtz? Where is the "warrant" signed by a court of law authorizing him to stalk and spy on my daughter, invading her privacy even to minute by minute alerts of purchases she made with her credit card and her location while doing so? What other methods did Mr. Kurtz use to completely invade my daughter's privacy? If there was a "warrant" of any kind issued by a court of law, why hasn't this court or any of the parties herein seen it? Why hasn't it been submitted to this court? **BECAUSE IT DOESN'T EXIST AND NEVER DID.** It was a ruse, a witch hunter's noose, a prod for a rush to judgment without the slightest nod to due process. It was a fraud and a witch hunt this court chose to join. But Selena Smith was no Dillinger to be tracked down and hunted and stripped of her rights and her children after midnight in Oregon with no judicial oversight there by an Oregon court of law. This court has misconstrued the law by conflating UCCJEA proceedings with those of Washington's ex parte emergency guardianship of minors act. In so doing, it ignored the sovereignty of a foreign state's jurisdiction in such ex parte emergency proceedings and stripped my daughter of her rights to truly proper due process and her children in the bargain.

Robert Kurtz was acting only on his own without authority from his agency or direction to invade Selena's privacy by conspiring with the Stokers who were using software on her I-phone, credit card, and unauthorized invasion of her mail to track, unbeknownst to Selena, her movements, purchases, bills and confidential health/billing records (as well as rifling through her personal papers left where she once resided on the Stoker property). Adding outrage to injury, the Stokers kept the notices intended for Selena of fines received in the mail they opened rather than forwarding it to her new mailing address of which they were aware—putting her Driver's License at risk of suspension for want of notice. They used the unlawfully acquired document to try and prejudice the court against her. They may have inevitably have succeeded, denying Selena fairness in these proceedings, or even the appearance of fairness.

This last point is germane: This court, commissioner Indu Thomas presiding, commented on reviewing a number of threadbare reports in reaching her decision. Thomas commented on an occasion where Oregon's Family services offered Selena Smith any help they could provide. But the record of what commissioner had seen and was weighing in her ruling was never offered or made available to the parties in this action for review or rebuttal. Nor were ANY of the official agency documents commissioner Indu Thomas stated she had reviewed offered to the parties to review or rebut.

If a "nationwide manhunt" for Selena and her children provoked by the incident in Brooklawn, NJ on 1-16-21 was underway, why wasn't Selena detained and her children seized when she briefly came to collect her belongings and RV on the Stoker Property in March or April of 2021. If a "Nationwide Manhunt" was underway, why didn't Portland's Family and Childrn's services detain Selena and seize the children instead

of offering her assistance? If my daughter's children were visibly in such a bad way, as Kurtz and the Stokers allege, why didn't the Portland Family agency recognize it and take my daughter's children into custody on the spot?

The answer is fairly obvious. **There was no ongoing 'nationwide manhunt' for Selena and her children.** Robert Kurtz and Breckan Scott, esq. **lied** to this court. I heard this **lie** from attorney Breckan Scott's lips to the court with my own ears during the 7-6-21 hearing.

And the children were not seized by Portland's Family and Children's Services because they were neither abused nor neglected. It was just one of a **series of lies** like trying to label the dog (my daughter) as "mentally ill" to have the court dispatch it. In the interest of justice and the safety/welfare of my grandchildren, the witch must be hung? Why doesn't the court cut to the chase and simply send Selena to the gas chamber like the Nazis did to their social undesirables in the Holocaust? Why spare any of the poor or destitute? God will know His own!

I will never forgive those who had a hand in virtually raping my daughter and never rest until I die to have her babies restored to the arms of their mother from the claws of the Stokers, their attorney, and this court.

The court of public opinion grinds slowly, but finely. The Stokes, their attorney, Breckan Scott, and this court have already lost (and not by a little) in that forum which shall remain as a matter of public record damning all who had a hand in this travesty of justice long after I am gone.

The Stoker Declarations, Conflicts of Interest

Never have I seen such vicious denunciations so carefully orchestrated against a destitute handicapped mother with little/no support from those she placed her trust in. As a paralegal, I've seen more than my share. This litany of denunciations by Selena's mother, her mother's husband, the Stokers' child (Alex), Maya and Chad Stoker (fka: Smith) is reminiscent of the kind of trials conducted under Stalin's government.

Kathryn Stoker has a long history of material and relevant bad acts documented in the pleadings and declarations and the court's own records referenced in those pleadings and declarations. They have been ignored if even read. The woman pursued me, without provocation, with her father's loaded 16 gauge shotgun circa 1979 on our farmstead on the Duckabush near Brinnon, WA. I had too much pride and discretion to air the fact before the local community or in court. I now regret it. Selena recalls it as she was there. Yet the same woman claims her daughter is too violent to raise to raise her own children. As children, during our shared custody with Kathy, it was invariably on her watch and in her custody when my children would be most seriously injured. It was Kathy who chose abortion as a means of birth control during our marriage in what would otherwise have been our first child. Following Selena, she became pregnant with twins, a boy and a girl. She declared she hated being pregnant and the pregnancy. Soon, thereafter, she had a spontaneous(?) abortion. I was hurt and grief stricken. She later conceived Chad out of (she said) guilt and to mollify me.

Kathryn Stoker constantly berated me behind my back to her father and the rest of her family. Rather than be supportive, he would repeatedly tell her, "You can always correct your mistake." Before our marriage, Kathryn always assured me nobody in her family had ever gotten a divorce. More importantly, after our divorce, there are two eye witnesses, who have submitted declarations to this court, to the constant disparagement taking place behind my back in my children's presence while in the Stoker house.

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Nor was Kathryn Stoker above lying to the court in her declarations and pleadings to the court. I have documented these lies in Exhibits I've submitted to this court, including the record from Thurston case #99-3-00727-2 wherein she falsely declared before that court I had been diagnosed with schizophrenia. This was absolutely **false** and Kathy knew it. Accordingly, she tried to have the court seal these records to evade detection despite the fact I wasn't even a party to the action in which she had gulled my daughter into signing away custody of her small child, Maya Smith who later changed her name to Stoker because, as she told James Wells, she thought it was to her advantage and a better 'brand'. My daughter was upset and saw it as a slap in the face. I saw it as a demonstration of greed and Mya positioning herself to better benefit as a heir to the Stoker fortune, which amounts to multiple million\$ many times over.

This must also be said of Alex, Chad, and Chad's wife, all in line as beneficiaries or heirs of the Stoker fortune. Even (perhaps especially) children, like the notorious Willie Sutton, know "where the money is".

The Stokers are not shy about intimidating or threatening their children with their money. Kathryn has threatened to cut off Selena many times, to both Selena and myself. Her mother had once given Selena a decent used car after Selena had lost her right hand in an accident near Spokane. My daughter and I were going to meet my wife at a restaurant near Lake Nahwatzel. Selena invited me into the car she was driving for the trip, but cautioned me to keep mum about it because her mother had conditioned the 'gift' by asking her to agree never to allow ME to ride in it. Yeah, a small slight that speaks volumes about just who the Stokers really are. Their "gifts", their 'largesse' are but barbed fishing hooks with monofilament lines attached. They didn't want to 'help' Selena so much as own her. A gilded cage may look pretty from the outside until you've spent a lifetime imprisoned in it, a tale told in many guises familiar to us all. Do as we say or the gutter was the Stoker message. Hans hissed at my daughter, "Just remember where your bread is buttered, Selena!" "I butter my own bread," my daughter shot back into his face.

And so it was my daughter turned her back on all the Stokers' millions, their \$5 Million estate and waterfront mansion on the Nisqually Reach, the emotional and psychological abuse, the control, the gaslighting, the incessant disparagement, recriminations and steady drumbeat of being told, "You are mentally ill", the same message being repeated to anyone who would listen to the Stokers slander including Selena's own father.

But, my daughter is NOT mentally ill, nor is she a cupcake. Indeed, she sounds happier since she chose poverty and living her own life with her children since she left the Stokers' multimillion dollar waterfront mansion and estate. I've published many photos of it and looked at the assessor's records of its details. I wouldn't be able to afford the property taxes due on it, yet it is but one of many parcels and trusts the Stokers own or direct. Kathryn tells me they are merely "pensioners"—What a hoot!

Hans Stoker is a chronic alcoholic and my daughter can't stand the sight of him. Kathryn drinks with him, but not to the same extent. Both Stokers are prescription pill poppers dispersed to them as mood altering and anxiety controlling agents. They'd like nothing more than for Selena to be just like them, making her much easier to control—a theme their attorney keeps pounding on while the Stokers hold Selena's children hostage to bully her into complying with their wishes. Selena tells me this is their MO, to threaten to take her children, label her as 'mentally ill', and gaslight the courts into going along with the witch hunt. They have largely succeeded. They've also orchestrated Selena's Stoker relatives into doing their bidding, but not without some embarrassment. The Stokers wanted to keep their subterfuge from public scrutiny just as Kathryn attempted to do when she arranged to take Selena's first child from her, Maya Smith, now known as Stoker.

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This rogue action by a Washington Family Court **fails** what even grade school children would recognize as the **SMELL TEST**. The statutory construction of a normal petition for guardianship of minors in Washington State replete with a full complement of meaningful due process is very different from an ex parte emergency petition for guardianship of minors with effectively **no meaningful due process**. Accordingly, the ex parte judicial excess of Washington's judiciary ought to be a pleasure enjoyed by its own citizens which it is accountable to rather than being visited upon the citizens of foreign states, violating that state's sovereignty and its citizen's rights in the bargain, lending substance to the U.S. Supreme Court's observation in the Troxel decision that **Washington State's interpretation of a "child's best interests"** was **"brehtaking in scope"** and exceeded its authority in substituting its judgment for that of a parent's when the child was not being harmed or abused or in imminent/immediate danger of irrevocable harm/neglect.

In Troxel vs. Granville (530 U.S. 57), the U.S. Supreme Court pronounced Washington's Courts interpretation of the 'best interests' of the child(ren) **"brehtaking in scope"**! Additionally, it concluded a parent's bond with their minor children was so fundamental a right that a state which substituted its judgment for a parent's exceeded its authority no matter how seductive the state's reasoning might be without a genuine true imminent harm that would come to the child(ren). Not only is that not evident in the instant case, but the child(ren) were seized from Oregon without due process or notice and Oregon judicial oversight which would surely have denied the execution of a foreign state's emergency order under the circumstances where Washington had no prior orders establishing any rights for the Stokers. Nor were the children evaluated by a qualified expert prior to the court issuing its ex parte emergency seizure order executed out-of-state under cover of darkness. Where is the proof of such an existential threat to the children at issue in this cause as outlined earlier (ibid)? There isn't any, only multiple speculative or false assertions, denunciations by those beholdingly financially to the Stokers, their hired gun lawyer who actively conspired with them to kidnap the children in the middle of the night, and then **LIED** to this court as an officer of this court painting a false picture of a "nationwide manhunt" for my daughter. This court joined the invitation to engage in the witch hunt. It is culpable. This court's emperor has no clothes. It was not for nothing Franklin said, "The monarchists would hide in the judiciary."

Kathryn Stoker **lied** to me when she described the circumstances and genesis of that seizure as well as the date of the court hearing (Nathan Kortokrax presiding who recused himself) as being on the 18th of this month when it, in truth, was the 16th. The Stokers also lied about my mental condition and their egregiously galling false claims there was a "nation-wide manhunt" for Selena Smith.

This court did not provide Selena with 60-days notice to respond to service from out-of-state, nor was a Return of Service filed in either of the 2 case #'s involving the child(ren) within 48 hours to either father or permission for alternative service sought. No return of service was filed, no Petition or summons was served on Selena Smith, or even properly filed with this court. By its own court rules, this court has not had proper jurisdiction in this case from the start. Nor were the fathers notified in a timely manner—48 hours in an ex parte emergency Guardianship order gratuitously and egregiously executed after midnight in a foreign jurisdiction where no emergency existed nor was one found when the children were seized without an iota of due process in their home State. A rent-a-prosecuting-attorney is not a presiding

Oregon judge in a court of law, but just another attorney serving the two-bit town of Oakridge, OR. What has already been lost in this case can never be recovered or restored, Selena's trust in her mother...a mother who admitted to Selena she'd been using the iPhone she'd gifted her daughter to spy on her. A credit card Selena used to make personal purchases for herself and her children. Security guard Robert Kurtz lied to authorities in other states by claiming to have obtained a warrant to spy on/surveil her use of her credit card in real time. This was doubtless a fraud he used to deceive the credit card company and why he declined to clarify his methods in his sworn declaration submitted to this court. **Falsus in uno, falsus in omnibus!**

In short, this case and all orders pursuant to it are void ab initio for failure to establish proper subject matter and in personam jurisdiction over all the parties. The issuance of the ex parte emergency order to seize the children executed out-of-state was based on fraudulent misrepresentations and deceptions that are a matter of record presented to the court. Nor did the court take any care to insure the child(ren) were genuinely at risk before giving them the impression that their mother was a 'bad' person as they were seized as though she was Dillinger. I have ordered and will be paying for the video, audio, photos, and police reports from the Oakridge PD. They will reveal my grandchildren were not imperiled and their needs were being met; they were not living in squalid conditions. I will present this evidence to this court for its consideration given the chance. Selena has spoken to the Oakridge authorities about this case. Their assessment does not support the tale the Stokers had to tell this court. The midnight raid on Selena and her child(ren) is what one would expect in a totalitarian regime or from Hollywood. She has spent many hours discussing these events with my me. I am part of my daughter and her children's life and have always tried to maintain a relationship with them. I have never interfered with Selena's relationship with her children. I am a necessary and indispensable party to this action as the Stokers have never respected my role in their lives which can be seen in their declarations where Hans and his wife deceived the court into believing he is the grandfather of my daughter's children. Her story is persuasive if the court would but take the time to hear it out rather than 5-minute justice. I, John Smith, have taken the time to do so since I learned of my daughter's predicament despite Kathryn Stoker's lies about it—dozens of hours listening to my daughter, Selena. It is abundantly clear my daughter is **not** delusional or mentally ill. She cries and gets upset about her babies. I am not an attorney, but I have an important ongoing role in the lives of my daughter and grandchildren that will be ignored by the Stokers if I am not allowed to join this action and represent myself on behalf of my relationship with Selena, my daughter, and her children.

II Additional DECLARATION

I, John Smith, am the maternal grandfather of the children at issue before the court in this case. I am unrepresented and necessarily come, without counsel, pro se before this court to voluntarily and honestly make the following Counter-Affidavit to James Wells's Declaration filed 6-29-21 in this cause:

Kathryn Stoker does not like James Wells. She has had to clean up after him and his disgusting filth in the home she provided him, rent free, too often. (See Maya Stoker's declaration regarding the filth and mouse feces requiring the house to be gutted by Kathy Stoker's own admission to me over the phone.)

Maya's observation of the filth in her grandmother's house took place months after Selena fled the DV she experienced there at the hands of James Wells and in the findings of a DV order, entered by commissioner Rebekah Zinn. The Stokers, through their attorney, and in league with James Wells are attempting to Strip

Selena Smith and her children of the DV protection order they so desperately need entered by Commissioner Zinn.

Mr. Wells has yet to comply with any of the conditions imposed by the order Commissioner Zinn entered except surrendering his firearms. Rebekah Zinn noted in her ruling James Wells appeared drunk when appearing before her. I have recently heard Mr. Wells slurred speech over the phone when attempting to discuss my grandchildren with him.

I believe Hans Stoker is using/gulling James Wells to undo Selena's efforts to have her children restored to her. Hans violates the intent of the DV protection order entered on her and her children's behalf by commissioner Zinn. I have reason to believe James Wells is omitting important information in his declaration such as sexually assaulting and injuring my handicapped daughter. Selena confided a great deal to me in an earlier DV petition against James Wells which she ultimately allowed to languish. It is a matter of record. The Stokers have virtually announced in their pleadings and declarations they intend to violate the DV order by encouraging James Wells to ignore it on the strength of their current status as temporary guardians of the children at issue.

Mr. James Wells filed a motion to vacate the DV protection order issued by commissioner Zinn for failure to show up in the proper courtroom. The court granted that motion and rescheduled a new hearing date Mr. Wells attended. He lost at that hearing when commissioner Zinn ordered a renewed DV protection plan after a full hearing where James Wells was given the opportunity to present his case. Commissioner Zinn noted in her ruling that James Wells appeared before her drunk, slurring his speech, and had violently abused Selena Smith and her children. She reviewed the pictures, submitted by Selena Smith, of a squalid house Selena had left weeks before in which James Wells continued to live off the Stoker's largesse, preventing any possibility of Selena returning to it.

James Wells was doing little/nothing to support his children while residing at/on the Stoker's \$5 million waterfront estate and is doing nothing by his children currently. He was effectively subsisting off of Selena and the children prior to her leaving. He would like to return to that status now, were it possible, and that is his hope.

Kathryn Stoker has helped Selena clean out mountains of beer cans from James' residence and vehicle in the past. When I confronted him over the phone with this fact, he did not deny it, but averred Selena helped consume some of them. Selena states she does not drink.

James Wells allowed one of his junkie friends going through severe heroin withdrawals to abide in the house with the children, leaving the vomit covering the walls, carpet, and bed for Selena to clean up/. He excused this abuse by arguing Selena went along with it. But, Selena bitterly complained of the incident and does not like Jim's drug addicted/using friends. She speaks of witnessing Jim snort hard drugs at a meth house.

Jim is associated with the Rainbow Family. He likes to attend their annual gatherings in far flung remote locations across the country. The one I recall most recently occurred in eastern Oregon. Everyone who attended became ill from a tainted water source, including Hazel Smith, my daughter's child with special needs. When they arrived at my home, I discovered Hazel was vomiting regularly and had diarrhea every 3-days. I deduced this was likely a multinucleated protozoan parasitic disease like/similar to giardia. What

Memorandum & Affidavit in support of Reconsideration: John Smith, (360)427-3599
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distressed me was rather than respond to my granddaughter's complaints about the pain she felt, he left to play frisbee golf for the day instead of taking her to the hospital. When he returned, I gathered up my granddaughter, Selena, and Jim for a trip to a family medical clinic in Shelton Washington. We waited some days for a test result diagnosing what ailed my granddaughter, Hazel. It proved to be inconclusive, but close enough to act on my hunch. We were forced to demand medication for my sick granddaughter with me leading the charge remonstrating with the PA who finally threw up her hands and retorted, "What do you want me to do?" I told her and she finally conceded the point, writing a children's prescription for Hazel who was not yet 5. Nobody in the region had it due to it being for small children. We had to race to an Olympia compounding pharmacy 15 minutes before it closed to get the prescription filled. It worked. Hazel healed. But I will never forget Jim's priorities: Frisbee Golf over a child sick with pain and vomiting. Jim cannot be trusted with the responsibility for the health and safety of small children, particularly in a drug induced or drunken stupor. His unwillingness to provide financial support for his children and their need of basic like food, shelter, clothing, etc. also militate against his being entrusted with the care of small children or a second bite at the legal DV apple separating him from those children until he complies with the order.

But, this is all 'fine' with Kathryn and Hans Stoker according to their declarations filed with this court. They're more than pleased to accommodate Jim despite the well founded existing DV order Jim has made no effort to comply with. The Stokers continue to hinder/deny my visitation with my grandchildren, in person or by phone, while embracing my daughter's abuser who thought nothing of endangering Hazel at the Rainbow Family gathering or failing to respond to her pain driven pleas for help! Think about that for one minute in this forum for 5/10 minute justice. Would you want this man entrusted with YOUR children's care? But Hans and Kathryn Stoker would according to their own declarations. Their ego infested extra-judicial plan to strip the children from my daughter is doing my grandchildren no favors. To date, neither has this court.

If Mr. Wells' job pays so well, as he says in his declaration, then why is a stage hand living in a rented tent trailer (he says) near Mt. Adams rather than Tacoma or Seattle? Why isn't he contributing to the support of his children? Why does he refuse to comply with the DV order naming him? Why hasn't he submitted a series of paystubs to the court confirming the rosy picture he paints. The truth is, even if he were working, the children would see none of it. But THIS IS THE GUY the Stokers heartily support to spend time with my daughter's children. It speaks volumes about the Stokers' priority and misuse of this court.

The house Jim describes on the Stoker estate was NOT safe, primarily due to Jim's and Hans Stoker's presence there. Selena is terrified of Jim and the Stokers because they injured and oppressed her. They have now seized her children without proper authority or due process in the middle of the night like some Gestapo scene from a bad movie lying in wait for Dillinger. James Wells is not a hard working man trying to provide for his children. He does not provide for them now, and he didn't provide for them then. Neither did he provide for his oldest daughter from long before he met Selena. His personal hygiene is disgusting with sores on his head under his dreadlocks last I saw him. He does not bathe regularly and he fills his abode with the detritus of alcohol containers and drug paraphernalia. This does nothing to queer his relationship with Hans Stoker. Selena, and the court, has good reason to protect her children from Jim.

Despite what 'benefits' Jim may have received from the State, he was never the head of household, in fact, and never was the primary support of the children. He used whatever income he received on himself and to buy alcohol. Mr. Wells describes his well-paying trade in his declaration, then segues to his routine of

applying for public assistance, TANIF, food stamps, etc. He goes on to describe his receipt of public welfare benefits as continuing uninterrupted.

Mr. Wells vaguely pans my daughter's veracity without so much as a shred of evidence or specific bare assertions. Jim voices platitudes about family while doing little/nothing to contribute to it. A father who limits himself to being a sperm donor doesn't have much to crow about. If Selena berated James, it was because he laid about in a drunken stupor all day doing nothing. Any court attempt to emasculate the existing DV protection order requiring Mr. Wells' compliance would be cavalier and irresponsible. It would also reward the Stokers for their deceit, perjury, and chicanery before this court. The seeds of a new Faustian bargain with the Stokers (this court presiding) lie barely beneath the surface of Mr. Wells' declaration. My grandchildren would be better off in a foster home than under the alcohol saturated care of James Wells.

SUMMARY & ARGUMENT

1. This court, commissioner Indu Thomas presiding, erred by not providing all the parties and myself an opportunity to inspect and rebut all the material it was using to influence her ruling.
2. This court erred in finding it had proper jurisdiction when the ex parte emergency guardianship of minors Washington statutory construction requires proper original process and notification, a 48 hour limit on notifying the fathers (which was not met) and conflating the requirements of UCCJEA requirements with an ex parte emergency guardianship order executed in a foreign state in the middle of the night with no Oregon judicial oversight or protection before an Oregon State court of law. Basically, the State of Washington kidnapped the children under color of state law under the cover of darkness in violation of Oregon's sovereignty, the UCCJEA, and its citizens, Selena and her children.
3. This court erred when it denied Selena Smith court appointed counsel, opining she appeared to be doing fine and didn't need one and wasn't entitled to one, despite this court's equitable power (IF it had genuine jurisdiction as it stated it believes) to provide such an attorney. Selena Smith has no way or resources to do so, has no printer, no laptop or PC, no reliable access to the internet, is barely surviving working for what nets to be subminimum wages delivering auto parts in the Portland area. She claims to live in a community where child reliable child care is available to her. She will not reveal the address to me or anyone I know. I regret this for my sake, my daughter's sake, and my grandchildren's sake. I was surprised to learn she went by a pseudonym (Laura) in the community she says she is proud of and relies on. I understand why this would diminish her credibility in the court's eyes. I have urged her to be more transparent.
4. While I understand, all things considered, this court's reticence about my daughter's credibility, it has no good reason to discount my own. I am an officer of the State of Washington (Notary Public) and will not lie to this court for anyone, including my daughter, nor do I believe I need to in any event. The truth I know of supports her position well although she is a most difficult child and what most attorneys would call a very difficult client.

5. This court erred when it opined my daughter's legal position/strategy for all intents and purposes was "aligned" with my own. This is not true. I believe my daughter favors her own best interests and rights over her children's. e.g. She will tell none of her children's blood relatives the address of where she chooses to reside and make a home for the children. She avers she is homeless and migratory, like the Roma, while contradicting herself by arguing she has a home address and local school, tutoring and other services nearby needed by the children. She is hostile to the idea of transparency to her family or to this court. I regret this. I have advised her she is doing herself no favors but have failed to dissuade her. At the same time, I'm heartened by her decision to become more independent even though I miss my grandchildren and the good times we spend together before the pandemic terribly. The Stokers (all of them) would not be privy to my relationship with my daughter and grandchildren. We do not like each other.
6. The Stokers have refused to allow me to speak with or visit my grandchildren. They have always done so by a variety of excuses, delays, and obstructive tactics. Their latest ruse was to instruct their attorney to claim I was "spying" on them when my daughter took my call during her phone visit with Hazel Smith. Selena provided me with an opportunity to say Hi to my granddaughter and exchange brief pleasantries until I encouraged Selena to resume her conversation with her daughter and I simply enjoyed listening to their banter silently. It is true, however, I heard Hans Stoker bellowing at his wife in the distance, but could not make out the words. I dialed my daughter, unaware she was on the phone with anyone else. I was happy to speak with my grandchild after so long and not hearing from her at all. Selena could have provided me with phone contact with my grandchildren even though I knew nothing of her location, but did not. I only heard from her through Amy, her lifelong girlfriend after Selena was in a panic subsequent to having her children seized in the middle of the night without notice or warning or, IMO, authority. I deeply regret this and it hurts. I know, in my heart, I'd get scant chance to see my grandchildren again if Selena were awarded full unfettered custody. She tells me Oregon isn't so far away. But she won't provide me an address of where she's living even to mail her a laptop she desperately needs if she's to continue representing herself. Even I cannot often get hold of her by phone when I need to facing a deadline in this case. It is very difficult to keep up with her and furnish the legal documents she has requested. I wish she had an attorney for her sake as well as my own. She does not. I have tried to find one and none will have her when they learn she has no money—not even close. Nor do almost any of the ones I've vetted appear to have a solid ground game in the context of foreign jurisdictions in a case such as this—including the Stokers' own attorney who once took more time to respond to my calls or E-mail, but now does not.
7. By irrationally reasoning my interests in this case are aligned with my daughter's and refusing to appoint her a court designated competent attorney while simultaneously refusing to honor my request to JOIN this action pursuant to Rule 19, this court effectively consigns my interest which can easily be distinguished from my daughter's by even the most cursory examination, to an incompetent pro se litigant with very little experience or education in how to prepare or submit a case. If she loses this case, which is the most likely outcome if guided only by her own vision and ability, I will lose any meaningful right or access to visit with my grandchildren, neither in person, nor by phone, nor electronically. My daughter makes light of the fact that should she prevail, I will suffer the same separation from my grandchildren.

8. In either event, I will remain separated from my grandchildren or any contact with them, either by virtue of my daughter's ennui toward the subject, or the Stoker's ongoing unmitigated and continuing hostility to it. Moreover, I have advocated for my grandchildren on many occasions, much to my daughter's annoyance. I have tried on numerous occasions to establish a rapprochement between my daughter and my granddaughter, Maya Stoker. The influence of the Stokers' money has perverted both my own children and at least one of my grandchildren, Maya, who admitted to seeing her interest in her future bettered by adopting a better "brand" name, i.e. Stoker. I would very much like to see my other grandchildren hang onto the name their mother gave them. Kathryn Stoker even changed my son's name behind my back without telling me when he was a minor. Hans Stoker has stolen my identity, and persuaded other, even my own children, that HE is the grandfather. This lie has been repeated so often and accepted he and his wife even grew bold enough to repeat it to this court in their pleadings under penalty of perjury. If that isn't dishonorable, the crime of perjury, and alienation of the affections of a child, I don't know what is, not even counting the years of the Stokers demonizing me to my own small children behind my back. This has created a rift that will not heal and my son, Chad and I, are irrevocably estranged as a result—a result directly attributable to the Stokers for which their wealth cannot compensate.
9. I ask this court to grant my motion for reconsideration, and permit me to JOIN this action under Rule 19 pursuant to CR 59 in order that I may seek a visitation plan of 1 weekend (the first contiguous one) per month and mid-weekly (Wednesdays after 5:00pm) phone or electronic visitation of 45 minutes. I do not seek to deprive either my daughter or the Stokers of the affections of my grandchildren, though I would prefer to see my daughter's natural rights to her own babies restored. I am the only one in this mix who refuses to choose between my grandchildren even though I am pressured from every quarter to do so. I will not be bullied or intimidated into doing so. If grandparents have any rights or need of respect for their love of their own grandchildren, there can be no better case for such a 4-square proposition than this one. This court, despite my misgivings toward it, has no good reason not to grant this request and every reason to grant it. No other party can be trusted not to further damage my grandchildren's EXTENDED family, their rights, and not destroy my daughter in the bargain. The Stokers have their Million\$. My daughter is indigent, but not an unfit mother. Nor is she mentally ill or violent except in self defense. I would like my grandchildren to be part of my life before I pass on. Restore them to us. Allow me to JOIN this action to help be part of the eyes and ears of this court so it may do justice by all the parties. I hold the keys as no other. My daughter is sometimes intractable but she does respect me. As for her mother, she lives her more than respects her. As for Hans Stoker, it is honestly in nobody's best interest for him to remain even as a temporary guardian of the children. No good can come of it, I can assure this court.
10. I would ask this court to also grant any other relief it thinks is just such as relieving myself and my daughter of fees associated with this action such as the \$10,00 fees for bench/working copies. Neither of us live in Thurston county and it works a hardship on us both. The timelines are often too awkward or impractical to rely on the U.S. mail and printing is expensive. I assume the court can read what has been submitted via Odyssey as well as I.

I declare under penalty of perjury of the laws of the State of Washington and pursuant to GENERAL Court RULE 13 and RCW 9A.72.085 that the foregoing is true and correct to the best of my knowledge.

Signed at Mason, [County] Washington [State] on July 9, 2021 [Date]



Signature of Petitioner or Lawyer/WSBA No.

Selena Smith (mother), pro se

Print Name

I have e-mailed a copy of this entire document to Breckan Scott, attorney for the Stokers, Selena Smith & not Robert Ayers on 7-9-21.

Signed at Mason, [County] Washington [State] on July 9, 2021 [Date]

Respectfully Submitted by



Signature of Petitioner or Lawyer/WSBA No.

Selena Smith (mother), pro se

Print Name

37

[] EXPEDITE (If filed within 5 court days of hearing)
[x] Hearing is set: Revised due to Clerk's cancellation
Date: 7-29-21
Time: 10:30am Zoom #: 242-974-5214 Rm:4
Judge/Calendar: Indu Thomas, et al/Motion & Reconsider

E-FILED
THURSTON COUNTY, WA
SUPERIOR COURT
07/09/2021 8:01:48 AM
Linda Myhre Enlow
Thurston County Clerk

21-4-00443-34
OB 87
Objection Opposition
10633621



**Superior Court of Washington
for Thurston County Family &
Juvenile Court**

In re: Emergency Guardianship of
Hazel Belle Ursa Smith

Respondent(s): Minor Child(ren)

No. 21-4-00443-34

**Exhibit 'F' for PRELIMINARY
Objection to Jurisdiction of ex
parte Emergency Guardianship
Order executed in Oregon &
Court's Analysis conflating
UCCJEA cases with this ex
parte emergency case executed
in a foreign state on 5-30-21,
Reliance on Criminal Theft of
Private Property & Surveillance,
as Evidence, & Reconsideration
by John Smith (moving party)**

(Cover Sheet)

TITLE OF DOCUMENT

**Exhibits 'F' for PRELIMINARY Objection to Jurisdiction of ex parte Emergency
Guardianship Order executed in Oregon & Court's analysis conflating UCCJEA
cases w/this ex parte emergency case executed in a foreign State on 5-30-21,
Reliance on Criminal Theft of Private Property & Surveillance as Evidence, &
Declaration by John Smith (moving party)**

**NAME: John Smith, grandfather
Mailing ADDRESS: PO Box 1711
Shelton, WA 98584
PHONE: (360)427-3599**

Exhibit 'F' In Limine for
pinbalwyz@yahoo.com

1 John Smith, grandpa (971) 803-9898
PO Box 1711, Shelton, WA 98584

EXHIBIT 'F'

A court of this state shall accord full faith and credit to an order issued by another state and consistent with ORS 109.701 (Short title) [aka: UCCJEA] to 109.834 (Severability clause) that enforces a child custody determination by a court of another state unless the order has been vacated, stayed or modified by a court having jurisdiction to do so under ORS 109.741 (Initial child custody jurisdiction) to 109.771 (Appearance of parties and child). [1999 c.649 §35] Note: See note under 109.701 (Short title).

[Read all the definitions and subsections from 109.701 – 109.834 carefully!]

ORS 109.701 (Short title) to 109.834 (Severability clause) may be cited as the Uniform Child Custody Jurisdiction and Enforcement Act. [1999 c.649 §1] Note: 109.701 (Short title) to 109.834 (Severability clause) were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 109 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

ORS 109.704

Definitions for ORS 109.701 to 109.834

- ☐ Text
- ☐ Annotations

As used in ORS 109.701 (Short title) to 109.834 (Severability clause):

(1)

"Abandoned" means left without provision for reasonable and necessary care or supervision. **[BAD! i.e. allegations of abandonment in Brooklawn, NJ on 1-16-21]**

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2 John Smith, grandpa (971) 803-9898
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(2)

"Child" means an individual who has not attained 18 years of age.

(3)

"Child custody determination" means a judgment or other order of a court providing for the legal custody, physical custody, parenting time or visitation with respect to a child. "Child custody determination" includes a permanent, temporary, initial and modification order. "Child custody determination" does not include an order relating to child support or other monetary obligation of an individual.

[These definitions are intended for the UCCJEA, a statute whose status may be technically suspect as Oregon Law, i.e. parents or actual guardians engaged in genuine custody battles to discourage forum shopping among litigants and intentional delay, expense and disruption of due process, NOT hopeful grandparents without portfolio or standing intent on using the UCCJEA preemptively as a sword and prior restraint to promote the very forum shopping, denial of meaningful due process—particularly for the poor, indigent, and victims of DV. It was never intended and is not applicable for ex parte emergency petitions guardianship for minors actions filed by hopeful grandparents/guardian without preexisting standing. Due Process must be strictly construed. All the rights and protections of the children and their mother must be carefully preserved with the full weight and sovereign authority of the State wherein they are found to be domiciled and residing for the very reason that an ex parte emergency guardianship order executed in a foreign state without judicial true oversight in that foreign state violates the intent of the UCCJEA itself. Any ambiguities in that or other statutory construction MUST be interpreted in favor of the mother and her children. In the Instant case, no return of service was filed and the attending LEO's unsworn report only indicates giving the mother a copy of the ex parte emergency order issued without jurisdiction in Oregon, not the petition nor the summons, the latter on file being materially defective in any event and subject to strict construction.]

(4)

"Child custody proceeding" means a proceeding in which legal custody, physical custody, parenting time or visitation with respect to a child is an issue. "Child custody proceeding" includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, parentage, termination of parental rights and protection from domestic violence in which the issue may appear. "Child custody proceeding" does not include a proceeding involving juvenile delinquency, contractual emancipation or enforcement under ORS 109.774 (Definitions for ORS 109.774 to 109.827) to 109.827 (Costs and expenses of district attorney and law enforcement officers).

[All the above are normal proceedings replete with a full complement of due process and original service, discovery, production of witnesses, depositions, cross examinations, interrogatories and rules of evidence. An ex parte emergency guardianship order executed in a foreign state after midnight and/or extrajudicial opinion in the middle of the night from a rent-a-prosecuting-attorney is not due process or judicial oversight, but merely the opinion of yet another attorney devoid of appeal rights or review with no more extrajudicial authority than the next incompetent lawyer who graduated from law school and passed the bar.]

(5)

"Commencement" means the filing of the first pleading in a proceeding.

[i.e. 5-27-21, the ex parte emergency petition for guardianship filed in Thurston.

Note: Commissioner Thomas reflected on the petition for a parenting plan filed by James Wells while observing a return of service had not been filed and there was no indication original process had been completed, thus failing to establish in personam jurisdiction over the mother by the court, thus giving it no weight as a court of original or concurrent jurisdiction. The door remains open to file a petition for Habeas Corpus in Oregon along with a petition to exclude the Stokers as temporary guardians and name the mother as the custodian/guardian of the children.]

(6)

"Court" means an entity authorized under the law of a state to establish, enforce or modify a child custody determination.

[These statutes re of an entirely different construction than the ex parte emergency petition for guardianship of minors and MUST NOT be conflated with the normal proceedings replete with truly adequate due process and original service.]

(7)

"Home state" means the state in which a child lived with a parent or a person acting as a parent for at least six **consecutive** months **immediately before the commencement** of a child custody proceeding. In the case of a child less than six months of age, "home state" means the state in which the child lived from birth with any of the persons mentioned. Any temporary absence of any of the mentioned persons is part of the period.

[Again, this refers to normal custody conflict litigation, NOT ex parte emergency guardianship for minors orders executed out-of-state by those with no standing. Even if one was to ignore this blunt bright line boundary to Washington exercising unbridled authority over the citizens of sister states in such proceedings, this definition refers to 6 CONSECUTIVE months IMMEDIATELY BEFORE THE COMMENCEMENT of a child custody

proceeding. The children left Washington State entirely lawfully in their mother's custody on 11-21-21. Even if one were to ignore the period the children and mother were out of Washington State prior to 1-21-21, she left with her children very shortly thereafter and established her domicile and residence in Oregon, thus defeating the necessary six **consecutive months immediately before the commencement for Washington to claim jurisdiction under Oregon's** implementation of its version of the UCCJEA which not incidentally furnished rights to the indigent, victims of DV, **and those burdened by an inconvenient jurisdiction/venue.** Courts must be vigilant not to conflate the UCCJEA with the entirely different statutory construction of ex parte emergency petitions for guardianship of minors action such as this with wholly irregular and deficient original process and failure to establish proper jurisdiction in a foreign state—a virtual oxymoron for an ex parte emergency order to seize children after midnight (5-30-21) for guardianship] **in a foreign jurisdiction where no verifiable immediate risk of harm to the children was in evidence or demonstrated when the ex parte order was issued.]**

(8)

"Initial determination" means the first child custody determination concerning a particular child.

[e.g. Hazel and the existing order in Colorado of a parenting plan and visitation. It's likely the Colorado Court will agree to granting jurisdiction to Washington State, but you should object that an ex parte emergency petition for guardianship of minors, one executed in a foreign state, no less, does not fall under the purview of a UCCJEA conference. It is entirely a very temporary emergency order until the emergency/crisis has passed. Object repeatedly, and resist Colorado giving Washington jurisdiction for what took place in Oregon without proper jurisdiction by Washington even there.]

(9)

"Issuing court" means the court that makes a child custody determination for which enforcement is sought under ORS 109.701 (Short title) to 109.834 (Severability clause).

[No court has or can make a child custody determination under Washington's ex parte emergency guardianship for minors statute. Indu Thomas effectively said as much from the bench.]

(10)

"Issuing state" means the state in which a child custody determination is made.

[No state (except Colorado) has issued a child custody determination unless you count the WA DV court which gave you custody of the children and prohibited James Wells from trying to interfere with your legal custody of them. He's on record in Indu Thomas' courtroom as doing exactly that.]

(11)

"Modification" means a child custody determination that changes, replaces, supersedes or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination.

[Again, this refers to normal custody disputes replete with full due process that fall within the parameters of the UCCJEA.]

(12)

"Person" means an individual, corporation, public corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government or a governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

[I'm uncertain what they intend here—maybe an orphanage or religious order can apply for guardianship of minors?]

(13)

"Person acting as a parent" means a person, other than a parent, who:

(a)

Has physical custody of the child or has had physical custody for a period of six consecutive months, including any temporary absence, within one year immediately before the commencement of a child custody proceeding; and

[The Stokers might be able to argue this one if they can roll the clock back 1 year from 5-27-21. However, can a babysitter claim to have had custody even if the sitter is a grandparent? Moreover, you can argue the children were let in the care of their father while you were temporarily absent. But the Stokers could rationally argue a babysitter does not cover the medical bills and surgeries they did for Hazel. You should argue those were gifts and not a contract or tantamount to giving up custody else you'd never have accepted the gifts and, for this reason, want none of their 'gifts' (Trojan Horse) now.]

(b)

Has been awarded legal custody by a court or claims a right to legal custody under the law of this state.

[Notably, this condition was definitely not untrue on 5-28-21, especially in Oregon.]

(14)

"Physical custody" means the physical care and supervision of a child.

[Every babysitter meets this definition. Thus the condition as stated is empty and rhetorical.]

(15)

"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

[This applies to those cases covered by the UCCJEA, not ex parte emergency orders for guardianship of minors executed after midnight in a foreign state.]

(16)

"Tribe" means an Indian tribe or band, or Alaskan Native village, that is recognized by federal law or formally acknowledged by a state.

[This simply recognizes the sovereignty of First Nation Peoples' treaty rights which include sovereignty over tribal lands just as each of the 50 states has sovereignty over its land and people within its boundaries. E.g. The federal government cannot execute a U.S. citizen for crimes he/she committed within their home state when that state has abolished the death penalty despite the fact the capital crime conviction took place in a federal court. States rights are not helpless before the doctrine of full faith and credit.]

(17)

"Warrant" means an order issued by a court authorizing law enforcement officers to take physical custody of a child. [1999 c.649 §2; 2003 c.576 §159; 2017 c.651 §34] Note: See note under 109.701 (Short title).

[But is the warrant lawful and issued by a court with proper jurisdiction and adhering to proper original process, including valid service of both the petition AND a properly conformed Summons?]

ORS 109.701 (Short title) to 109.834 (Severability clause) [UCCJEA] do not govern a proceeding pertaining to the authorization of emergency medical care for a child. [1999 c.649 §3]

ORS 109.714

International application of ORS 109.701 to 109.834

- [Text](#)
 - [Annotations](#)
-

(1)

A court of this state shall treat a foreign country as if it were a state of the United States for the purpose of applying ORS 109.701 (Short title) to 109.771 (Appearance of parties and child).

(2)

Except as otherwise provided in subsection (3) of this section, a child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of ORS 109.701 (Short title) to 109.834 (Severability clause) must be recognized and enforced under ORS 109.774 (Definitions for ORS 109.774 to 109.827) to 109.827 (Costs and expenses of district attorney and law enforcement officers).

(3)

A court of this state need not apply ORS 109.701 (Short title) to 109.834 (Severability clause) if the child custody law of a foreign country violates fundamental principles of human rights. [1999 c.649 §5]

ORS 109.717

Effect of child custody determination

- [Text](#)
 - [Annotations](#)
-

A child custody determination made by a court of this state that has jurisdiction under ORS 109.701 (Short title) to 109.834 (Severability clause) binds all persons who have been served in accordance with the laws of this state or notified in accordance with ORS 109.724 (Notice to persons outside state) or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to

those persons, the determination is conclusive as to all decided issues of law and fact except to the extent the determination is modified. [1999 c.649 §6]

[This, of course, pertains to normal custody/guardianship cases covered by the UCCJEA, not the ex parte emergency petition for guardianship of minors order executed in a foreign state such as Oregon when a Washington court issued the relevant order on 5-28-21, executed after midnight on 5-30-21 in Oakridge, OR.]

ORS 109.721

Priority

- [Text](#)
- [Annotations](#)

If a question of existence or exercise of jurisdiction under ORS 109.701 (Short title) to 109.834 (Severability clause) is raised in a child custody proceeding, the question, upon request of a party, must be given priority on the calendar and handled expeditiously. [1999 c.649 §7]

[YES!]

ORS 109.724

Notice to persons outside state

- [Text](#)
- [Annotations](#)

(1)

Notice required for the exercise of jurisdiction when a person is outside this state may be given in a manner prescribed by the law of this state for service of process or by the law of the state in which the service is made. Notice must be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective.

(2)

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Proof of service may be made in the manner prescribed by the law of this state or by the law of the state in which the service is made. If service is made by mail, proof of service may be a receipt signed by the addressee or other evidence of delivery to the addressee.

(3)

Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court. [1999 c.649 §8]

[Do NOT get bit by #3! You must renew your continuing objection in every document and pleading you file, plainly stating you do not concede jurisdiction merely by appearance and reserving your continuing objection to jurisdiction at every hearing, filing, and pleading/declaration submitted to the court, else you will be deemed to have waived it. You must do this to preserve the objection for appeal just as you must dispute every false allegation.

ORS 109.727

Appearance and limited immunity

- [Text](#)
 - [Annotations](#)
-

(1)

A party to a child custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child custody determination, is not subject to personal jurisdiction in this state for another proceeding or purpose solely by reason of having participated, or of having been physically present for the purpose of participating, in the proceeding.

(2)

A person who is subject to personal jurisdiction in this state on a basis other than physical presence is not immune from service of process in this state. A party present in this state who is subject to the jurisdiction of another state is not immune from service of process allowable under the laws of that state.

(3)

The immunity granted by subsection (1) of this section does not extend to civil litigation based on acts unrelated to the participation in a proceeding under ORS 109.701 (Short title) to 109.834 (Severability clause) committed by an individual while present in this state. [1999 c.649 §9]

ORS 109.731

Communication between courts

- Text [NOT applicable to ex parte emergency guardianships, but only those under UCCJEA]
 - Annotations
-

(1)

A court of this state may communicate with a court in another state concerning a proceeding arising under ORS 109.701 (Short title) to 109.834 (Severability clause).

(2)

The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, they must be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

(3)

Communication between courts on schedules, calendars, court records and similar matters may occur without informing the parties. A record need not be made of the communication.

(4)

Except as otherwise provided in subsection (3) of this section, a record must be made of a communication under this section. The parties must be informed promptly of the communication and granted access to the record.

(5)

For the purposes of this section, "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form. [1999 c.649 §10]

ORS 109.734

Taking testimony in another state

- Text [Pertinent to UCCJEA cases, NOT ex parte emergency guardianship of minors cases]
 - Annotations
-

(1)

In addition to other procedures available to a party, a party to a child custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in this state for testimony taken in another state. The court on its own motion may order that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony is taken.

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(2)

A court of this state may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means or other electronic means before a designated court or at another location in that state. A court of this state shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.

(3)

Documentary evidence transmitted from another state to a court of this state by technological means that does not produce an original writing may not be excluded from evidence on an objection based on the means of transmission. [1999 c.649 §11]

ORS 109.737

Cooperation between courts

- **preservation of records**

- Text [Pertinent to UCCJEA cases only, NOT ex parte emergency guardianship of minors orders]
 - Annotations
-

(1)

A court of this state may request the appropriate court of another state to:

(a)

Hold an evidentiary hearing;

(b)

Order a person to produce or give evidence pursuant to procedures of that state;

(c)

Order that an evaluation be made with respect to the custody of a child involved in a pending proceeding;

(d)

Forward to the court of this state a certified copy of the transcript of the record of the hearing, the evidence otherwise presented and any evaluation prepared in compliance with the request; and

(e)

Order a party to a child custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.

(2)

Upon request of a court of another state, a court of this state may hold a hearing or enter an order described in subsection (1) of this section.

(3)

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Travel and other necessary and reasonable expenses incurred under subsections (1) and (2) of this section may be assessed against the parties according to the law of this state.

(4)

A court of this state shall preserve the pleadings, orders, judgments, records of hearings, evaluations and other pertinent records with respect to a child custody proceeding for the time required by the retention schedule adopted under ORS 8.125 (Duties to assist Chief Justice and other courts) (11). The retention schedule shall require retention at least until the child attains 18 years of age. Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of those records. [1999 c.649 §12; 2003 c.576 §160]

ORS 109.741

Initial child custody jurisdiction

- Text [UCCJEA cases only, not ex parte emergency guardianship order cases]
 - Annotations
-

(1)

Except as otherwise provided in ORS 109.751 (Temporary emergency jurisdiction), a court of this state has jurisdiction to make an initial child custody determination only if:

(a)

This state is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within six months before the commencement of the proceeding and the child is absent from this state but a parent or person acting as a parent continues to live in this state;

(b)

A court of another state does not have jurisdiction under subsection (1)(a) of this section, or a court of the home state of the child has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under ORS 109.761 (Inconvenient forum) or 109.764 (Jurisdiction declined by reason of conduct), and:
[Inconvenient forum for the indigent parent must be weighed for UCCJEA cases]

(A)

The child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this state other than mere physical presence; and

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[This UCCJEA standard doesn't cover grandparents acting as baby sitters or ex parte emergency guardianship orders executed in a foreign state.]

(B)

Substantial evidence is available in this state concerning the child's care, protection, training and personal relationships;

(c)

All courts having jurisdiction under subsection (1)(a) or (b) of this section have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the child under ORS 109.761 (Inconvenient forum) or 109.764 (Jurisdiction declined by reason of conduct); or

(d)

No court of any other state would have jurisdiction under the criteria specified in subsection (1)(a), (b) or (c) of this section.

(2)

Subsection (1) of this section is the exclusive jurisdictional basis for making a **child custody determination** by a court of this state. [Doesn't apply to ex parte emergency guardianship orders executed out-of-state, only UCCJEA cases]

(3)

Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child custody determination. [1999 c.649 §13]

[Pertains to UCCJEA cases, not ex parte emergency guardianship orders executed out-of-state]

ORS 109.744

Exclusive, continuing jurisdiction

- ☐ Text **[Pertains to UCCJEA cases, not ex parte emergency guardianship orders done out-of-state]**
- Annotations

(1)

Except as otherwise provided in ORS 109.751 (Temporary emergency jurisdiction), a court of this state that has made a child custody determination consistent with ORS

109.741 (Initial child custody jurisdiction) or 109.747 (Jurisdiction to modify determination) has exclusive, continuing jurisdiction over the determination until:

(a)

A court of this state determines that neither the child, nor the child and one parent, nor the child and a person acting as a parent have a significant connection with this state and that substantial evidence is no longer available in this state concerning the child's care, protection, training and personal relationships; or

(b)

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

(2)

A court of this state that has made a child custody determination and does not have exclusive, continuing jurisdiction under this section may modify that determination only if the court has jurisdiction to make an initial determination under ORS 109.741 (Initial child custody jurisdiction). [1999 c.649 §14]

ORS 109.747

Jurisdiction to modify determination

- Text [Pertain to UCCJEA cases, not ex parte emergency guardianship out-of-state orders]
- Annotations

Except as otherwise provided in ORS 109.751 (Temporary emergency jurisdiction), a court of this state may not modify a child custody determination made by a court of another state unless a court of this state has jurisdiction to make an initial determination under ORS 109.741 (Initial child custody jurisdiction) (1)(a) or (b) and:

(1)

The court of the other state determines that it no longer has exclusive, continuing jurisdiction under ORS 109.744 (Exclusive, continuing jurisdiction) or that a court of this state would be a more convenient forum under ORS 109.761 (Inconvenient forum); or

(2)

A court of this state or a court of the other state determines that the child, the child's parents and any person acting as a parent do not presently reside in the other state. [1999 c.649 §15]

ORS 109.751

Temporary emergency jurisdiction

- [Text](#)
 - [Annotations](#)
-

(1)

A court of this state has temporary emergency jurisdiction if the child is present in this state and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

(2)

If there is no previous **child custody determination** [not an ex parte emergency guardianship out-of-state order] that is entitled to be enforced under [ORS 109.701 \(Short title\) to 109.834 \(Severability clause\)](#) and a child custody proceeding has not been commenced in a court of a state having jurisdiction under [ORS 109.741 \(Initial child custody jurisdiction\) to 109.747 \(Jurisdiction to modify determination\)](#), a **child custody determination** [not an ex parte emergency guardianship out-of-state order] made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under [ORS 109.741 \(Initial child custody jurisdiction\) to 109.747 \(Jurisdiction to modify determination\)](#). If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under [ORS 109.741 \(Initial child custody jurisdiction\) to 109.747 \(Jurisdiction to modify determination\)](#), a child custody determination made under this section becomes a final determination if the determination so provides and this state becomes the home state of the child.

(3)

If there is a previous child custody determination that is entitled to be enforced under [ORS 109.701 \(Short title\) to 109.834 \(Severability clause\)](#), or a child custody proceeding has been commenced in a court of a state having jurisdiction under [ORS 109.741 \(Initial child custody jurisdiction\) to 109.747 \(Jurisdiction to modify determination\)](#), any order issued by a court of this state under this section must specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under [ORS 109.741 \(Initial child custody jurisdiction\) to 109.747 \(Jurisdiction to modify determination\)](#). The order issued in this state remains in effect until an order is obtained from the other state within the period specified or the period expires.

**[Petition for Writ of Habeas Corpus to produce children in Oregon Court and
Petition for Guardianship/Parenting Plan order, Indu Thomas said as much from
the bench on 6-30-21 & 7-6-21]**

(4)

A court of this state that has been asked to make a child custody determination under this section, upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of a state having jurisdiction under ORS 109.741 (Initial child custody jurisdiction) to 109.747 (Jurisdiction to modify determination), shall immediately communicate with the other court. A court of this state that is exercising jurisdiction under ORS 109.741 (Initial child custody jurisdiction) to 109.747 (Jurisdiction to modify determination), upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of another state under a statute similar to this section, shall immediately communicate with the court of that state to resolve the emergency, protect the safety of the parties and the child and determine a period for the duration of the temporary order. [1999 c.649 §16]

[A UCCJEA type conference for ex parte emergency guardianship orders executed out-of-state]

ORS 109.754

Notice

- **opportunity to be heard**
- **joinder**
- Text [Pertains to UCCJEA cases]
- Annotations

(1)

Before a child custody determination is made under ORS 109.701 (Short title) to 109.834 (Severability clause), notice and an opportunity to be heard in accordance with the standards of ORS 109.724 (Notice to persons outside state) must be given to all persons entitled to notice under the law of this state as in child custody proceedings between residents of this state, any parent whose parental rights have not been previously terminated and any person having physical custody of the child.

(2)

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ORS 109.701 (Short title) to 109.834 (Severability clause) do not govern the enforceability of a child custody determination made without notice or an opportunity to be heard.

(3)

The obligation to join a party and the right to intervene as a party in a child custody proceeding under ORS 109.701 (Short title) to 109.834 (Severability clause) are governed by the law of this state as in child custody proceedings between residents of this state. [1999 c.649 §17]

ORS 109.757

Simultaneous proceedings

- Text [Pertinent to UCCJEA cases not ex parte emergency guardianship orders executed out-of-state]
- Annotations

(1)

Except as otherwise provided in ORS 109.751 (Temporary emergency jurisdiction), a court of this state may not exercise its jurisdiction under ORS 109.741 (Initial child custody jurisdiction) to 109.771 (Appearance of parties and child) if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another state having jurisdiction substantially in conformity with ORS 109.701 (Short title) to 109.834 (Severability clause), unless the proceeding has been terminated or is stayed by the court of the other state because a court of **this state is a more convenient forum** under ORS 109.761 (Inconvenient forum).

(2)

Except as otherwise provided in ORS 109.751 (Temporary emergency jurisdiction), a court of this state, before hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties under ORS 109.767 (Information to be submitted to court). If the court determines that a child custody proceeding has been commenced in a court in another state having jurisdiction substantially in accordance with ORS 109.701 (Short title) to 109.834 (Severability clause), the court of this state shall stay its proceeding and communicate with the court of the other state. If the court of the state having jurisdiction substantially in accordance with ORS 109.701 (Short title) to 109.834 (Severability clause) does not determine that

the court of this state is a more appropriate forum, the court of this state shall dismiss the proceeding.

(3)

In a proceeding to modify a child custody determination, a court of this state shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child custody determination has been commenced in another state, the court may:

(a)

Stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying or dismissing the proceeding for enforcement;

(b)

Enjoin the parties from continuing with the proceeding for enforcement; or

(c)

Proceed with the modification under conditions it considers appropriate. [1999 c.649 §18]

ORS 109.761

Inconvenient forum

- [Text](#)
- [Annotations](#)

(1)

A court of this state that has jurisdiction under ORS 109.701 (Short title) to 109.834 (Severability clause) to make a child custody determination may decline to exercise its jurisdiction at any time if the court determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised upon the motion of a party, the court's own motion or the request of another court.

(2)

Before determining whether a court of this state is an inconvenient forum, the court shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including:

(a)

Whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child;

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19 John Smith, grandpa (971) 803-9898
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- (b) The length of time the child has resided outside this state;
 - (c) The distance between the court in this state and the court in the state that would assume jurisdiction;
 - (d) The relative financial circumstances of the parties;
 - (e) Any agreement of the parties as to which state should assume jurisdiction;
 - (f) The nature and location of the evidence required to resolve the pending litigation, including testimony of the child;
 - (g) The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence; and
 - (h) The familiarity of the court of each state with the facts and issues in the pending litigation.
- (3) If a court of this state determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, it shall stay the proceedings upon condition that a child custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.
- (4) A court of this state may decline to exercise its jurisdiction under ORS 109.701 (Short title) to 109.834 (Severability clause) if a child custody determination is incidental to an action for divorce or another proceeding while still retaining jurisdiction over the divorce or other proceeding. [1999 c.649 §19]

ORS 109.764

Jurisdiction declined by reason of conduct

- Text
- Annotations

(1)

Except as otherwise provided in ORS 109.751 (Temporary emergency jurisdiction) or 419B.100 (Jurisdiction), if a court of this state has jurisdiction under ORS 109.701 (Short title) to 109.834 (Severability clause) because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct to so invoke the jurisdiction, the court shall decline to exercise its jurisdiction unless:

- (a) The parents and all persons acting as parents have acquiesced in the exercise of jurisdiction;
 - (b) A court of the state otherwise having jurisdiction under ORS 109.741 (Initial child custody jurisdiction) to 109.747 (Jurisdiction to modify determination) determines that this state is a more appropriate forum under ORS 109.761 (Inconvenient forum); or
 - (c) No court of any other state would have jurisdiction under the criteria specified in ORS 109.741 (Initial child custody jurisdiction) to 109.747 (Jurisdiction to modify determination).
- (2) If a court of this state declines to exercise its jurisdiction under subsection (1) of this section, it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the unjustifiable conduct, including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under ORS 109.741 (Initial child custody jurisdiction) to 109.747 (Jurisdiction to modify determination).
- (3) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction under subsection (1) of this section, it shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses including costs, communication expenses, attorney fees, investigative fees, expenses for witnesses, travel expenses and child care expenses during the course of the proceeding unless the party from whom necessary and reasonable expenses are sought establishes that the assessment would be clearly inappropriate. The court may not assess fees, costs or expenses against this state unless authorized by law other than ORS 109.701 (Short title) to 109.834 (Severability clause). [1999 c.649 §20]

ORS 109.767

Information to be submitted to court

- Text
- Annotations

(1)

In a child custody proceeding, each party, in its first pleading or in an attached affidavit or declaration under penalty of perjury in the form required by ORCP 1 E, shall give information, if reasonably ascertainable, as to the child's present address or whereabouts, the places where the child has lived during the last five years and the

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21 John Smith, grandpa (971) 803-9898
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names and present addresses of the persons with whom the child has lived during that period. If the information is given in the party's first pleading, the pleading must include an affidavit or a declaration under penalty of perjury. The pleading, or attached affidavit or declaration under penalty of perjury, must state whether the party:

- (a) Has participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or parenting time or visitation with the child and, if so, identify the court, the case number and the date of the child custody determination, if any;
 - (b) Knows of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights and adoptions and, if so, identify the court, the case number and the nature of the proceeding; and
 - (c) Knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or parenting time or visitation with, the child and, if so, the names and addresses of those persons.
- (2) If the information required by subsection (1) of this section is not furnished, the court, upon motion of a party or its own motion, may stay the proceeding until the information is furnished.
- (3) If the information as to any of the items described in subsection (1) of this section is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.
- (4) Each party has a continuing duty to inform the court of any proceeding in this or any other state that could affect the current proceeding.
- (5) If a party alleges in the first pleading, or in an attached affidavit or declaration under penalty of perjury, that the health, safety or liberty of a party or child would be jeopardized by disclosure of identifying information, the information must be sealed and may not be disclosed to the other party or the public unless the court orders the

disclosure to be made after a hearing in which the court takes into consideration the health, safety or liberty of the party or child and determines that the disclosure is in the interest of justice. Costs incurred by the court when special notice procedures are made necessary by the nondisclosure of identifying information shall be paid by the parties as deemed appropriate by the court. [1999 c.649 §21; 2015 c.121 §10]

ORS 109.771

Appearance of parties and child

- [Text](#)
 - [Annotations](#)
-

- (1) In a child custody proceeding in this state, the court may order a party to the proceeding who is in this state to appear before the court in person with or without the child. The court may order any person who is in this state and who has physical custody or control of the child to appear in person with the child.
- (2) If a party to a child custody proceeding whose presence is desired by the court is outside this state, the court may order that a notice given under ORS 109.724 (Notice to persons outside state) include a statement directing the party to appear in person with or without the child and informing the party that failure to appear may result in a decision adverse to the party.
- (3) The court may enter any orders necessary to ensure the safety of the child and of any person ordered to appear under this section.
- (4) If a party to a child custody proceeding who is outside this state is directed to appear under subsection (2) of this section or desires to appear personally before the court with or without the child, the court may require another party to pay reasonable and necessary travel and other expenses of the party and the child so appearing. [1999 c.649 §22]

ORS 109.774

Definitions for ORS 109.774 to 109.827

- [Text](#)
- [Annotations](#)

As used in ORS 109.774 (Definitions for ORS 109.774 to 109.827) to 109.827 (Costs and expenses of district attorney and law enforcement officers):

(1)

"Petitioner" means a person who seeks enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination.

(2)

"Respondent" means a person against whom a proceeding has been commenced for enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination. [1999 c.649 §23]

ORS 109.777

Enforcement under Hague Convention

- [Text](#)
- [Annotations](#)

Under ORS 109.774 (Definitions for ORS 109.774 to 109.827) to 109.827 (Costs and expenses of district attorney and law enforcement officers), a court of this state may also enforce an order for the return of the child made under the Hague Convention on the Civil Aspects of International Child Abduction as if the order were a child custody determination. [1999 c.649 §24]

ORS 109.781

Duty to enforce

- [Text](#)

- Annotations
-

(1)

A court of this state shall recognize and enforce a child custody determination of a court of another state if the latter court exercised jurisdiction in substantial conformity with ORS 109.701 (Short title) to 109.834 (Severability clause) or the determination was made under factual circumstances meeting the jurisdictional standards of ORS 109.701 (Short title) to 109.834 (Severability clause) and the determination has not been modified in accordance with ORS 109.701 (Short title) to 109.834 (Severability clause).

(2)

A court of this state may utilize any remedy available under other law of this state to enforce a child custody determination made by a court of another state. The remedies provided in ORS 109.774 (Definitions for ORS 109.774 to 109.827) to 109.827 (Costs and expenses of district attorney and law enforcement officers) are cumulative and do not affect the availability of other remedies to enforce a child custody determination. [1999 c.649 §25]

ORS 109.784

Temporary order for parenting time or visitation

- Text
 - Annotations
-

In a child custody enforcement proceeding authorized by law:

(1)

A court of this state that does not have jurisdiction to modify a child custody determination may issue a temporary order enforcing:

(a)

A parenting time or visitation schedule made by a court of another state; or

(b)

The visitation or parenting time provisions of a child custody determination of another state that permit visitation or parenting time but do not provide for a specific visitation or parenting time schedule.

(2)

If a court of this state makes an order under subsection (1)(b) of this section, the court shall specify in the order a period that it considers adequate to allow the petitioner to Exhibit 'F' In Limine for
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obtain an order from a court having jurisdiction under the criteria specified in ORS 109.741 (Initial child custody jurisdiction) to 109.771 (Appearance of parties and child). The order remains in effect until an order is obtained from the other court or the period expires. [1999 c.649 §26]

ORS 109.787

Registration of child custody determination

- **notice**
 - **fee**
 - **hearing**
 - Text
 - Annotations
-

(1)

A child custody determination issued by a court of another state may be registered in this state, with or without a simultaneous request for enforcement, by sending to any circuit court in this state:

(a)

A letter or other document requesting registration;

(b)

The filing fee established under ORS 21.145 (Simple proceeding filing fee);

(c)

Two copies, including one certified copy, of the determination sought to be registered and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified; and

(d)

Except as otherwise provided in ORS 109.767 (Information to be submitted to court), the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody, parenting time or visitation in the child custody determination sought to be registered.

- (2) On receipt of the documents required by subsection (1) of this section, the registering court shall cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form.
- (3) The person seeking registration of a child custody determination shall serve notice upon the persons named under subsection (1)(d) of this section notifying them of the opportunity to contest the registration in accordance with this section.
- (4) The notice required by subsection (3) of this section must state that:
- (a) A registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this state;
- (b) A hearing to contest the validity of the registered determination must be requested within 21 days after service of notice; and
- (c) Failure to contest the registration will result in confirmation of the child custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.
- (5) A person seeking to contest the validity of a registered order must request a hearing within 21 days after service of the notice and pay the filing fee established under ORS 21.145 (Simple proceeding filing fee). At that hearing, the court shall confirm the registered order unless the person contesting registration establishes that:
- (a) The issuing court did not have jurisdiction under ORS 109.741 (Initial child custody jurisdiction) to 109.771 (Appearance of parties and child);
- (b) The child custody determination sought to be registered has been vacated, stayed or modified by a court having jurisdiction to do so under ORS 109.741 (Initial child custody jurisdiction) to 109.771 (Appearance of parties and child); or
- (c) The person contesting registration was entitled to notice, but notice was not given in accordance with the standards of ORS 109.724 (Notice to persons outside state), in the proceedings before the court that issued the order for which registration is sought.
- (6)

If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law and the person requesting registration and all persons served must be notified of the confirmation.

(7)

Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration. [1999 c.649 §27; 2011 c.595 §34]

ORS 109.791

Enforcement of registered determination

- [Text](#)
 - [Annotations](#)
-

(1)

A court of this state may grant any relief normally available under the law of this state to enforce a registered child custody determination made by a court of another state.

(2)

A court of this state shall recognize and enforce, but may not modify, except in accordance with ORS 109.741 (Initial child custody jurisdiction) to 109.771 (Appearance of parties and child), a registered child custody determination of a court of another state. [1999 c.649 §28]

ORS 109.794

Simultaneous proceedings

- [Text](#)
 - [Annotations](#)
-

If a proceeding for enforcement under ORS 109.774 (Definitions for ORS 109.774 to 109.827) to 109.827 (Costs and expenses of district attorney and law enforcement officers) is commenced in a court of this state and the court determines that a proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under ORS 109.741 (Initial child custody jurisdiction) to 109.771 (Appearance of parties and child), the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement

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continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding. [1999 c.649 §29]

ORS 109.797

Expedited enforcement of child custody determination

- [Text](#)
 - [Annotations](#)
-

(1)

A petition under ORS 109.774 (Definitions for ORS 109.774 to 109.827) to 109.827 (Costs and expenses of district attorney and law enforcement officers) must be verified. Certified copies of all orders sought to be enforced and of any order confirming registration must be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(2)

A petition for enforcement of a child custody determination must state:

(a)

Whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was;

(b)

Whether the determination for which enforcement is sought has been vacated, stayed or modified by a court whose decision must be enforced under ORS 109.701 (Short title) to 109.834 (Severability clause) and, if so, must identify the court, the case number and the nature of the proceeding;

(c)

Whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights and adoptions and, if so, must identify the court, the case number and the nature of the proceeding;

(d)

The present physical address of the child and the respondent, if known;

(e)

Whether relief in addition to the immediate physical custody of the child and attorney fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought; and

(f)

If the child custody determination has been registered and confirmed under ORS 109.787 (Registration of child custody determination), the date and place of registration.

(3)

Upon the filing of a petition, the court shall issue an order directing the respondent to appear in person with or without the child at a hearing and may enter any order necessary to ensure the safety of the parties and the child. If the court issues an order, the order shall be served in the manner the court determines to be appropriate under the circumstances of the case and may include service by the sheriff. The person requesting the order shall pay the costs of service. The court shall hold the hearing as soon as reasonably possible and shall expedite the hearing if it finds an emergency is present.

(4)

An order issued under subsection (3) of this section must state the time and place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take immediate physical custody of the child and will order the payment of fees, costs and expenses under ORS 109.811 (Costs, fees and expenses), and may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:

(a)

The child custody determination has not been registered and confirmed under ORS 109.787 (Registration of child custody determination) and that:

(A)

The issuing court did not have jurisdiction under ORS 109.741 (Initial child custody jurisdiction) to 109.771 (Appearance of parties and child);

(B)

The child custody determination for which enforcement is sought has been vacated, stayed or modified by a court having jurisdiction to do so under ORS 109.741 (Initial child custody jurisdiction) to 109.771 (Appearance of parties and child); or

(C)

The respondent was entitled to notice, but notice was not given in accordance with the standards of ORS 109.724 (Notice to persons outside state), in the proceedings before the court that issued the order for which enforcement is sought; or

(b)

The child custody determination for which enforcement is sought was registered and confirmed under ORS 109.787 (Registration of child custody determination), but has been vacated, stayed or modified by a court of a state having jurisdiction to do so under ORS 109.741 (Initial child custody jurisdiction) to 109.771 (Appearance of parties and child). [1999 c.649 §30]

ORS 109.801

Service of petition and order

- [Text](#)
- [Annotations](#)

Except as otherwise provided in ORS 109.807 (Warrant to take physical custody of child), the petition and order for enforcement of a child custody determination must be served by the petitioner, by any method authorized for service of process within this state, upon the respondent and any person who has physical custody of the child. [1999 c.649 §31]

ORS 109.804

Immediate physical custody of child

- **exceptions**
- **spousal privilege in certain proceedings**
- [Text](#)
- [Annotations](#)

(1)

Unless the court issues a temporary emergency order under ORS 109.751 (Temporary emergency jurisdiction), upon a finding that a petitioner is entitled to immediate physical custody of the child under the controlling child custody determination, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that:

(a)

The child custody determination has not been registered and confirmed under ORS 109.787 (Registration of child custody determination) and that:

- (A) The issuing court did not have jurisdiction under ORS 109.741 (Initial child custody jurisdiction) to 109.771 (Appearance of parties and child);
 - (B) The child custody determination for which enforcement is sought has been vacated, stayed or modified by a court of a state having jurisdiction to do so under ORS 109.741 (Initial child custody jurisdiction) to 109.771 (Appearance of parties and child); or
 - (C) The respondent was entitled to notice, but notice was not given in accordance with the standards of ORS 109.724 (Notice to persons outside state), in the proceedings before the court that issued the order for which enforcement is sought; or
- (b) The child custody determination for which enforcement is sought was registered and confirmed under ORS 109.787 (Registration of child custody determination), but has been vacated, stayed or modified by a court of a state having jurisdiction to do so under ORS 109.741 (Initial child custody jurisdiction) to 109.771 (Appearance of parties and child).
- (2) The court shall award the fees, costs and expenses authorized under ORS 109.811 (Costs, fees and expenses), may grant additional relief, including a request for the assistance of law enforcement officials, and may set further hearings, if necessary, to determine whether additional relief is appropriate.
- (3) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under ORS 109.774 (Definitions for ORS 109.774 to 109.827) to 109.827 (Costs and expenses of district attorney and law enforcement officers). [1999 c.649 §32]

ORS 109.807

Warrant to take physical custody of child

- Text