

E FILED  
THURSTON COUNTY, WA  
SUPERIOR COURT  
09/17/2021 10:49:45 AM  
Linda Myhre Enlow  
Thurston County Clerk

E-FILED  
THURSTON COUNTY, WA  
SUPERIOR COURT  
09/17/2021 8:01:25 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 526-600**

**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**

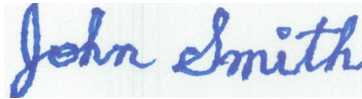
### **MATERIAL & RELEVANT FACTS (& DECLARATION)**

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.

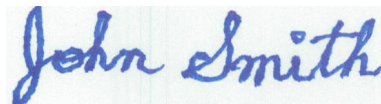


Signature of Petitioner or Lawyer/WSBA No.

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;"><b>SUPERIOR COURT OF WASHINGTON FOR THURSTON COUNTY FAMILY AND JUVENILE COURT</b></p>	
<p>In re: The Emergency Guardianship of Hazel Belle Ursa Smith</p> <p>Respondent(s): The Minor Child(ren)</p>	<p><b>NO. 21-4-00443-34</b></p> <p><b>ATTACHMENT LIST (ATTLST)</b></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		
Selena Smith	609		
Selena Smith	610		
Selena Smith			
Selena Smith			
Selena Smith			
Selena Smith			
Selena Smith			
Selena Smith			
Selena Smith			

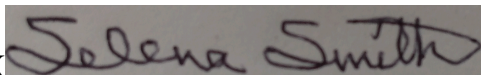
Received from	Number of Attachment	Admitted? Y/N Date, Not Offered, etc.	Attachment Description

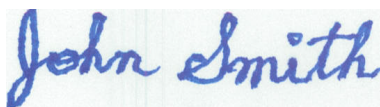
**STIPULATION TO EXHIBIT LIST**

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

# 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.

Exhibit 'F' In Limine for  
[pinbalwyz@yahoo.com](mailto:pinbalwyz@yahoo.com)

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

(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)

Exhibit 'F' In Limine for  
[pinbalwyz@yahoo.com](mailto:pinbalwyz@yahoo.com)

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

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

Exhibit 'F' In Limine for  
[pinbalwyz@yahoo.com](mailto:pinbalwyz@yahoo.com)

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



**[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

Exhibit 'F' In Limine for  
[pinbalwyz@yahoo.com](mailto:pinbalwyz@yahoo.com)

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

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)**

Exhibit 'F' In Limine for  
[pinbalwyz@yahoo.com](mailto:pinbalwyz@yahoo.com)

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

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;

Exhibit 'F' In Limine for  
[pinbalwyz@yahoo.com](mailto:pinbalwyz@yahoo.com)

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



- (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

Exhibit 'F' In Limine for  
[pinbalwyz@yahoo.com](mailto:pinbalwyz@yahoo.com)

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



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

[pinbalwyz@yahoo.com](mailto:pinbalwyz@yahoo.com)

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

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

Exhibit 'F' In Limine for  
[pinbalwyz@yahoo.com](mailto:pinbalwyz@yahoo.com)

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

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)

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

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

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)

Exhibit 'F' In Limine for  
[pinbalwyz@yahoo.com](mailto:pinbalwyz@yahoo.com)

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

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**

- 

Exhibit 'F' In Limine for  
[pinbalwyz@yahoo.com](mailto:pinbalwyz@yahoo.com)

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

• Annotations

(1)

Upon the filing of a petition seeking enforcement of a child custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is immediately likely to suffer serious physical harm or be removed from this state.

(2)

If the court, upon the testimony of the petitioner or other witness, is satisfied that there is probable cause to believe that the child is imminently likely to suffer serious physical harm or be removed from this state, it may issue a warrant to take physical custody of the child. The petition must be heard on the next judicial day after the warrant is executed unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant must include the statements required by ORS 109.797 (Expedited enforcement of child custody determination) (2).

(3)

A warrant to take physical custody of a child must:

(a)

Recite the facts upon which a conclusion of imminent serious physical harm or removal from the jurisdiction is based;

(b)

Direct law enforcement officers to take physical custody of the child immediately; and

(c)

Provide for the placement of the child pending final relief.

(4)

The respondent must be served with the petition, warrant and order immediately after the child is taken into physical custody.

(5)

A warrant to take physical custody of a child is enforceable throughout this state. If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.

(6)

The court may impose conditions upon placement of a child to ensure the appearance of the child and the child's custodian. [1999 c.649 §33]

## ORS 109.811

### Costs, fees and expenses

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

(1)

The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorney fees, investigative fees, expenses for witnesses, travel expenses and child care expenses during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate. An award may be inappropriate if the award would cause the parent or child to seek public assistance or medical assistance, as defined in ORS 414.025 (Definitions for ORS chapters 411, 413 and 414).

(2)

The court may not assess fees, costs or expenses against a state unless authorized by law other than ORS 109.701 (Short title) to 109.834 (Severability clause). [1999 c.649 §34; 2013 c.688 §13]

## ORS 109.814

### Recognition and enforcement

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

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) 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]

## ORS 109.817

### Appeals

Exhibit 'F' In Limine for  
[pinbalwyz@yahoo.com](mailto:pinbalwyz@yahoo.com)

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

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

An appeal may be taken from a final order 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) in accordance with ORS chapter 19. Unless the court enters a temporary emergency order under ORS 109.751 (Temporary emergency jurisdiction), the enforcing court may not stay an order enforcing a child custody determination pending appeal. [1999 c.649 §36]

## ORS 109.821

### Role of district attorney

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

(1)

In a case arising under ORS 109.701 (Short title) to 109.834 (Severability clause) or involving the Hague Convention on the Civil Aspects of International Child Abduction, the district attorney may take any lawful action, including resort to 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) or any other available civil proceeding, to locate a child, obtain the return of a child or enforce a child custody determination if there is:

(a)

An existing child custody determination;

(b)

A request to do so from a court in a pending child custody proceeding;

(c)

A reasonable belief that a criminal statute has been violated; or

(d)

A reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.

(2)

A district attorney acting under this section acts on behalf of the state to protect the state's interest in the enforcement of ORS 109.701 (Short title) to 109.834 (Severability clause) and may not represent any party. [1999 c.649 §37]



## ORS 109.824

### Role of law enforcement officer

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

---

At the request of a district attorney acting under ORS 109.821 (Role of district attorney), a law enforcement officer may take any lawful action reasonably necessary to locate a child or a party and assist a district attorney with responsibilities under ORS 109.821 (Role of district attorney). [1999 c.649 §38]

## ORS 109.827

### Costs and expenses of district attorney and law enforcement officers

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

---

If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the district attorney and law enforcement officers under ORS 109.821 (Role of district attorney) or 109.824 (Role of law enforcement officer). [1999 c.649 §39]

## ORS 109.831

### Application and construction

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

---

In applying and construing ORS 109.701 (Short title) to 109.834 (Severability clause), consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it. [1999 c.649 §40]

## ORS 109.834

### Severability clause

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

If any provision of ORS 109.701 (Short title) to 109.834 (Severability clause) or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of ORS 109.701 (Short title) to 109.834 (Severability clause) that can be given effect without the invalid provision or application, and to this end the provisions of ORS 109.701 (Short title) to 109.834 (Severability clause) are severable. [1999 c.649 §41]

## ORS 109.990

### Penalty

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

(1)

A person who violates ORS 109.311 (Financial disclosure statement to be filed with petition) (3) or who submits a false statement under ORS 109.311 (Financial disclosure statement to be filed with petition) (1) commits a Class C felony.

(2)

A person who violates any provision of ORS 109.311 (Financial disclosure statement to be filed with petition) (4) or 109.502 (Search for birth parents, putative father, genetic siblings or county where adoption finalized) to 109.507 (Access to Department of Human Services records required) or any rule adopted pursuant to ORS 109.506 (Rulemaking) commits a Class A misdemeanor. [1985 c.403 §2 (4); 1993 c.717 §5; subsection (3) of 1993 Edition enacted as 1993 c.410 §9; 1995 c.79 §44; 1995 c.730 §4]





E-FILED  
THURSTON COUNTY, WA  
SUPERIOR COURT

07/09/2021 8:01:46 AM

Linda Myhre Enlow  
Thurston County Clerk

## Superior Court of Washington, Thurston County

### Family and Juvenile Court

In Re Emergency Guardianship of

Hazel Belle Ursa Smith

Case No. 21-4-00443-34

Notice of Hearing for Motion for Reconsideration  
Court Commissioner Motions –  
Family Law, Juvenile, & Probate & Guardianship

Respondent(s): Minor Child(ren)

(NTHG) (Rule 19 & 59(a))

#### To the County Clerk and all parties:

- 1.** A court hearing has been scheduled for: possibly July 29, 2021 (date) at 10:30am or sooner (time).

To keep everyone safe during COVID19, the Court is asking that parties, participants, families, and attorneys attend their hearings as indicated below, virtually, by video or telephone participation through Zoom. If this is not possible, the Courthouse is open and located at 2801 32<sup>nd</sup> Avenue SW, Tumwater, WA 98512.

- 2.** The **name** of the motion or type of hearing is: Emergency Guardianship – Motion for Reconsideration

The motion was filed on: 7-7-21, then 7-9-21 (date) by John Smith, Grandfather (name of party).

- 3.** The hearing should be scheduled on the following court session:

→ Check that the court session is available before you schedule a hearing. You can see whether a session is full on the Clerk's web page: [www.co.thurston.wa.us/clerk](http://www.co.thurston.wa.us/clerk)

☐ **Family Law without attorneys**

Courtroom 2: Zoom Meeting ID: 429-655-5966#

(Monday 9:00 & 10:30 a.m.)

Courtroom 4: Zoom Meeting ID: 242-974-5214#

(Wednesday 11:00 a.m.)

Courtroom 3: Zoom Meeting ID: 786-408-0165#

(Friday 1:30 & 2:30 p.m.)

☒ **Family Law with attorneys**

Courtroom 4: Zoom Meeting ID: 242-974-5214#

(Tuesday 9:00 & 10:30 a.m.; 1:30 p.m.)

(Thursday 9:00 & 10:30 a.m.)

☐ **State Family Law**

Courtroom 4: Zoom Meeting ID: 242-974-5214#

Wednesday 2:00 & 3:00 p.m.

☐ **Minor Guardianship/ Non-Parental Custody**

Courtroom 4: Zoom Meeting ID: 242-974-5214#

(Wednesday 9:00 & 10:00 a.m.)

☐ **Probate & Guardianship**

Courtroom 2: Zoom Meeting ID: 429-655-5966#

(Friday 2:00 & 3:00 p.m.)

☐ **Youth at Risk & CHINS**

Courtroom 3: Zoom Meeting ID: 786-408-0165#

(Monday 10:00 & 11:00 a.m.)

☐ **Juvenile Miscellaneous Motion**

Youth in person, other participants by Zoom

Courtroom 3: Meeting ID: 786-408-0165#

(Monday 2:00 & 2:30 p.m.)

☐ **Juvenile Changes of Plea**

Youth in person, other participants by Zoom

Courtroom 3: Meeting ID: 786-408-0165#

(Changes of Plea: Thursday 10:00 & 10:30 a.m.)

See section 7 for Zoom Meeting Instructions.

#### Warnings!

- You need to schedule this hearing by 5:00 p.m. at least 6 business days ahead of time. Consult local and state court rules.

- If you do not go to the hearing, the court may sign orders without hearing your side. You must file all paperwork to respond to a motion before the court hearing.
- If you do not have an attorney, a courthouse facilitator must approve the final paperwork before a final hearing can be scheduled. LSPR 94.04.

#### 4. Declaration of Service

I declare that on July 7<sup>th</sup>, 2021 & 7-8-21  
☐ deposited in the United States mail, ☐ delivered through a legal messenger service, ☒ personally delivered, a copy of this notice of hearing, the motion, and all paperwork filed along with the motion, to all people listed below in section 6, Via E-mail.

**I declare under penalty of perjury under the laws of Washington State that the foregoing is true and correct.**

Signed at Mason (cnty) Washington (State) on 7-7-21 (date)



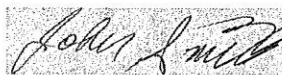
\_\_\_\_\_(signature)

\_\_\_\_\_(printed name)

#### 5. Person Scheduling this Hearing:

☐ Petitioner ☐ Respondent

☒ Other: John Smith, grandfather



Print Name: John Smith

WSBA # \_\_\_\_\_ (if attorney)

Address: PO Box 1711

City/State/Zip: Shelton, WA 98584

Telephone: (360)427-3599

Email (required): pinbalwyz@yahoo.com

Date: 7-7-21 & 7-8-21

#### 6. Names and Contact Information for Everyone Notified of this Hearing

**Name: Breckan Scott-Gabriel, esq.**

Attorney for: Kathryn & Hans Stoker

WSBA #: 41585

Address: PO Box 1123, Yelm, WA 98597-1123

Telephone: (360)960-8951 & (503)930-0164, fax (360)485-1916, fax (360)464-2636

Email: breckan@breckanlaw.com

**Name: Selena Ursa Smith (aka: Laura)**

Attorney for: \_\_\_\_\_

WSBA #: \_\_\_\_\_

Address: 6901 26<sup>th</sup> Ct, SE, Lacey, WA 98503 (mailing)

Telephone: (3971)803-9898

Email: doublekachina007@protonmail.com

**Attach more pages if needed.**

**Name: James D. Wells**

Attorney for: \_\_\_\_\_

WSBA #: \_\_\_\_\_

Address: Homeless or outside Thurston county, WA.

Telephone: (253)948-8260

Email: rodytok@gmail.com

**Name: Robert Ayers (father of Hazel Smith)**

Attorney for: \_\_\_\_\_

WSBA #: \_\_\_\_\_

Address: Unknown

Telephone: Unknown

Email: Unknown

## 7. Instructions for Appearing to your Zoom Meeting

### Joining by Computer or Smartphone

Zoom hearings can be joined from the internet, the Zoom application ("App"), landline or mobile phone (**Instructions below**), and with a H.323 or SIP device.

You will need the Zoom Meeting ID number for the hearing. The Zoom Meeting ID for your calendar can be found in section 3 on the first page of this Notice and on the court's website.

1. Go to <https://zoom.us/>
2. Once on the Zoom site and click the "Join a meeting" option, or use this link:  
<https://zoom.us/join>
3. Enter the Meeting ID and click "Join"

You can also download an application ("App") to your smartphone or device. To download the Zoom mobile application, visit the zoom website at <https://zoom.us/download>

4. Once you have joined, you will enter the virtual waiting room. Prior to the start of your hearing, the judicial officer or court employee will admit you into the virtual hearing. You might have to wait past the start of your hearing time. Please be patient.

#### Join by telephone if:

- You do not have a microphone or speaker on your PC/Mac,
- You do not have a smartphone (iOS or Android), or
- You cannot connect to a network for video and VoIP (computer audio)

### DO NOT RECORD ANY COURT HEARINGS

The Court keeps a record of all proceedings. Do not record any court proceedings. You can order transcripts or copies of the hearing from the Court. If you would like to order a copy of the record or a transcript of the proceeding, information can be found on the Court's Website:

<https://www.thurstoncountywa.gov/sc/Pages/transcripts.aspx>

### To join by telephone:

If you are joining via telephone, call one of the telephone numbers listed in the box, then enter your calendar Zoom Meeting ID number. The Zoom Meeting ID for your calendar can be found in section 3 on the first page of this Notice and on the court's website.

1. Call one of the telephone numbers provided in the box below.

#### Dial by your location

+1 253 215 8782 US (Tacoma)  
+1 669 900 9128 US (San Jose)  
+1 346 248 7799 US (Houston)  
+1 646 558 8656 US (New York)  
+1 301 715 8592 US (Germantown)  
+1 312 626 6799 US (Chicago)

Find your local number:

<https://us02web.zoom.us/j/kcK71YNq>

2. Enter the assigned Zoom Meeting ID number found in section 3 followed by # symbol.
  - Phone Controls:
    - \*6 - Toggle mute/unmute
    - \*9 - Raise hand

### Considerations for Virtual Hearings:

Virtual hearings are just like attending court in person.

#### Required:

- Dress appropriate
- Mute your microphone unless you are asked to speak
- Follow judicial officer's stated rules or risk being removed from the hearing
- You can only attend one virtual hearing at a time, please contact the court if you are scheduled to appear in multiple hearings.

#### If Possible:

- Avoid moving your video or quick movements
- Find a quiet space

21-4-00443-34  
MTRC 84  
Motion for Reconsideration  
10633614



14

E-FILED  
THURSTON COUNTY, WA  
SUPERIOR COURT  
07/09/2021 8:01:42 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

Motion for Reconsideration  
Re: Motion to Join  
By JOHN SMITH

(Rule 19 & 59(a))

(Cover Sheet)  
**TITLE OF DOCUMENT**

**Motion for Reconsideration Re: Motion to Join (6-30-21)  
by JOHN SMITH**

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

Motion for Reconsideration (Rule 59)  
pinbalwyz@yahoo.com

John Smith, grandfather (360)427-3599  
1 PO Box 1711, WA 98584

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

[X] Hearing is set: revised due to clerk's cancellation

Date: 7-29-21

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  
Haazel Belle Ursa Smith

Respondent(s): Minor Child(ren)

**No. 21-4-00443-34**

**Motion for Reconsideration**

**Re: Motion to Join**

**By JOHN SMITH**

**(Rule 19 & 59(a))**

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](mailto:doublekachina007@protonmail.com), domiciled in Oregon  
mailing address: 6901 26<sup>th</sup> 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 continue my **objection 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

Motion for Reconsideration (Rule 59)  
pinbalwyz@yahoo.com

John Smith, grandfather (360)427-3599  
2 PO Box 1711, WA 98584

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) 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 6<sup>th</sup> 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

Motion for Reconsideration (Rule 59)  
pinbalwyz@yahoo.com

John Smith, grandfather (360)427-3599  
3 PO Box 1711, WA 98584



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)

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/suspensions 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

Motion for Reconsideration (Rule 59)  
pinbalwyz@yahoo.com

John Smith, grandfather (360)427-3599  
4 PO Box 1711, WA 98584