annex.mp3

Honorable Judge-Dixon
Serena versus Serena, 17-3, 0-1-8, 1-7-0.

Honorable Judge-Dixon
As I look through all of these various pleadings, it appears to me that the only thing before the court today is petitioner's so-called emergency, oh, respondent's so-called emergency motion.

Honorable Judge-Dixon
Um, so-called ex parte emergency motion is that the only motion before the court today.

Honorable Judge-Dixon
Mr. Serena.

Mr. Surina
Your Honor, uh, I have a number of different things that were before the court. I don't know about an August 11th hearing. Maybe some of them were struck. I was never notified of that hearing. I'm concerned about that hearing.

Honorable Judge-Dixon
Well. That is all about that hearing. Nothing happened.

Mr. Surina
Okay, okay.

Honorable Judge-Dixon
Neither of you showed up. Why? I don't know.

Mr. Surina
I knew nothing about it.

Honorable Judge-Dixon
My question is, answer only the question I ask. Yes, sir. Is there any other motion before the court today?

Mr. Surina
I have a motion for a contempt hearing here.

Mr. Surina
The petitioner currently is committing a custodial interference. I have no idea.

Honorable Judge-Dixon

Yes, listen to my question. Is there another motion before the court or argument at this time?

Mr. Surina

I would like there to be.

Honorable Judge-Dixon

Okay, sit down.

Mr. Surina

Okay.

Honorable Judge-Dixon

If you don't respond to my questions, I will sit you down.

Honorable Judge-Dixon

I am considering that the only motion before the court today is what was denominated an ex parte, and I did not grant it on an ex parte motion. It was improper as an ex parte motion. But apparently, respondent has converted it to an in-court motion. And I will consider it as that. You may argue your motion.

Mr. Surina

Your Honor, I stand before this honorable court to make an earnest appeal for the immediate reevaluation of the current parenting plan and custody arrangement, which I contend are no longer really serving the best interest of the kids.

Honorable Judge-Dixon

There's a motion to change the parenting plan.

Mr. Surina

Well, my motion is actually to prevent the immediate enrollment, which is really to prevent the violations of the current parenting plan that continue every single day. It's like it doesn't exist.

Honorable Judge-Dixon

The second.

Mr. Surina

And if you stole your interference, I'm hoping you can stop too.

Mr. Surina

Thank you. Hi.

Mr. Surina

I continue to uphold the rules of the court, albeit I'm not an attorney. I don't claim to be one. I'm

doing my best.

Mr. Surina
The, uh, There's two real things that the motion asks for.

Mr. Surina
Um.

Mr. Surina
Orders preventing the relocation and school enrollment changes.

Mr. Surina
Sure.

Honorable Judge-Dixon
I have a motion for temporary order preventing move with children. Is that the motion before us at this time?

Mr. Surina
No, but I'm okay with that motion also. It's the same, really. It's the same thing. I just didn't know how to get a hearing.

Honorable Judge-Dixon
I want to find the exact motion that's before the court.

Mr. Surina
Yes, it's a seven-page motion called 'Ex Parte Motion for Immediate Orders'

Mr. Surina
and I'm I.

Mr. Surina
I had asked for the objection hearing.

Mr. Surina
Quite some time back.

Mr. Surina
I'm not sure when that's gonna happen.

Honorable Judge-Dixon
Emergency motion for temporary orders to prevent unilateral relocation and enrollment of minor children. Yes, sir. Is that the motion before the court today?

Mr. Surina

I believe so, yes.

Honorable Judge-Dixon

Well, if it's your motion, you better know.

Mr. Surina

Well, I have the motion that you outlined, and I thought it was an ex parte, immediate motion for orders due to recent findings.

Mr. Surina

Filed a number of things today because I there was no hearings. I was unable to get a hearing. I noted the hearing for July 28th. Uh, there's a lot of odd oddities going on with that stuff. So then we ended up with a hearing on August 11th with no certificate of service, no note for the hearing.

Honorable Judge-Dixon

Sir, be quiet. I'm looking for the 'Yes, sir' 'Yes, sir I have an extra copy.

Honorable Judge-Dixon

I have Here it is. Ex parte motion for immediate order. Sure, yes, that's the one. I'm going to take that as the motion before the court. Correct. And the only motion before the court at this time. Okay. You may commence the argument.

Mr. Surina

Thanks, sir. Uh, so first, first and foremost, establish this at the court. I'd like to make it abundantly clear that I'm ready, willing, and fully capable of assuming you know custody of my sons, both financially, emotionally, academically.

Mr. Surina

And furthermore, I'm prepared to remove them from any state-supported welfare programs that neither the petitioner nor I qualify for. Out there. The existing 50-50 custody plan, while seemingly equitable, undergoes a significant change once the school year commences, to the detriment of our children's emotional, academic, and social well-being. I relocated to Spokane solely for the purpose of my kids to facilitate the education. I literally live next to those schools.

Mr. Surina

I've been there quite some time to help with my oldest son, especially because he was struggling in school. And we were trying to figure out why. And we had some conferences and what have you with the school. This is based on the school. Most of these issues are school-based. Because the kids are being ripped out of out of their lives and friends and established support networks that we work hard to put together into an isolated environment where they know nobody. They've already— you know, okay. They were looking at putting David into a learning disability program because of the hours that mom was running. He was basically going to school completely dead, dog tired. She would drop them off.

Honorable Judge-Dixon

Protection, Your Honor, this isn't in the record. This is not in an affidavit form, sir. It cannot be argued.

Honorable Judge-Dixon

I see that in this emergency motion that you're ordering, you have three separate requests. One, preventing relocation and school enrollment changes. I'll do that.

Mr. Surina

Yes, sir.

Mr. Surina

The petitioner unilaterally just decided after the hearing on June 23rd, where you told her that she could not, she completely disregarded the court and your orders on that day and went ahead and also lied to the court. went ahead and just enrolled them in school anyway, without the court approval, against the relocation laws of Washington State, and is now asking, just forcing me to say, 'Hey, you need to pick them up at my house now.' Changing the exchange locations. I don't even know where to pick up my children today. I don't. She's saying they're going to be in her house or they're going to be at this school. She completely excluded me from any discussions with the teachers, with the conferences before school, all of that.

Mr. Surina

Part in any of that now. I'm basically completely excluded and my kids are totally isolated. So that's one issue.

Honorable Judge-Dixon

I understand she has relocated already. Correct. And I'm not happy about that by any means. But doesn't it render your motion moot?

Mr. Surina

No, it doesn't. And here's why. Because my children are all, they're enrolled in their normal schools and they're waiting to return.

Honorable Judge-Dixon

Are you asking that I order her to move the children out of that house?

Mr. Surina

No, I'm not asking for that. Let me be clear.

Honorable Judge-Dixon

Still live where she's living now.

Mr. Surina

Yes, and facilitate the school, yes. There's a couple reasons why that's in their favor and her favor, actually, and I'd like to argue those points, too.

Honorable Judge-Dixon

Okay, well, just a second. You do not object at this time to her living at the house in Sheen.

Mr. Surina

To her? No. To my kids?

Honorable Judge-Dixon

Yes.

Mr. Surina

Problem with my kids though, yeah.

Honorable Judge-Dixon

Do you object to them living with your wife-in-chief, your ex-wife-in-chief?

Mr. Surina

I object to one, the educational decision she's made without the court.

Honorable Judge-Dixon

All right. My question is this and only this. Okay. Are you objecting? To the petitioners, your mutual children living in chief.

Mr. Surina

Okay.

Honorable Judge-Dixon

What is the remedy?

Mr. Surina

The remedy is. For Brody's two things. One is to allow me to take charge of my children for a couple reasons, but the main reason is I facilitate all of their academic study and stuff anyway.

Honorable Judge-Dixon

So the remedy is: You want to change custody in this motion. Yes, because how am I going to affect that runner?

Mr. Surina

So, the can you rephrase the question?

Honorable Judge-Dixon

You did not say that in this motion. How am I to change your parenting plan on a motion? That

requires a trial.

Mr. Surina
Well, I thought we have a trial coming.

Honorable Judge-Dixon
Well, this is not a trial.

Mr. Surina
Correct, but my motion is asking that they continue in their established schools in the meantime, in the interim. To prevent the unilateral decision. She's already made the decision, but she picked them up on Monday at Spokane School District. Yeah, I understand. It's crazy.

Honorable Judge-Dixon
Do you want the kids? To live with you on a motion without a trial, but you want the kids returned to their former school.

Mr. Surina
I want the kids returned to their former school. I would like temporary orders if possible until the trial. Yes.

Mr. Surina
Which is on a previous motion I never got a hearing date for.

Honorable Judge-Dixon
We're bringing the Crawford motion for that. I will consider your request. The other request that you have made, oh, the August 11th hearing. That's nothing. Nothing happened.

Mr. Surina
Okay.

Honorable Judge-Dixon
So now we have narrowed down to the relief you requested, which is somehow on a motion hearing without a trial. I change primary residential location of the children.

Mr. Surina
Hold on. Hold on. So a couple things to be noted. I do not. Today is my day to pick up my children, Your Honor. She has completely changed the pairing. I have no idea where to get them.

Honorable Judge-Dixon
Please. Please listen to me.

Mr. Surina
Sure.

Honorable Judge-Dixon
So your motion is to change the parenting plan.

Honorable Judge-Dixon
On a motion, without a trial, so that they live with you pending.

Mr. Surina
That's correct, issue temporary orders. That's one of the things.

Mr. Surina
I also would like to bring an issue or two to the court's attention that are pretty.

Mr. Surina
It is part of the motion though, yeah, okay. So what I'm proposing is the immediate reevaluation really of the of the of the plan in the in the current parenting plan.

Honorable Judge-Dixon
You can't get that on motion.

Honorable Judge-Dixon
Thank you. Anything else?

Mr. Surina
Well, I certainly need another hearing date because it took two and a half months to get this one. And I have a lot of motions.

Honorable Judge-Dixon
Listen, you can bring motions. And when you bring motions—stop writing me letters. I do not read them. They are improper. They are ex parte. I have my assistant file them away. I do not read them. Do not ask for legal advice and letters to me or my assistant. You can ask for availability dates and times and that's all.

SPEAKER_3
Okay.

Honorable Judge-Dixon
You all right? I've heard your argument. I'll hear from the petition.

Jonathan Biscelgia (Counsel)
Thank you, Your Honor. Changing primary placement on a motion that doesn't actually ask for that would not be proper before Your Honor. Thank you.

Jonathan Biscelgia (Counsel)

The argument that you've heard, Mr. Serena, does not have educational decision-making under the final parenting plan. It is limited strictly to Ms. Serena. That has been reiterated time and time again. Ms. Serena, as noted in her pleading, still provides Mr. Serena much more information than what her legal requirement is under this parenting plan. I don't want to label it as an act of courtesy, but it isn't legally required.

Honorable Judge-Dixon

What could change enrollment?

Jonathan Biscelgia (Counsel)

To change enrollment, that is part of the educational decision-making.

Jonathan Biscelgia (Counsel)

I have a copy here for you.

Jonathan Biscelgia (Counsel)

I No, that's a proposal from Mr. Serena, the final parenting plan. If I may, Your Honor. Please.

Honorable Judge-Dixon

Yeah.

Honorable Judge-Dixon

Yeah, this is one I remember. December 20, 2019.

Honorable Judge-Dixon

She has full school educational decision-making authority. Is that a school district? No, she has full final.

Honorable Judge-Dixon

Decision making. She can move out of the school district without noticing. Well, that's who goes to moving, it doesn't go to school district.

Mr. Surina

The American plane explains that in there, though.

Honorable Judge-Dixon

No, it doesn't. She can make the decision about where they go to school. She may not make the decision unilaterally to relocate. Please address the relocation. Which, counsel?

Honorable Judge-Dixon

Appears to me to be quite duplicitous, if not deceitful. He had papers filed, and we had arguments about his intent to really about your comments and his objection to the relocation in open court. And she represented to the court that she had not moved yet. And so I did not hold her in contempt. But to know that he has previously appeared open court and objected to relocation, and then what

she did, and then he had previously before she relocated prematurely served his objection to relocation, and it was on file. I don't know if that meets the legal requirements or not, but it seems to me like your client was lying in the weeds waiting for that 60 days to come.

Jonathan Biscelgia (Counsel)

No, Your Honor. And I'm happy to explain that, because going through 2609-480, I had similar questions on what that looks like. So under that statute, and it's the objection and the summons that begins the case.

Jonathan Biscelgia (Counsel)

Notice was provided, although I will start by saying this is not a formal notice of intent to relocate. Abe.

Jonathan Biscelgia (Counsel)

Written correspondence on May 30th indicating that the home had closed.

Jonathan Biscelgia (Counsel)

Then Miss Serena begins looking for legal counsel. I filed my notice of appearance on June 15th, and the notice of intent to relocate was filed, served, signed the very next day, as soon as could practically be done. At that hearing, the contempt issue was whether or not, at that time, she had relocated.

Jonathan Biscelgia (Counsel)

Without getting into discussions held with my client, the law does say you must wait— at least those 15 days— for after the service of the objection and summons for the objecting party to set a motion to be heard within 15 days of the service of that motion or of the objection.

Honorable Judge-Dixon

Okay, let's look at exactly.

Honorable Judge-Dixon

Thank you, statute.

Honorable Judge-Dixon

Can I hear the language of the statute, please, Council?

SPEAKER_3

That's how many groups there is. Thank you.

Honorable Judge-Dixon

If the objecting party notes a hearing to prevent relocation, for a day not more than 15 days following timely service of an objection to relocate Family files on the record.

Honorable Judge-Dixon

Welcome to my home.

Honorable Judge-Dixon
Please be quiet unless I ask you a question.

Honorable Judge-Dixon
Okay, so.

Honorable Judge-Dixon
We are serving the notice of intent to relocate on one day.

Jonathan Biscelgia (Counsel)
The notice of intent to relocate was on June 16th. The objection was on June 9th.

Honorable Judge-Dixon
Minute.

Honorable Judge-Dixon
So, you're taking the possession that his objection was premature.

Jonathan Biscelgia (Counsel)
The objection is not premature. Under, I believe it's four 80 may be for, it might be $470. Yes, it's a person entitled to file an objection may file an objection whether or not they have received notice. So it's the objection that is accompanied by a summons, which is Looking at CR4, it'd be that objection and the summons that initiates the case.

Jonathan Biscelgia (Counsel)
Does that answer the court's question?

Honorable Judge-Dixon
My position is, as a practical matter, that all he did wrong was serve prematurely.

Honorable Judge-Dixon
You served a notice of objection to relocation, but he served it before you even got an opportunity to serve your notice of intent.

Jonathan Biscelgia (Counsel)
So that's where I would direct the court to RCW 2609-470, which discusses failure to give notice, including late notice.

Honorable Judge-Dixon
We've got battle 26 on by me.

Jonathan Biscelgia (Counsel)

I have a copy of the statute for your honor.

Honorable Judge-Dixon
Would you please?

Honorable Judge-Dixon
A person entitled to file an objection to the intended relocation of the child may file such objection, whether or not the person has received proper notice.

Jonathan Biscelgia (Counsel)
Correct.

Honorable Judge-Dixon
I think he could file it based upon her oral statement to him that he objected, that she wanted to relocate.

Jonathan Biscelgia (Counsel)
I agree. I think the May 30 correspondence is sufficient to allow an objection to be filed.

Honorable Judge-Dixon
Very good. Thank you for your candor, counsel. So what you're saying is that he had to note a hearing on the issue within 15 days of the date you did file your notice of intent to relocate and no such motion was filed.

Jonathan Biscelgia (Counsel)
My legal position is RCW 2609-480 subsection 2 states it's from the date of service of the objection.

Jonathan Biscelgia (Counsel)
Even with the premise that your honor just provided the motion, still was not filed and noted for hearing at that time, the uh Well, I'm taking a decision.

Honorable Judge-Dixon
That once he received your notice of intent to relocate, that triggered his 15 days.

Honorable Judge-Dixon
To a hearing was in that 15 day period. All right.

Honorable Judge-Dixon
Sir!

Honorable Judge-Dixon
I will kick you out of your own hearing.

Jonathan Biscelgia (Counsel)
Bye.

Jonathan Biscelgia (Counsel)
Respectfully, your honor, I do not take that position. Looking at 480 subsection 2. uh, I believe I already handed that up.

SPEAKER_3
Oh, there we go.

SPEAKER_3
No, I don't think you did.

SPEAKER_3
Hmm.

Jonathan Biscelgia (Counsel)
Let's see if I still have it down here.

Honorable Judge-Dixon
When I come to a foreign courtroom, I can't work the computers.

Honorable Judge-Dixon
And this thing is like 15 boxes big now.

SPEAKER_3
All right.

SPEAKER_3
Can I get a paddle point?

SPEAKER_3
Thank you.

Honorable Judge-Dixon
2609-480.

Jonathan Biscelgia (Counsel)
Correct. And it's subsection two of the statute.

Honorable Judge-Dixon
Thank you.

Honorable Judge-Dixon

So you you concede one that he did one Right.

Jonathan Biscelgia (Counsel)
Uh, I don't have the statute.

Honorable Judge-Dixon
Was a party objecting to relocation?

Honorable Judge-Dixon
Let's file the objection.

Honorable Judge-Dixon
Within 30 days of receipt of notice of intended relocation of the child and the objection may be in the form of a petition to modification of the parenting plan or other.

Honorable Judge-Dixon
I think you did.

Honorable Judge-Dixon
And number two.

Honorable Judge-Dixon
Unless special circumstances described in 460, the person intending to relocate shall not, without a court order, change the principal residence of the child during the period in which a party may object.

Honorable Judge-Dixon
Final.

Honorable Judge-Dixon
So.

Honorable Judge-Dixon
If, uh— Within that.

SPEAKER_3
Uh, So it just needs to be filed within 30 days of the notice.

Honorable Judge-Dixon
If the objecting party notes a court hearing to prevent the relocation of the child, for a date not more than 15 days following timely service of an objection to relocation which was done on Okay, so the question is, did he know.

Honorable Judge-Dixon

A hearing with him says 15 day period.

Honorable Judge-Dixon
By July 1st.

Honorable Judge-Dixon
No.

Mr. Surina
There's one issue of law here that I'm not clear on, and that is— Well, if you're not clear on it, don't argue. Yes, I did. I filed an amended objection to answer questions that are not— Okay, what number is that objection? That objection is going to be right around 501, I think.

Mr. Surina
501 on the case file, 501, I believe is the number. 502, maybe? It's the amended objection filed on June 6th.

Jonathan Biscelgia (Counsel)
It's 503, Your Honor, filed on July Yeah, 16th sounds correct. I do object to that because it violates CR 15.

Honorable Judge-Dixon
How's the balance here?

Jonathan Biscelgia (Counsel)
And a responsive pleading was filed and served Process.

Jonathan Biscelgia (Counsel)
And a party has a right to amend their initial pleadings once as a matter of course, unless a responsive pleading has been filed, which at that point they need leave of court and in order to do so.

Mr. Surina
Why is it responsible?

Mr. Surina
All right.

Honorable Judge-Dixon
Thank you.

Honorable Judge-Dixon
Notice on the 10th of June 16 and you notice the It's 31 days. She doesn't have to do that.

Honorable Judge-Dixon
June 16 and The needle comes in the upper 30.

Honorable Judge-Dixon
Yeah.

SPEAKER_3
Why is this?

SPEAKER_3
Of course.

Honorable Judge-Dixon
And then noted for July 28th.

Honorable Judge-Dixon
the earth. That has to be noted. The hearing has to be noted.

Honorable Judge-Dixon
Correct. From July 16th, correct? Did we have a hearing notice for July 16th? Yes, sir. Which hearing was that?

Mr. Surina
July 28th is the date of the hearing that was noted on July 16th. No.

Honorable Judge-Dixon
The hearing has to occur as I read that. Of the objection being filed. Yes, it has to be noted for a date within 15 days of the date the objection is filed.

Honorable Judge-Dixon
July 16th to July 28th is 12 days. Wait a second. July 16th. Objection. He serves a note. So you have 15 days from that day. Yes, sir.

Honorable Judge-Dixon
I know the difference is on the record.

SPEAKER_3
I heard.

SPEAKER_3
I believe.

Honorable Judge-Dixon
Well, no. Be quiet.

Honorable Judge-Dixon
Start talking to yourself.

SPEAKER_3
Okay.

Honorable Judge-Dixon
If the objecting party notes a court hearing to prevent the relocation of the child for a date not more than 15 days following timely service of an objection to relocation, so, if you objected to the relocation on June 9th.

Honorable Judge-Dixon
Um.

Honorable Judge-Dixon
Well, more properly, June 16th, because I think your objection became effective once you were still. You have 10, 15 days to have the hearing heard. You have to note a hearing for July 1st.

Mr. Surina
No, this is a 15 day. Correct. Correct. But I filed my objection on July 16th. I want to make sure that that's not that record.

Honorable Judge-Dixon
Oh, you serve notice of intent to re, I mean, notice of objection on July 6th. Correct.

Mr. Surina
Correct. And then I noted the hearing, which is on the calendar, even right now.

Jonathan Biscelgia (Counsel)
Your Honor, if I may, the first objection was served on June 9th. At the latest, it should go to the June 16th notice of intent to relocate service date, because what this would permit, if the court adopts Mr. Serena's argument, is you can keep amending pleadings and not relating it back to the date of the original filing.

Honorable Judge-Dixon
That would take deception.

Honorable Judge-Dixon
and duplicity which is abundant in this courtroom, but I'm going to rule that you have 15 days if you on the notice of objection of June 9.

Mr. Surina
I'm not. I wasn't able to answer their pleading with my objection. They didn't even, they didn't

move and haven't even filed a notice. Okay. What was the date of your other objection? July 16th was the amended objection to answer their questions of the notice. Yes. Which is required. I'm responding to their notice. I couldn't respond. I was allowed to file my objection legally without a notice, but I needed to address their notice with my amended objection.

Jonathan Biscelgia (Counsel)
Your Honor, it is the relocating party that files a response to the objection about intended relocation.

Mr. Surina
Right. Correct.

Mr. Surina
But the objection is in response to the original notice of intent to relocate, which you never filed.

Honorable Judge-Dixon
So, you got served with a notice of intent to relocate. What document did you serve on July 16th?

Mr. Surina
an amended objection to notice to relocate. On July 16th is my amended objection, which actually answers all of the questions in their notice of intent to relocate. Because I could not answer those questions originally, but I had the right to file my objection because it was serious. They had already moved at that point.

Mr. Surina
That's the middle of June, before the hearing we even had, when she said she didn't believe it or not.

Jonathan Biscelgia (Counsel)
Your Honor, I'd like to respond to that specifically.

Jonathan Biscelgia (Counsel)
Thank you.

Mr. Surina
Yeah.

Mr. Surina
The hearing was noted with the commissioner, which I spoke to. Yes, sir.

Honorable Judge-Dixon
You have not been asked a question.

Honorable Judge-Dixon

Okay, Council. You served the notice of intent to relocate on June 16th, and he says, 'I don't know this. To be true that I will check.' He says that he filed and served an amended notice of objection on July 16th.

Honorable Judge-Dixon

If that is true, and if I took that amended notice of objection as the statutory notice, then 716 would be timely. Did you have, is there an affidavit of service?

Mr. Surina

Yes, I started to be, you know, there's no— I don't think there's any dispute with that either. The certificate of service is off at the end of the objection.

Jonathan Biscelgia (Counsel)

It's process, Your Honor.

Jonathan Biscelgia (Counsel)

Its initial process.

Honorable Judge-Dixon

Oh, I understand.

Jonathan Biscelgia (Counsel)

And I did not accept service of it.

Honorable Judge-Dixon

Did you have an email service agreement? No. We don't.

Jonathan Biscelgia (Counsel)

We do not have an electronic service agreement for process, for motion hearings, pleadings, discovery. That's fine.

Honorable Judge-Dixon

You don't have that. I have an email agreement. You have an email agreement? Yes, sir. It says what?

Mr. Surina

It says, as long as it's reciprocal, we accept pleadings from each other.

Jonathan Biscelgia (Counsel)

To my knowledge, your honor, we have never executed. I have never signed anything with Mr. Serena. I've agreed to accept the pleadings for motion hearings. I'm happy. To comb through everything that I've gotten. If I'm wrong, I will correct the record.

Mr. Surina

This is the kind of stuff that I'm dealing with.

Honorable Judge-Dixon
This is the kind of stuff I'm dealing with. I'm getting tired of dealing with this, sir.

Honorable Judge-Dixon
Now, we're going back to the original.

Honorable Judge-Dixon
Uh.

SPEAKER_3
Line 15.

Honorable Judge-Dixon
I'm going to call July 16th timely service of objection.

SPEAKER_3
But that doesn't solve your problem.

Honorable Judge-Dixon
We have a hearing.

Honorable Judge-Dixon
Uh, before August 15th.

Honorable Judge-Dixon
Yeah, 28th of July.

Jonathan Biscelgia (Counsel)
We did not have a hearing where we showed up and argued. There was the August 11th trial minutes, but I did not file a motion or set that.

Honorable Judge-Dixon
The hearing that we were in, which we actually had, what date was that?

Jonathan Biscelgia (Counsel)
June 23rd.

Honorable Judge-Dixon
Okay, so.

Jonathan Biscelgia (Counsel)
There was a hearing noted within the Your Honor, may I please argue without interruption?

Honorable Judge-Dixon
Well, you may argue without interruption, but I want to find this, and so I can follow the argument. Did you note a hearing?

Honorable Judge-Dixon
Bye.

SPEAKER_3
Hello, Brian. Shut up!

SPEAKER_3
Okay.

Jonathan Biscelgia (Counsel)
Thank you, Your Honor. There have been several motions to restrain that have gone into the court file. The first properly noted hearing with a confirmed hearing date, we heard from Mr. Garcia on August 30th, 2023. This is sub number 520, is the notice of hearing for today.

Honorable Judge-Dixon
Okay, show me a note for hearing, setting a hearing for August 8th.

Honorable Judge-Dixon
July 8th or before.

Mr. Surina
July 28th.

Mr. Surina
July 8th. Wait a minute. July 16th, I filed my objection. 15 days from then to July 30th. Because July 28th was the date it was set. It's on the record. It's July 28th.

Mr. Surina
I know this is not my heart. I've been waiting for this hearing for months.

Honorable Judge-Dixon
Yeah, you're right. 8-1. Show me a hearing that you noted to be heard on before 8-1.

Mr. Surina
It's in the file. It's absolutely in the file. I didn't pull it from my phone. I mean, I thought you. All right. Your file is 15 boxes long.

Mr. Surina
I'm losing it. I don't want to guess, but I know. Council knows exactly— he knows what happened

with that hearing was they scheduled it instead of with you, with Commissioner Swenson. And so I contacted Kim, the court administrator here. She's really nice. You might as well stop talking.

Honorable Judge-Dixon

I'm not listening until you show me the note I've slipped. Would you like to talk on my phone? No, I'm looking for it as we speak. Yes. That would have been filed on the 16th of July or 17th of July. It was filed on July 17th. We're right around there, yes sir.

Mr. Surina

Good night.

Mr. Surina

Let me pull that up.

Mr. Surina

It is on the computer on the, um.

SPEAKER_3

Yeah. Pieces.

Court Clerk Reporter

If I could have a keyboard, I can sign in so we can pull it up on the. Yeah, I'll get it.

SPEAKER_3

Can I get the mouse too, Your Honor? Sorry.

SPEAKER_3

Thank you.

SPEAKER_3

restart.

SPEAKER_3

This is kind of a different way to go.

SPEAKER_3

What's the case number? 17301817.

SPEAKER_3

Thank you.

SPEAKER_3

Wait a second.

SPEAKER_3
Drink.

SPEAKER_3
Seven.

SPEAKER_3
I'll hand these back to you.

SPEAKER_3
Thank you very much.

Honorable Judge-Dixon
So what happened to this hearing that was. Noted for July 28.

Mr. Surina
I believe the clerk made an honest mistake and noted it with the commissioner, and so does the judge. I asked Kim about it and had to have that scheduled with you, and she advised that her and Miguel were working on it. And the next time that I spoke to him, I was still waiting. To this very day, I'm still waiting for hearings. I mean, that's why all those motions were filed. Like, how do I get him? Yeah.

Honorable Judge-Dixon
So I see this notice of hearing July, sending a hearing for July 28th, which is within 15 days of July 16th.

Jonathan Biscelgia (Counsel)
Correct, Your Honor. That is in the file.

Jonathan Biscelgia (Counsel)
Reviewing CR 15 and 2609-480, I still maintain the position that the objection would relate back to the initial filing. Then, then to because I certainly understand the court's position. The premature filing it would relate back to the June 16th date, because again it poses the question: You could continue to amend your pleadings.

Jonathan Biscelgia (Counsel)
To reset clocks.

Honorable Judge-Dixon
In that scenario, what I find is a fact, please. If I hear one more word out of turn out of you, sir, I will remove you from the courthouse. Thank you.

Honorable Judge-Dixon
I find this a fact that the amended notice of the [the]

Honorable Judge-Dixon
Um.

Honorable Judge-Dixon
Mended notice of objection is a material document. It was filed and served on July 16.

Honorable Judge-Dixon
I find that Mr. Serena noted a hearing for July 28.

Honorable Judge-Dixon
Which is in 15 days.

Honorable Judge-Dixon
Why that hearing did not occur, I don't know.

Honorable Judge-Dixon
But I find that it was fine.

Honorable Judge-Dixon
Do you have any further?

Jonathan Biscelgia (Counsel)
I do. There's another statute that I handed up that discusses the sanctions when notice is not provided at all or is not timely.

Honorable Judge-Dixon
And what's that?

Jonathan Biscelgia (Counsel)
I believe it is 2609470. I believe the title of the statute is 'Failure to Provide Notice.' And so those are the factors that the court can consider that is not exhaustive. Any other factor the court considers with the pleadings before the court, the only articulable harm in the motion that is set before your honor, is the educational decision.

Jonathan Biscelgia (Counsel)
As noted in the final parenting plan, Mr. Serena does not have educational decision-making, and the time difference we're discussing is a four-minute drive versus 15.

Jonathan Biscelgia (Counsel)
There are maps provided in support of that.

Honorable Judge-Dixon
So what do you think the sanctions should be?

Jonathan Biscelgia (Counsel)
The sanction should be if the court is going to.

Jonathan Biscelgia (Counsel)
They're on the side of sanctions. The school should be ordered to be changed back into the district. The parenting plan should be left alone and the educational decision for where the children will attend school can be handled at trial.

Honorable Judge-Dixon
That'll be the order of the core. All right.

Jonathan Biscelgia (Counsel)
Thank you, Your Honor.

Honorable Judge-Dixon
And I did not receive an order on the last hearing. The contempt hearing? I know somebody started that, but.

Honorable Judge-Dixon
Probably I shouldn't have even taken this hearing up until I had an order on that. One of me needs to note up a presentation from that.

Honorable Judge-Dixon
I, uh How long will it take you to prepare the order?

Jonathan Biscelgia (Counsel)
For today.

Honorable Judge-Dixon
Do you want to present it later?

Jonathan Biscelgia (Counsel)
I can have an order prepared.

Jonathan Biscelgia (Counsel)
I can have both the contempt order and the order from today over to your judicial assistant tomorrow afternoon, if that's acceptable.

Jonathan Biscelgia (Counsel)
I am not. I can draft something up tonight.

Honorable Judge-Dixon
Note that both orders, council, please note that both orders for presentation. And I'm not doing

anything in this case by fault.

Jonathan Biscelgia (Counsel)
Okay.

Honorable Judge-Dixon
I work with Ms. Kellum and my person, Michael, in the day.

Honorable Judge-Dixon
Send me copies of your proposals. Send me bench copies of your counter proposals, and we'll have a hearing.

Honorable Judge-Dixon
One last thing. Where do you pick, where does he pick up the kids?

Jonathan Biscelgia (Counsel)
From school on Thursdays and then drop off Monday at school.

Honorable Judge-Dixon
Aware of.

Jonathan Biscelgia (Counsel)
Oh, I think they're currently at the Cheney schools, correct? Yes.

Honorable Judge-Dixon
Thank you, counsel. Thank you, Mr. Serena. Thank you, Your Honor. This matter is adjourned.