

FILE

*Bohmer v. Bohmer*



**Petrilla and Associates  
Attorneys at Law  
222 Van Every Place  
Centralia, Franklin 33703**

**Office Memorandum**

**To:** Applicant  
**From:** Charles Petrilla, Managing Partner and Pro Bono Coordinator  
**Date:** July 29, 2008  
**Re:** Jessica Bohmer/Interstate Custody Case

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Our law firm, as part of its pro bono program, has agreed to represent Jessica Bohmer in a child custody matter that her husband, Alex Bohmer, has filed in Franklin City, Franklin. Jessica currently lives with their six-year-old daughter, Carrie, in Columbia Heights, Columbia.

No divorce proceeding has yet been filed by either party. On June 30, 2008, Jessica's husband filed a child custody petition in Franklin District Court. We hope to convince the Franklin court that the case should be heard in Columbia where Columbia Legal Services is prepared to help Jessica file a custody action and obtain a civil protection order if necessary.

I just spoke to Columbia Legal Services this morning and will be talking to Jessica and Columbia Legal Services tomorrow. I want to be able to give them some answers regarding jurisdiction. To help me advise them, please prepare a memorandum analyzing the following two issues:

1. Whether Franklin or Columbia was the home-state jurisdiction under the Franklin Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) at the time of the filing of the current custody case in Franklin.
2. Assuming for purposes of argument that the Franklin court decides that Franklin is the home-state jurisdiction, whether we are likely to be successful if we file a Motion to Decline Jurisdiction under the Inconvenient Forum provision of the Franklin UCCJEA.

Be sure to provide detailed discussion and analysis, incorporating the relevant facts and addressing the applicable legal authorities. I want to know the weaknesses as well as the strengths of a potential motion on Jessica's behalf. You need not prepare a separate statement of facts.

## Transcript of Telephone Call

[Kathleen Murphy (KM), Columbia Legal Services attorney, and Charles Petrilla (CP), Franklin law firm partner, July 29, 2008]

- KM:** Charles, thanks very much for calling. I'm glad you've agreed to take Jessica's case because she needs representation in Franklin as well as in Columbia.
- CP:** Kathleen, I'm happy we can help. Thanks for faxing us a copy of the intake form and the Civil Protection Order issued in 2006 in Franklin against Jessica's husband, Alex. I've reviewed the intake form, but want to know if there have been any new developments. Have you filed a custody action on Jessica's behalf in Columbia?
- KM:** No, not yet. Jessica came into our office a little over two weeks ago seeking our help in obtaining sole custody of Carrie, and possibly with obtaining another civil protection order if Alex continues to threaten her. However, on June 30, 2008, Alex filed for custody of Carrie in Franklin District Court. We haven't actually seen a copy of Alex's complaint yet.
- CP:** I will get a copy from the court today and fax it to you. What are Jessica's concerns regarding having custody handled in Franklin?
- KM:** She's afraid to go back to Franklin City because of Alex's history of violence against her. She says that he owns a hunting rifle and she fears that he might use it to hurt her or Carrie. The most recent threatening episode was on February 1, 2008, when Alex became enraged when Jessica suggested a short visit to Columbia Heights to see her parents and Carrie, who was staying there with Jessica's parents. He ripped up several family photos. That really scared her—she left for Columbia the next day, on February 2, 2008, and hasn't been back since. Jessica also doesn't have the time or the money to go back and forth to Franklin City—the drive takes about an hour and a half, one way, and would require her to take time off from her new job.
- CP:** Does she intend to stay in Columbia?
- KM:** Yes. When she left Franklin on February 2, 2008, she didn't really have a plan. She told Alex that she would be back soon. However, after about three weeks in Columbia, she realized that she didn't want to go back to Franklin. She found a job and enrolled Carrie in the first grade in Columbia Heights. On March 1, 2008, she finally got up the courage and told Alex she wasn't coming back to Franklin but was going to stay with Carrie in Columbia.
- CP:** How did Alex react to that news?

- KM:** According to Jessica, he “flipped out.” For weeks, he phoned her day and night, calling her all sorts of names. He also sent her a series of threatening e-mails like the one attached to the intake form.
- CP:** How does Jessica want to have the situation resolved?
- KM:** She wants sole custody of Carrie and wants to continue to live in Columbia, where her parents live. Having them nearby makes her feel safer, and they also help take care of Carrie. Jessica likes her new part-time job at a doctor’s office and wants to enroll at the community college to finish her degree. Carrie’s doing really well in school and has made a lot of friends. Carrie has told Jessica that she wants to stay in Columbia.
- CP:** We’ll have to figure out which court should handle this matter. The UCCJEA is the law that controls which court has jurisdiction to hear custody cases. Both Columbia and Franklin adopted identical versions of this law. Let’s see what the law is on this issue.
- KM:** We really hope that you can find a way to get the Franklin custody case resolved so that we can go forward here in Columbia. I will begin to prepare pleadings so that we can be ready to proceed in Columbia. Jessica is meeting with us tomorrow.
- CP:** Okay. I’ll call you again tomorrow after we have done some research on our end.

## Columbia Legal Services Intake Form

**Date:** July 14, 2008

**Intake Attorney:** Kathleen Murphy

**I. Applicant Name:** Jessica Bohmer

**DOB:** 5/30/1976      **Place of birth:** Columbia Heights, Columbia

**Home address:** 6226 Berkeley Blvd., Columbia Heights, Columbia 12111

**Home telephone:** 860-555-5688

**Work address:** Office of Stephen Tigani, MD, 10 Tulip Ave., Columbia Heights, Columbia

**Work telephone:** 860-555-3876

**Is it safe to call the phone numbers listed?**  yes       no

**Are the parties married?**  yes       no

**If so, date and place of marriage:** 3/29/2001, Columbia Heights, Columbia

**Child(ren) in common. Include name, sex, and date and place of birth.**

Carrie Bohmer, female, born 3/22/2002, Memorial Hospital, Columbia Heights, Columbia

**Residence of applicant and child(ren) for the past 5 years. Include addresses, dates, and other people living with applicant.**

1. 1/15/2003 to 5/31/2004: 28 Lanier St., Columbia Heights, Columbia; both parents and child;
2. 6/1/2004 to 5/30/2006: 1311 Taylor St., Franklin City, Franklin; both parents and child;
3. 5/31/2006 to 4/1/2007: 12 Ivy Lane, Franklin City, Franklin; mother and child only;
4. 4/2/2007 to 2/1/2008: 1311 Taylor St., Franklin City, Franklin; both parents and child (mother and child moved back with father);
5. 2/02/2008 to present: 6226 Berkeley Blvd., Columbia Heights, Columbia; mother, maternal grandparents, and child (mother moved in with her parents and child on February 2, 2008; child had been visiting her maternal grandparents since December 1, 2007).

**What legal services is applicant seeking?**

Jessica seeks to obtain sole custody of Carrie and protection from her husband's violence.

**II. Opposing Party Name:** Alex Bohmer

**DOB:** 10/18/1976      **Place of birth:** Columbia Heights, Columbia

**Home address:** 1311 Taylor St., Franklin City, Franklin 33068

**Home telephone:** 514-555-6999

**Work address:** Franklin Pharmaceutical Co., 101 Industrial Blvd., Franklin City, Franklin

**Work telephone:** 514-555-2339

**Criminal history:** n/a

**Weapons:** owns hunting rifle

**Alcohol/drug use:** drinks a few beers every weekend

**Participation in drug/alcohol treatment:** n/a

**Participation in domestic violence intervention program:** n/a

**Has opposing party ever put his/her hands on applicant against applicant's will?** Yes

**If yes, fill out Section III, Domestic Violence History**

### **III. Domestic Violence History**

**Has applicant's spouse/partner forced applicant to do something by threatening applicant?**

Yes, since Jessica was pregnant with Carrie, Alex has been physically and emotionally abusive. He has pushed her down, grabbed her, pulled her by the hair, slapped her in the face, and tried to choke her. He has refused to give her money, prevented her from going out with friends, and generally tried to interfere with her relationship with her large extended family.

**What was the most recent incident?**

On February 1, 2008, Alex got mad when Jessica told him she wanted to go for a short visit to Columbia to see Carrie and her family. He grabbed her by the shoulders and shook her. When she tried to get away, he got one of her family scrapbooks and took out several photos of her with her parents and ripped them up. Jessica was scared but managed to act calm. She left the next day for Columbia and told Alex she would be back in a few weeks.

**What was the worst incident ever?**

On Jessica's 30th birthday (5/30/2006), Alex pushed her down on the floor, then pulled her up and choked her. Jessica thought she was going to lose consciousness. She feared that he might really kill her. She had bruises on her neck and arms. She left the next day with Carrie and filed for a civil protection order, which was granted on 6/10/2006. She and Alex were separated for approximately 10 months before reuniting. She let the civil protection order lapse.

**Has/have applicant's child(ren) been abused by applicant's spouse/partner?**

Alex has never attacked Carrie directly, but she has witnessed his violence against Jessica. When Alex, Jessica, and Carrie were living together as a family, Carrie frequently said that she was afraid "Daddy would get mad" at her, which Jessica interpreted as Carrie's fear that Alex would also hit Carrie. Carrie used to have nightmares, but those have subsided since she and Jessica moved out.

**Additional history:**

Jessica has never told anyone all the details about the abuse, although her family has suspected serious problems for a long time. Her family has witnessed the harassing phone calls Alex made after she moved to Columbia. Jessica wants to stay in Columbia because she has a place to live and a good part-time job, and because her mother is available to watch Carrie whenever needed. Jessica also plans to enroll in a community college here and complete her college degree.

**Police reports:** n/a

**Hospital records:** n/a

**Prior Protection Orders:** Yes, see Attachment A.

<b>Date Issued</b>	<b>Jurisdiction</b>	<b>Disposition</b>
6-10-2006	Franklin District Court	Consent Civil Protection Order, expired 6-9-2007

**Other documents:** See Attachment B.

**IV. Income**

**Applicant employed:** yes

**Approximate gross income:** \$10,000

**Opposing party employed:** yes

**Approximate gross income:** \$55,000



DISTRICT COURT OF FRANKLIN

Jessica Bohmer, Petitioner,	}	
	}	DV No. 0569-2006
vs.	}	
	}	
Alex Bohmer, Respondent.	}	

CIVIL PROTECTION ORDER

Upon consideration of the petition filed in this case, and  after a contested hearing,  after a default hearing,  by consent of the parties, the Court has determined:

that the Petitioner has established by a preponderance of the evidence that there is good cause to believe that the parties have a family relationship and that the Respondent committed or threatened one or more acts of domestic violence within the meaning of Franklin Code § 12-105 et seq., to wit, that the Respondent threatened to seriously harm the Petitioner and that he put his hands on Petitioner’s neck in an attempt to choke her.

**IT IS HEREBY ORDERED** that for a period of 12 months from the date of this order:

- Respondent shall not assault, threaten, harass, or physically abuse Petitioner in any manner.
- Respondent shall stay at least 100 feet away from Petitioner’s  person,  home,  workplace,  vehicle.
- Respondent shall not contact Petitioner in any manner, except by telephone; all telephone calls must be limited to reasonable hours of the day and must abide by the other provisions of this order.
- Respondent may not possess any firearms and must immediately turn over any such weapons he or she owns to the Franklin City Metropolitan Police Department.

THIS ORDER WILL EXPIRE IN 12 MONTHS UNLESS IT IS RENEWED BY THE COURT. FAILURE TO COMPLY WITH THIS ORDER IS A CRIMINAL OFFENSE AND CARRIES A PENALTY OF SIX MONTHS IN JAIL AND/OR A FINE OF \$1,000.

	<u>6-10-06</u>
Respondent’s signature (required for a consent order only)	Date

	<u>6/10/2006</u>
District Court Judge	Date

To: jessicabohmer@mpt.com  
From: alexbohmer@mpt.com  
Date: March 10, 2008

Jessica,

You should think twice about leaving Franklin and taking Carrie. I mean business—if you don't come back soon, I guarantee you that you'll be sorry. I'm not going to sit still and let you walk all over me!

You know you can't take care of Carrie without me. Remember what happened the last time when you ran off and then came back begging for another chance? Besides, you're taking Carrie away from her life here—her school and her friends.

This is it, Jessica. I am not playing any more of your games. For Carrie's own good, I'm not going to let you cut me out of her life.

You know we could make this work if you would just try a little harder instead of quitting and running off to your parents every time we argue. I'm willing to meet you halfway—I know I've got a bad temper, and I've got an appointment with a therapist next week—but Carrie is my daughter and she needs her daddy as well as her mommy.

Alex