

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS  
ON REFERRAL BY THE COMMISSIONER OF REVENUE**

IN THE MATTER OF: )

W K )

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) OAH No. 06-0850-CSS  
) CSSD NO. 001135892  
)

**ORDER GRANTING MOTION FOR REMAND  
AND DENYING MOTION FOR ATTORNEY’S FEES**

At a hearing held on January 8, 2006, the parties and CSSD stipulated to a remand of this case to the agency for the purpose of vacating the Modified Administrative Child Support and Medical Support Order that CSSD issued on November 27, 2006.

Mr. K also moved for an award of attorney fees in the amount of \$300 against the Custodian of record, H K, and filed a written motion to that effect on January 16, 2007. Ms. K was granted additional time and filed an opposition to the motion on February 5, 2007.<sup>1</sup>

Mr. K claims that Ms. K obtained a child support hearing on a “bogus claim” that she had primary custody of the parties’ child when, in fact, Mr. K had a court order for shared custody and had also filed a motion to modify custody. Ms. K responds that she requested a modification of Mr. K’s child support order because in August 2006 she had not received child support for at least one month and Mr. K’s income had increased such that a modification review should be held.

Pursuant to AS 44.64.040(b)(2), an administrative law judge may:

order a party, a party's attorney, or another authorized representative of a party to pay reasonable expenses, including attorney fees, incurred by another party as a result of actions done in bad faith or as a result of tactics used frivolously or solely intended to cause unnecessary delay . . . .

Based on the parties’ pleadings, I find Mr. K has not established that in requesting the modification, Ms. K acted “in bad faith or as a result of tactics used frivolously or solely intended to cause unnecessary delay . . . .” Ms. K was within her right to request that a modification review be held in her case. Although apparently the court had issued the child support order, many individuals file their requests with CSSD. There is no evidence she acted in a manner that would warrant an award of attorney fees to Mr. K.

**THEREFORE IT IS ORDERED:**

1. CSSD's January 2, 2007, Motion for Remand is granted;
2. Mr. K's motion for attorney fees is denied.

DATED this 15<sup>th</sup> day of February, 2007.

By: Signed \_\_\_\_\_  
Kay L. Howard  
Administrative Law Judge

[This document has been modified to conform to the technical standards for publication.]

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<sup>1</sup> Her opposition was postmarked on January 26, 2007.