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Brown, J. (dissenting) • In my view, the Spokane County Superior Court acted properly in asserting jurisdiction under our facts and procedural history.

First, the 2002 Montana Temporary Interim Parenting Plan was designed to remain in effect solely when Jamie Ruff resided in Shelby, Montana; the record indisputably shows years of Washington residency including a substantial time immediately before the 2008 dispute arose without the parties once resorting to the Montana court. During the intervening time, the parties completely ignored, abandoned, abated, and for all practical purposes treated the Montana case as a nullity.

Second, when the 2008 dispute arose, Ms. Ruff initially applied for an emergency order in the Spokane County. Immediately, the parties simultaneously petitioned for parenting plans in Spokane County and then jointly applied to have their petitions consolidated, submitting to Washington jurisdiction.

Third, by a November and December 2008 stipulation, the parties recited their agreement for Washington jurisdiction and attached the Washington consolidation

order and the temporary residential, visitation, and child support orders for the Montana court's consideration. The Montana case was dismissed in January 2009 evidencing the Montana court's acceptance of the recited premises, its declination of jurisdiction, and its deferral to Washington–thus obviating the need for further communication between the courts.

Fourth, ten months after Montana deferred to Washington jurisdiction, the parties in October 2009 fully litigated their parenting issues in Spokane County without mention of any jurisdictional dispute. Solely after he became dissatisfied with the outcome of the Washington litigation did Dennis Knickerbocker raise his hyper technical UCCJEA jurisdictional challenge in this appeal in a thinly veiled attempt to relitigate the issues in a new forum; this is forum shopping at its worst.

Given our factual and procedural background, I disagree with Mr. Knickerbocker that the UCCJEA presents any remaining jurisdictional impediment to the validity of the Spokane County Superior Court orders. This is not a case where the parties are dealing with conflicting child custody orders from competing jurisdictions, forum shopping by Ms. Ruff, or complex child custody legal proceedings with multiple states involved. *In re Custody of A.C.*, 165 Wn.2d 568, 574, 200 P.3d 689 (2009). This is a case of a Montana court deferring to a Washington court when dismissing its 2002 case after considering the parties' stipulation. Generally, stipulated facts are binding on the parties and the court, but the court's legal determinations are not controlled by

such factual stipulations. *Ross v. State Farm Mut. Auto Ins. Co.*, 132 Wn.2d 507, 523, 940 P.2d 252 (1997). While judicial estoppel, abandonment, laches, and waiver principles may cry out for recognition after about 18 months of Washington litigation, in my view, *A.C*. is both distinguishable and not applicable for the reasons given above.

Considering all, I would affirm. Accordingly, I respectfully dissent.

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Brown, J.